REQUIRES TWO-THIRDS MAJORITY VOTE (§§ 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15)

(REPRINTED WITH ADOPTED AMENDMENTS)
THIRD REPRINT **A.B. 77**

ASSEMBLY BILL NO. 77–COMMITTEE ON GOVERNMENT AFFAIRS

FEBRUARY 9, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing unclaimed property. (BDR 10-410)

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; revising provisions governing when unclaimed property is presumed abandoned; providing for a limited exemption from interest penalties for the late payment or delivery of abandoned property under certain circumstances; and providing other matters properly relating thereto.

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

Section 1. NRS 120A.160 is hereby amended to read as follows:

120A.160 The following property held or owing by a banking or financial organization or by a business association is presumed abandoned:

1. Any demand, savings or matured time deposit or other certificate of deposit with a banking organization, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, including a deposit that is automatically renewable, and any money paid toward the purchase of a share, a mutual investment certificate or any other interest in a banking or financial organization, unless the owner has within ~~[5]~~ ***3*** years:

(a) In the case of a deposit, increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest;

(b) Communicated in writing with the banking organization concerning the property;

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;

(d) Owned other property to which paragraph (a), (b) or (c) applies and if the banking or financial organization communicates in writing with the

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owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent; or

(e) Had another relationship with the banking or financial organization concerning which the owner has:

(1) Communicated in writing with the banking or financial organization; or

(2) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

For the purposes of this subsection, "property" includes interest and dividends.

2. Any property described in subsection 1 that is automatically renewable is matured for purposes of subsection 1 upon the expiration of its initial time period, but in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in NRS 120A.320, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

3. Any sum payable on a check certified in this state or on a written instrument issued in this state on which a banking or financial organization or business association is directly liable, including any draft or cashier's check, which has been outstanding for more than 5 years after the date it was payable, or after the date of its issuance if payable on demand, or any sum payable on a money order which has been outstanding for more than 7 years after its issuance, or any sum payable on a traveler's check which has been outstanding for more than 15 years after the date of its issuance, unless the owner has within the specified period corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association.

4. Any money or other personal property, tangible or intangible, removed from a safe-deposit box or any other safekeeping repository on which the lease or rental period has expired because of nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than ~~[5]~~ ***3*** years from the date on which the lease or rental period expired. A safe-deposit box for which no rent is charged or which is provided to the user because of a specific amount deposited with a banking or financial organization or business association is presumed abandoned at the same time as the account for which it was given.

Sec. 2. NRS 120A.170 is hereby amended to read as follows:

120A.170 1. Unclaimed money held and owing by an insurance company is presumed abandoned if the last known address, according to the records of the company, of the person entitled to the money is within this state. If a person other than the insured or annuitant is entitled to the money and no address of such person is known to the company or if it is not definite and certain from the records of the company what person is entitled to the money, it is presumed that the last known address of the person entitled to the money is the same as the last known address of the insured or annuitant according to the records of the company.

2. "Unclaimed money," as used in this section, means all money held and owing by any insurance company unclaimed and unpaid for more than ~~[5]~~ ***3*** years after the money became due and payable as established from the records of the company under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured shall be deemed matured and the proceeds thereof deemed due if the policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding ~~[5]~~ ***3*** years:

(a) Assigned, readjusted or paid premiums on the policy or subjected the policy to loan; or

(b) Corresponded in writing with the insurance company concerning the policy.

3. Money otherwise payable according to the records of the company shall be deemed due although the policy or contract has not been surrendered as required.

Sec. 3. NRS 120A.190 is hereby amended to read as follows:

120A.190 1. Any stock or other intangible interest, or any dividend, profit, distribution, interest, payment on principal or other sum held or owing by a business association is presumed abandoned if, within ~~[5]~~ ***3*** years after the date prescribed for payment or delivery the shareholder, certificate holder, member, bondholder, other security holder or the participating patron of a cooperative has not claimed the property, corresponded in writing with the business association or otherwise indicated an interest in the property as evidenced by a memorandum or other record on file with the association. As to that property, the business association shall be deemed to be the holder.

2. Any dividend, profit, interest or other distributions held for or owing to a person at the time the stock or other property to which they attach are presumed to be abandoned shall be deemed to be abandoned at the same time as the stock or other property.

3. This section does not apply to any stock or other intangible interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible interest not enrolled in the reinvestment plan, that the owner has not within ~~[5]~~ ***3*** years communicated in any manner described in subsection 1.

Sec. 4. NRS 120A.210 is hereby amended to read as follows:

120A.210 All intangible personal property and any income or increment thereon held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within ~~[5]~~ ***3*** years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

1. If the property is held by a banking organization or a financial organization or by a business association organized under the laws of or created in this state;

2. If it is held by a business association doing business in this state but not organized under the laws of or created in this state and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or

3. If it is held in this state by any other person.

Sec. 5. NRS 120A.220 is hereby amended to read as follows:

120A.220 ~~[All]~~ ***Except as otherwise provided in NRS 607.170, all*** intangible personal property held for the owner by any court, public corporation, public authority or public officer, an appointee thereof, a federal or state governmental entity or a political subdivision thereof, that has remained unclaimed by the owner for more than ~~[5]~~ ***3*** years after it became payable or distributable is presumed abandoned and subject to the provisions of this chapter if:

1. The last known address or residence of the owner of the property is in this state; or

2. The property is otherwise abandoned in this state.

This section does not apply to refunds held by the public utilities commission of Nevada pursuant to NRS 703.375.

Sec. 6. NRS 120A.230 is hereby amended to read as follows:

120A.230 All intangible personal property not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than ~~[5]~~ ***3*** years after it became payable or distributable is presumed abandoned.

Sec. 7. NRS 120A.270 is hereby amended to read as follows:

120A.270 Any banking or financial organization or business association which holds property for another, if it does not hold property presumed to be abandoned, shall file a report with the administrator, on or before November 1 of each ~~[5]~~ ***3***-year period after November 1, ~~[1984,]~~ ***1999,*** which indicates that it is not a holder of any property presumed to be abandoned during that period. The reports of an insurance company under this section must be filed before May 1 of each year for the preceding calendar years.

Sec. 8. NRS 32.020 is hereby amended to read as follows:

32.020 1. In any receivership proceeding instituted in which a dividend has been declared and ordered paid to creditors, any dividend which remains unclaimed for ~~[5]~~ ***3*** years reverts to the general fund of the estate and must be applied as follows:

(a) To the payment of costs and expenses of the administration of the estate and receivership.

(b) To a new dividend distributed to creditors whose claims have been allowed but not paid in full. After those claims have been paid in full the balance is presumed abandoned under NRS 120A.210.

2. This section applies to any receivership proceeding which may be brought, and includes any bank, banking corporation, corporation, copartnership, company, association or natural person.

Sec. 9. NRS 381.009 is hereby amended to read as follows:

381.009 1. Any property held by an institution for ~~[10]~~ ***3*** years or more, to which no person has made claim, shall be deemed to be abandoned and becomes the property of the division if the administrator complies with the provisions of subsection 2.

2. The administrator shall cause to be published in at least one newspaper of general circulation in the county in which the institution is located at least once a week for 2 consecutive weeks a notice and listing of the property. The notice must contain:

(a) The name and last known address, if any, of the last known owner of the property;

(b) A description of the property; and

(c) A statement that if proof of a claim is not presented by the owner to the institution and if the owner's right to receive the property is not established to the administrator's satisfaction within 60 days after the date of the second published notice, the property will be considered abandoned and become the property of the division.

3. If no claim has been made to the property within 60 days after the date of the second published notice, title, including literary rights, to the property vests in the division, free from all claims of the owner and of all persons claiming through or under him.

Sec. 10. NRS 463.635 is hereby amended to read as follows:

463.635 1. If a corporation, partnership, limited partnership, limited-liability company or other business organization applying for or holding a state gaming license is or becomes owned in whole or in part or controlled by a publicly traded corporation, or if a publicly traded corporation applies for or holds a state gaming license, the publicly traded corporation shall:

(a) Maintain a ledger in the principal office of its subsidiary which is licensed to conduct gaming in this state, which must:

(1) Reflect the ownership of record of each outstanding share of any class of equity security issued by the publicly traded corporation. The ledger may initially consist of a copy of its latest list of equity security holders and thereafter be maintained by adding a copy of such material as it regularly receives from the transfer agent for its equity securities of any class which are outstanding.

(2) Be available for inspection by the board and the commission and their authorized agents at all reasonable times without notice.

(b) Register with the commission and provide the following information to the board:

(1) The organization, financial structure and nature of the business of the publicly traded corporation, including the names of all officers, directors and any employees actively and directly engaged in the administration or supervision of the activities of the gaming licensee, and the names, addresses and number of shares held of record by holders of its equity securities.

(2) The rights and privileges accorded the holders of different classes of its authorized equity securities.

(3) The terms on which its equity securities are to be, and during the preceding 3 years have been, offered by the corporation to the public or otherwise initially issued by it.

(4) The terms and conditions of all its outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security device, directly relating to the gaming activities of the gaming licensee.

(5) The extent of the equity security holdings of record in the publicly traded corporation of all officers, directors, underwriters and persons owning of record equity securities of any class of the publicly traded corporation, and any payment received by any such person from the publicly traded corporation for each of its 3 preceding fiscal years for any reason ~~[whatsoever.]~~ ***whatever.***

(6) Remuneration exceeding $40,000 per annum to persons other than directors and officers who are actively and directly engaged in the administration or supervision of the gaming activities of the gaming licensee.

(7) Bonus and profit-sharing arrangements of the publicly traded corporation directly or indirectly relating to the gaming activities of the gaming licensee.

(8) Management and service contracts of the publicly traded corporation directly or indirectly relating to the gaming activities of the gaming licensee.

(9) Options existing or from time to time created in respect of its equity securities.

(10) Balance sheets, certified by independent public accountants, for at least the 3 preceding fiscal years, or if the publicly traded corporation has not been incorporated for a period of 3 years, balance sheets from the time of its incorporation. These balance sheets may be those filed by it with or furnished by it to the Securities and Exchange Commission.

(11) Profit and loss statements, certified by independent certified public accountants, for at least the 3 preceding fiscal years, or, if the publicly traded corporation has not been incorporated for a period of 3 years, profit and loss statements from the time of its incorporation. These profit and loss statements may be those filed by it with or furnished by it to the Securities and Exchange Commission.

(12) Any further information within the knowledge or control of the publicly traded corporation which either the board or the commission may deem necessary or appropriate for the protection of this state, or licensed gambling, or both. The board or the commission may make such investigation of the publicly traded corporation or any of its officers,

directors, security holders or other persons associated therewith as it deems necessary.

(c) Apply for an order of registration from the commission which must set forth a description of the publicly traded corporation's affiliated companies and intermediary companies, and the various gaming licenses and approvals obtained by those entities. The commission may issue an order of registration upon receipt of a proper application. If the information set forth in an order of registration changes, the publicly traded corporation shall apply for and the commission may issue amendments to and revisions of the order of registration to reflect the changes.

(d) If the publicly traded corporation is a foreign corporation, qualify to do business in this state.

2. If the board determines that a publicly traded corporation registered with the commission, or any of its affiliates or intermediary companies, have ceased engaging in gaming activities in Nevada, the board may, upon its own motion, recommend that the commission deregister the publicly traded corporation. Before making such a recommendation for deregistration, the board shall provide at least 30 days' notice to the publicly traded corporation that it intends to move for deregistration. If the board is unable to confirm that notice has been received by the publicly traded corporation, the board shall provide notice to the last known address of the registered agent of the publicly traded corporation. If the commission issues an order deregistering the publicly traded corporation, a copy of the order must be provided to the publicly traded corporation together with a notice that the publicly traded corporation must apply, within ~~[5]~~ ***3*** years after the date of the order of deregistration, to the commission for a refund of any money of the publicly traded corporation held by the board. If the commission is unable to confirm that the publicly traded corporation has received the order, the commission shall provide the order to the last known address of the registered agent of the publicly traded corporation. The publicly traded corporation must apply to the board for a refund of any investigative or other money of the publicly traded corporation held by the board within ~~[5]~~ ***3*** years after the date of deregistration. The money of the publicly traded corporation for which a refund is not requested within ~~[5]~~ ***3*** years after the date of deregistration is presumed abandoned and is subject to the provisions of chapter 120A of NRS.

3. The commission may adopt regulations that generally or selectively impose on any publicly traded corporation any requirement not inconsistent with law which it may deem necessary in the public interest. Without limiting the generality of the preceding sentence, any such requirement may deal with the same subject matter as, but be more stringent than, the requirements imposed by NRS 463.482 to 463.645, inclusive.

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 663.085 is hereby amended to read as follows:

663.085 1. If the rental due on a safe-deposit box has not been paid for 90 days, the lessor may send a notice by registered or certified mail to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box may be opened in the presence of any officer of the lessor and a notary public. The contents must be sealed in a package by the notary public, who shall write on the outside the name of the lessee and the date of the opening in the presence of the officer. The notary public and the officer shall execute a certificate reciting the name of the lessee, the date of the opening of the box and a list of its contents. The certificate must be included in the package and a copy of the certificate must be sent by registered or certified mail to the last known address of the lessee. If the contents of the safe-deposit box have been unclaimed by the owner for ~~[5]~~ ***3*** years or less, the package must then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box, until such time that the contents will have been unclaimed by the owner for more than ~~[5]~~ ***3*** years, at which time the lessor shall deliver the package to the division of unclaimed property of the department of business and industry pursuant to the provisions of chapter 120A of NRS.

2. If the contents of a safe-deposit box that has been opened pursuant to subsection 1 have been unclaimed by the owner for more than ~~[5]~~ ***3*** years, the lessor shall deliver the package to the division of unclaimed property of the department of business and industry pursuant to the provisions of chapter 120A of NRS.

Sec. 13. NRS 673.373 is hereby amended to read as follows:

673.373 1. If the rental due on a safe-deposit box has not been paid for 90 days, the lessor may send a notice by registered or certified mail to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box may be opened in the presence of any officer of the lessor and a notary public. The contents must be sealed in a package by the notary public, who shall write on the outside the name of the lessee and the date of the opening in the presence of the officer. The notary public and the officer shall execute a certificate reciting the name of the lessee, the date of the opening of the box and a list of its contents. The certificate must be included in the package and a copy of the certificate must be sent by registered or certified mail to the last known address of the lessee. If the contents of the safe-deposit box have been unclaimed by the owner for ~~[5]~~ ***3*** years or less, the package must then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box, until such time that the contents will have been unclaimed by the owner for more than ~~[5]~~ ***3*** years, at which time the lessor shall deliver the package to the division of unclaimed property of the department of business and industry pursuant to the provisions of chapter 120A of NRS.

2. If the contents of a safe-deposit box that has been opened pursuant to subsection 1 have been unclaimed by the owner for more than ~~[5]~~ ***3*** years, the lessor shall deliver the package to the division of unclaimed

property of the department of business and industry pursuant to the provisions of chapter 120A of NRS.

Sec. 14. For purposes of sections 1 to 13, inclusive, of this act:

1. Except as otherwise provided in subsection 2, property that has been abandoned for the period established pursuant to the amendatory provisions of this act as of the effective date of this act shall be deemed to be abandoned property for purposes of chapter 120A of NRS.

2. Any notice required by a specific statute must be given before property may be deemed abandoned pursuant to subsection 1.

Sec. 15. 1. Notwithstanding the provisions of NRS 120A.450, interest may not be imposed upon any abandoned property paid or delivered to the division before July 1, 2002, if:

(a) On July 1, 2001, with regard to the abandoned property, the holder of the abandoned property is not:

(1) The subject of an investigation or prosecution;

(2) The subject of an audit; or

(3) A party to litigation pursuant to NRS 120A.430;

(b) The abandoned property was required to be reported before July 1, 2001, pursuant to NRS 120A.250 or 120A.270;

(c) The abandoned property is paid or delivered directly to the division or its authorized agent, together with a report that includes:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of $50 or more presumed abandoned pursuant to this chapter;

(2) In case of unclaimed money held by an insurance company, the full name of the insured or annuitant and his last known address according to the records of the corporation;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under $50 each may be reported in the aggregate;

(4) The date when the property became payable, demandable or returnable and the date of the last transaction with the owner with respect to the property; and

(5) Any other information that the administrator prescribes by regulation as necessary for the administration of this section;

(d) Abandoned property that includes securities is remitted as set forth in NRS 120A.320; and

(e) The records of the holder are maintained in a manner, satisfactory to the administrator, that permits verification of compliance with this section.

2. All abandoned property reported on or after July 1, 2001, must be reported separately from abandoned property reported before July 1, 2001, and may not be reported with abandoned property that is not eligible for exemption from NRS 120A.450 pursuant to this section.

3. The administrator shall:

(a) Provide information to the public concerning the provisions of this section; and

(b) Submit a report to the legislature on or before January 15, 2003, that includes a full accounting of all abandoned property surrendered pursuant to this section, the date abandoned property was surrendered and the identities of the holders of the surrendered property.

4. This section does not:

(a) Create an entitlement to a refund of interest or penalties paid to the division before July 1, 2001, pursuant to NRS 120A.450;

(b) Prohibit civil liability for false claims pursuant to NRS 357.040;

(c) Prevent prosecution of a person who violates NRS 120A.440; or

(d) Provide for the granting of an extension for filing a report required by NRS 120A.250.

5. As used in this section:

(a) "Audit" includes, without limitation, an audit or examination of records of a holder conducted by the administrator or commissioner of financial institutions pursuant to NRS 120A.420 or any other law authorizing an audit or examination of the records of a holder.

(b) "Investigation or prosecution" includes, without limitation:

(1) Any investigation conducted by the attorney general pursuant to NRS 357.070 or any other law authorizing investigation; or

(2) Any prosecution conducted by the attorney general or a district attorney pursuant to NRS 120A.440 or any other law authorizing prosecution,

of a holder for a violation of chapter 120A of NRS.

Sec. 16. 1. This section and sections 1 to 4, inclusive, and 6 to 15, inclusive, of this act become effective upon passage and approval.

2. Section 5 of this act becomes effective on July 1, 2001.