

2010 -- H 7898

LC02161

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- THE ESCHEATMENT OF
UNCLAIMED FUNDS IN COURT REGISTRIES

Introduced By: Representatives D Caprio, Lally, Petrarca, DeSimone, and JP O'Neill

Date Introduced: March 11, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 8-12-1, 8-12-2 and 8-12-3 of the General Laws in Chapter 8-12
2 entitled "Conditional Escheat of Unclaimed Funds in Court Registries" are hereby amended to
3 read as follows:

4 **8-12-1. Report of unclaimed funds in court registries.** -- (a) The clerks of the supreme,
5 superior, family, ~~and~~ district, workers' compensation courts and the traffic tribunal shall, every
6 year during the month of July ~~in every even year~~, return to the state court administrator those
7 funds which have been on deposit in the registry of the respective court for a period of five (5)
8 years or more ~~next preceding~~ as of the last business day of June of ~~the then current~~ that year. A
9 sworn statement ~~of~~ listing all money or funds shall also be submitted.

10 (b) The statement shall contain as to each deposit or fund:

11 (1) The number and title of the case and the date of the order entered on the case in
12 accordance with which the money was paid into the registry of the court;

13 (2) The name and address of the person, persons, firm, or corporation who paid the
14 money into the registry of the court so far as the name and address appears of record;

15 (3) The name and address of the person, persons, firm, or corporation entitled to the
16 money in the registry so far as the name and address appear of record in the case or are otherwise
17 known to the clerk;

18 (4) The amount and date of the deposit in the registry of the court and the amount

1 including accretions from interest or otherwise at the date of the statement; and

2 (5) ~~Whether~~ An assertion as to whether or not any claim to the deposit or fund or portion
3 ~~of the deposit thereof~~ is then being actively prosecuted by any person ~~or~~ and/or whether such
4 claim has been made during the five (5) years ~~next preceding prior to~~ the last business day of ~~the~~
5 ~~month of~~ June ~~in the year in which the statement is returned~~ of that year.

6 **8-12-2. Deposit of unclaimed funds.** -- If, upon examination of the sworn statement
7 required to be filed by the several clerks under the provisions of section 8-12-1, it appears to the
8 state court administrator that there are deposits in the registry of the supreme court, the superior
9 court, the family court, ~~or~~ the district court, the workers' compensation court and/or the traffic
10 tribunal that have been unclaimed by any person prima facie entitled to the deposits, or his or her
11 or its representative, for a period of five (5) years ~~next~~ preceding the last business day of ~~the~~
12 ~~month of~~ June of the then current year, then all of those unclaimed deposits in the registry of the
13 applicable court, ~~unclaimed by any person, firm, or corporation, or his or her or its~~
14 ~~representatives, for a period of five (5) years next preceding the last business day of the month of~~
15 ~~June of the then current year,~~ together with any interest on the deposit, shall be paid to the general
16 fund to be held and used by the administrator of the state courts as approved by the chief justice
17 of the supreme court subject to being repaid to the person(s), firm(s) or corporation(s) who may
18 subsequently establish a lawful right to the deposit as provided in section 8-12-3. ~~If the court in~~
19 ~~which the registry fund has been maintained shall determine in any given case that all issues in~~
20 ~~the case have been disposed of except as to the disposition of the fund, and that no claim to the~~
21 ~~fund, or any portion or the income of the fund, is being actively prosecuted or has been presented~~
22 ~~to the court by any person, persons, firm, or corporation within the period of five (5) years next~~
23 ~~preceding the last business day of the month of June of the year, then the applicable court shall~~
24 ~~pay the full amount of the fund on deposit, together with all interest and accumulations, to the~~
25 ~~general fund to be held and used by it according to law, subject however, to repayment to the~~
26 ~~person, persons, firm, or corporation who may subsequently establish entitlement to the deposit as~~
27 ~~provided in section 8-12-3.~~

28 **8-12-3. Claim for escheated funds.** -- (a) Any person who claims a right to money or
29 funds ~~as ordered by the supreme court, the superior court, the family court, or the district court to~~
30 ~~be~~ paid to the general fund, ~~as provided in~~ by the supreme court, the superior court, the family
31 court, the district court, the workers' compensation court and/or the traffic tribunal pursuant to
32 section 8-12-2, may file a complaint in the superior court within and for the county of Providence
33 within three (3) years after the funds are deposited in the general fund. The complaint shall be
34 subject to the superior court rules of civil procedure and shall follow the course of equity. The

1 complaint shall be filed against the state, and service of process shall be made upon the
2 administrator of the state courts in person or at his or her respective office with someone in
3 charge of the office. The attorney general shall appear and represent the state in the action. The
4 superior court shall hear the complaint, and in case the final determination of the complaint is in
5 favor of the plaintiff, the court shall enter its judgment directing the administrator of the state
6 courts to repay to the plaintiff so much of the fund as the plaintiff has shown himself or herself
7 entitled to receive, together with interest at a rate not to exceed six percent (6%) per annum on
8 that amount, together with the costs of the action as taxed, in accordance with the rules of civil
9 procedure. The interest shall begin to accumulate on the date the sum is received by the general
10 fund and shall cease on the earlier of fifteen (15) years following receipt or the date on which
11 payment is made to the owner. Upon issuance of the order, the clerk shall immediately forward to
12 the administrator of the state courts the execution based upon the judgment and including costs as
13 taxed. The general fund will pay the amount named in the execution to the party entitled to the
14 amount.

15 (b) In case the action is determined in favor of the state, the determination shall operate
16 as a final bar against the claimant or his or her or its representatives. In the event the action is
17 decided in favor of the claimant, review may be had by the supreme court in its discretion on
18 petition for writ of certiorari, which must be filed within twenty (20) days by the attorney general
19 following the judgment of the superior court.

20 SECTION 2. Section 8-10-13 of the General Laws in Chapter 8-10 entitled "Family
21 Court" is hereby repealed.

22 ~~**8-10-13. Unclaimed funds in registry of family court.** -- All money or funds which
23 have been on deposit in the registry of the family court, or in combination in the superior court
24 and the family court, or in combination in the juvenile court and the family court, for a period of
25 ten (10) years or more shall be administered and disposed of in the same manner as provided by
26 chapter 12 of this title for the superior court; and wherever in chapter 12 of this title authority and
27 duties with respect to such money or funds is exercised or performed by the clerk of the superior
28 court, the clerk of the family court shall exercise that authority and perform those duties with
29 respect to such money or funds in the registry of the family court.~~

30 SECTION 3. Section 12-19-34 of the General Laws in Chapter 12-19 entitled "Sentence
31 and Execution" is hereby amended to read as follows:

32 **12-19-34. Priority of restitution payments to victims of crime.** -- (a) (1) If a person,
33 pursuant to sections 12-19-32, 12-19-32.1, or 12-19-33, is ordered to make restitution in the form
34 of monetary payment the court may order that it shall be made through the administrative office

1 of state courts which shall record all payments and pay the money to the person injured in
2 accordance with the order or with any modification of the order; provided, in cases where court
3 ordered restitution totals less than two hundred dollars (\$200) payment shall be made at the time
4 of sentencing if the court determines that the defendant has the present ability to make restitution.

5 (2) Payments made on account when both restitution to a third-party is ordered, and
6 court costs, fines, and fees, and assessments related to prosecution are owed, shall be disbursed
7 by the administrative office of the state courts in the following priorities:

8 (i) court ordered restitution payments to person injured until such time as the court's
9 restitution is fully satisfied; and

10 (ii) court costs, fines, fees, and assessments related to prosecution after the full payment
11 of restitution.

12 (3) Notwithstanding any other provision of law, any interest which has been accrued by
13 the restitution account in the central registry shall be deposited on a regular basis into the ~~violent~~
14 ~~crime indemnity fund~~ [crime victim compensation fund](#), established by chapter 25 of this title. In
15 the event that the office of the administrator of the state courts cannot locate the person or persons
16 to whom restitution is to be made, the principal of the restitution payment shall ~~be deposited into~~
17 ~~the general fund~~ [escheat to the state pursuant to the provisions of chapter 8-12](#).

18 (b) The state is authorized to develop rules and/or regulations relating to assessment,
19 collection, and disbursement of restitution payments when any of the following events occur:

20 (1) The defendant is incarcerated or on home confinement but is able to pay some
21 portion of the restitution; or

22 (2) The victim dies before restitution payments are completed.

23 (c) The state may maintain a civil action to place a lien on the personal or real property
24 of a defendant who is assessed restitution, as well as to seek wage garnishment, consistent with
25 state and federal law.

26 SECTION 4. Section 33-21.1-13 of the General Laws in Chapter 33-21.1 entitled
27 "Unclaimed Intangible and Tangible Property" is hereby amended to read as follows:

28 **33-21.1-13. Property held by courts and public agencies.** -- Intangible property held
29 for the owner by a court, state, or other government, governmental subdivision or agency, public
30 corporation, or public authority which remains unclaimed by the owner for more than one year
31 after becoming payable or distributable is presumed abandoned. [Intangible property held by a](#)
32 [state court shall escheat to the state pursuant to the provisions of section 8-12-1 through section 8-](#)
33 [12-3.](#)

1 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- THE ESCHEATMENT OF
UNCLAIMED FUNDS IN COURT REGISTRIES

1 This act would bring uniformity to the state courts' treatment of unclaimed funds by
2 extending the application of the escheatment statutes to all of the courts within the state court
3 system and would provide for the uniform treatment of all unclaimed funds held in the court
4 registries. The act would allow for yearly escheatment of funds unclaimed for five (5) years or
5 more and would impose a five (5) year limitation period on the ability of individuals to file a
6 claim for funds held in the court registries.

7 This act would take effect upon passage.

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