

SENATE BILL NO. 355—SENATOR ROBERSON

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing unclaimed property.
(BDR 10-826)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to unclaimed property; exempting certain payments or credits due to a business association from a business association from provisions governing unclaimed property; exempting property the value of which is less than \$50 from provisions governing unclaimed property; revising the statute of limitations for commencing a civil action with respect to a duty of a holder of unclaimed property; enacting provisions governing the compensation of a person who contracts with the Administrator of Unclaimed Property to conduct certain examinations; revising provisions governing the period for which a holder of unclaimed property must retain certain records; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law establishes the powers, duties and liabilities of the State and other
2 persons concerning certain property which is abandoned and unclaimed by its
3 owner. (Chapter 120A of NRS) Under existing law, a holder of property that is
4 presumed to be abandoned by its owner must pay or deliver the property to the
5 State Treasurer, acting as the Administrator of Unclaimed Property. (NRS
6 120A.560, 120A.570) Existing law requires the Administrator to deposit any
7 money received as abandoned property and the proceeds of the sale of abandoned
8 property in the Abandoned Property Trust Account. The first \$7.6 million of the
9 balance remaining in the Account at the end of a fiscal year is transferred to the
10 Millennium Scholarship Trust Fund. The remaining balance is transferred to
11 the State General Fund, subject to any valid claims. (NRS 120A.620)

12 **Sections 2 and 3** of this bill exempt from the provisions of existing law
13 governing unclaimed property: (1) certain payments or credits due to a business



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14 association from another business association; and (2) property the value of which
15 is less than \$50. Thus, under **sections 2 and 3**, such property is not required to be
16 paid or delivered to the Administrator if it is abandoned and unclaimed by its
17 owner.

18 **Section 5** of this bill provides that if the Administrator enters into a contract
19 with a person to examine the records of another person to determine whether that
20 person has complied with existing law governing unclaimed property, the
21 compensation paid to the contractor must not be contingent on the value of any
22 property that should have been reported, paid or delivered to the Administrator as
23 abandoned property.

24 Existing law prohibits the Administrator from maintaining an action to enforce
25 the duty of a holder of abandoned property to report, deliver or pay the property to
26 the Administrator more than 7 years after the holder specifically identified the
27 property in a report filed with the Administrator or gave express notice to the
28 Administrator of a dispute concerning the property. (NRS 120A.680) **Section 4** of
29 this bill revises this statute of limitations to provide that an action with respect to a
30 duty of a holder must be commenced not later than 4 years after the duty arose.

31 Existing law requires a holder of abandoned property to maintain records
32 concerning the information included in a report of abandoned property filed with
33 the Administrator for a certain number of years after the holder files the report.
34 (NRS 120A.700) **Section 6** of this bill requires such records to be maintained for a
35 certain number of years after the property is presumed to be abandoned rather than
36 after the filing of a report with the Administrator.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 120A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *The provisions of this chapter do not apply to any*
4 *payment or credit due to a business association from a business*
5 *association representing sums payable to suppliers, or payment for*
6 *services rendered, in the course of business, including, without*
7 *limitation, checks or memoranda, overpayments, unidentified*
8 *remittances, nonrefunded overcharges, discounts, refunds and*
9 *rebates.*

10 **Sec. 3.** *The provisions of this chapter do not apply to any*
11 *property the value of which is less than \$50.*

12 **Sec. 4.** NRS 120A.680 is hereby amended to read as follows:
13 120A.680 1. The expiration, before or after October 1, 2007,
14 of a period of limitation on the owner's right to receive or recover
15 property, whether specified by contract, statute or court order, does
16 not preclude the property from being presumed abandoned or affect
17 a duty to file a report or to pay or deliver or transfer property to the
18 Administrator as required by this chapter.

19 2. ~~An action or proceeding may not be maintained by the~~
20 ~~Administrator to enforce this chapter in regard to the reporting,~~
21 ~~delivery or payment of property more than 7 years after the holder~~



1 ~~specifically identified the property in a report filed with the~~
2 ~~Administrator or gave express notice to the Administrator of a~~
3 ~~dispute regarding the property. In the absence of such a report or~~
4 ~~other express notice, the period of limitation is tolled. The period of~~
5 ~~limitation is also tolled by the filing of a report that is fraudulent.]~~
6 *No civil action or proceeding with respect to any duty of a holder*
7 *under this chapter may be commenced more than 4 years after the*
8 *duty arose.*

9 **Sec. 5.** NRS 120A.690 is hereby amended to read as follows:

10 120A.690 1. The Administrator may require a person who
11 has not filed a report, or a person who the Administrator believes
12 has filed an inaccurate, incomplete or false report, to file a verified
13 report in a form specified by the Administrator. The report must
14 state whether the person is holding property reportable under this
15 chapter, describe property not previously reported or as to which the
16 Administrator has made inquiry, and specifically identify and state
17 the amounts of property that may be in issue.

18 2. The Administrator, at reasonable times and upon reasonable
19 notice, may examine the records of any person to determine whether
20 the person has complied with this chapter. The Administrator may
21 conduct the examination even if the person believes he or she is not
22 in possession of any property that must be reported, paid or
23 delivered under this chapter. The Administrator may contract with
24 any other person to conduct the examination on behalf of the
25 Administrator ~~+~~, *and the amount of the compensation of such a*
26 *person must not be contingent on the value of any property that*
27 *should have been reported, paid or delivered under this chapter*
28 *but that the holder failed to report, pay or deliver pursuant to this*
29 *chapter.*

30 3. The Administrator at reasonable times may examine the
31 records of an agent, including a dividend disbursing agent or
32 transfer agent, of a business association or financial organization
33 that is the holder of property presumed abandoned if the
34 Administrator has given the notice required by subsection 2 to both
35 the association or organization and the agent at least 90 days before
36 the examination.

37 4. Documents and working papers obtained or compiled by the
38 Administrator, or the Administrator's agents, employees or
39 designated representatives, in the course of conducting an
40 examination are confidential and are not public records, but the
41 documents and papers may be:

42 (a) Used by the Administrator in the course of an action to
43 collect unclaimed property or otherwise enforce this chapter;



1 (b) Used in joint examinations conducted with or pursuant to an
2 agreement with another state, the Federal Government or any other
3 governmental subdivision, agency or instrumentality;

4 (c) Produced pursuant to subpoena or court order; or

5 (d) Disclosed to the abandoned property office of another state
6 for that state's use in circumstances equivalent to those described in
7 this subdivision, if the other state is bound to keep the documents
8 and papers confidential.

9 5. If an examination of the records of a person results in
10 the disclosure of property reportable under this chapter, the
11 Administrator may assess the cost of the examination against the
12 holder at the rate of \$200 a day for each examiner or a greater
13 amount that is reasonable and was incurred, but the assessment may
14 not exceed the value of the property found to be reportable. The cost
15 of an examination made pursuant to subsection 3 may be assessed
16 only against the business association or financial organization.

17 6. If, after October 1, 2007, a holder does not maintain the
18 records required by NRS 120A.700 and the records of the holder
19 available for the periods subject to this chapter are insufficient to
20 permit the preparation of a report, the Administrator may require the
21 holder to report and pay to the Administrator the amount the
22 Administrator reasonably estimates, on the basis of any available
23 records of the holder or by any other reasonable method of
24 estimation, should have been but was not reported.

25 **Sec. 6.** NRS 120A.700 is hereby amended to read as follows:

26 120A.700 1. Except as otherwise provided in subsection 2, a
27 holder required to file a report under NRS 120A.560 shall maintain
28 the records containing the information required to be included in the
29 report for ~~7~~ 4 years after the ~~holder files the report,~~ *property is*
30 *presumed abandoned*, unless a shorter period is provided by
31 regulation of the Administrator.

32 2. A business association or financial organization that sells,
33 issues or provides to others for sale or issue in this State, traveler's
34 checks, money orders or similar instruments other than third-party
35 bank checks, on which the business association or financial
36 organization is directly liable, shall maintain a record of the
37 instruments while they remain outstanding, indicating the State and
38 date of issue, for 3 years after the ~~holder files the report,~~
39 *instruments are presumed abandoned.*

