

SENATE BILL NO. 270—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE STATE TREASURER)

MARCH 22, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing unclaimed property.
(BDR 10-581)

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

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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; clarifying provisions regarding which entity is required to report certain abandoned property; allowing the Administrator of Unclaimed Property to require a person to file a verified report of abandoned property on diskette in certain circumstances; making various changes to the provisions governing the sale and disposition of abandoned property; allowing the Administrator to require a person with a claim in certain property to furnish a bond and indemnify the State in certain circumstances; allowing the Administrator to waive all or part of the interest penalty for a 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:

- 1 **Section 1.** NRS 120A.160 is hereby amended to read as
2 follows:
3 120A.160 The following property held or owing by a business
4 association is presumed abandoned:
5 1. Any demand, savings or matured time deposit or other
6 certificate of deposit with a banking organization, together with any



1 interest or dividend thereon, excluding any charges that may
2 lawfully be withheld, including a deposit that is automatically
3 renewable, and any money paid toward the purchase of a share, a
4 mutual investment certificate or any other interest in a financial
5 organization, unless the owner has within 3 years:

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

9 (b) Communicated in writing with the financial organization
10 concerning the property;

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

14 (d) Owned other property to which paragraph (a), (b) or (c)
15 applies and if the financial organization communicates in writing
16 with the owner with regard to the property that would otherwise be
17 presumed abandoned under this subsection at the address to which
18 communications regarding the other property regularly are sent; or

19 (e) Had another relationship with the financial organization
20 concerning which the owner has:

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

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

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

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



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

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

25 **Sec. 2.** NRS 120A.250 is hereby amended to read as follows:

26 120A.250 1. A person holding money or other property
27 presumed abandoned under this chapter shall make a verified report
28 to the Administrator with respect to the property.

29 2. The report must include:

30 (a) Except with respect to traveler's checks and money orders,
31 the name, if known, and last known address, if any, of each person
32 appearing from the records of the holder to be the owner of any
33 property of the value of \$50 or more presumed abandoned under this
34 chapter.

35 (b) In the case of unclaimed money held by an insurance
36 company, the full name of the insured or annuitant and his last
37 known address according to the records of the company.

38 (c) The nature and identifying number, if any, or description of
39 the property and the amount appearing from the records to be due,
40 except that items of value under \$50 each may be reported in the
41 aggregate.

42 (d) The date when the property became payable, demandable or
43 returnable and the date of the last transaction with the owner with
44 respect to the property.



(e) Any other information which the Administrator prescribes by regulation as necessary for the administration of this chapter.

3. If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

4. The report must be filed before November 1 of each year for the preceding fiscal year ending June 30 except that the report of an insurance company must be filed before May 1 of each year for the preceding calendar year. The Administrator may, in writing, postpone the reporting date upon written request by any person required to file a report.

5. Verification of the report, if made by:

(a) A partnership, must be executed by a partner.

(b) An unincorporated association or private corporation, must be executed by an officer.

(c) A public entity or corporation, must be executed by its chief fiscal officer.

6. The Administrator may require a person reporting 15 or more items of property pursuant to this section to file the report on diskette in lieu of on paper.

Sec. 3. NRS 120A.360 is hereby amended to read as follows:

120A.360 1. Except as otherwise provided in subsections 4, 5 and 6, all abandoned property other than money delivered to the Administrator under this chapter must, within ~~1 year~~ **2 years** after the delivery, be sold by the Administrator to the highest bidder at public sale in whatever ~~city in the State~~ **manner** affords in his judgment the most favorable market for the property involved. The Administrator may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient.

2. Any sale held under this section must be preceded by a single publication of notice thereof at least 2 weeks in advance of the sale in a newspaper of general circulation in the county where the property is to be sold.

3. The purchaser at any sale conducted by the Administrator pursuant to this chapter is vested with title to the property purchased, free from all claims of the owner or prior holder and of all persons claiming through or under them. The Administrator shall execute all documents necessary to complete the transfer of title.

4. The Administrator need not offer any property for sale if in his opinion, the probable cost of the sale exceeds the value of the property. The Administrator may destroy or otherwise dispose of such property or may transfer it to:



(a) The Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society, upon its written request, if the property has, in the opinion of the requesting institution, historical, artistic or literary value and is worthy of preservation; ~~or~~

(b) A genealogical library, upon its written request, if the property has genealogical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society ~~H~~; *or*

(c) A veterans' or military museum, upon its written request, if the property has military or military historical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society.

➡ An action may not be maintained by any person against the holder of the property because of that transfer, disposal or destruction.

5. Securities listed on an established stock exchange must be sold at the prevailing price for that security on the exchange at the time of sale. Other securities not listed on an established stock exchange may be sold:

(a) Over the counter at the prevailing price for that security at the time of sale; or

(b) By any other method the Administrator deems acceptable.

6. The Administrator shall hold property that was removed from a safe-deposit box or other safekeeping repository for 1 year after the date of the delivery of the property to the Administrator, unless that property is a will or a codicil to a will, in which case the Administrator shall hold the property for 10 years after the date of the delivery of the property to the Administrator. If no claims are filed for the property within that period, it may be destroyed.

Sec. 4. NRS 120A.390 is hereby amended to read as follows:

120A.390 1. The Administrator shall review each claim filed under this chapter and may hold a hearing and receive evidence concerning the claim. If a hearing is held, he shall prepare findings of fact and a decision in writing stating the substance of any evidence heard and the reasons for his decision. The decision is a public record.

2. ~~HH~~ *Except as otherwise provided in subsection 3, if the Administrator allows the claim, he shall pay it, without deduction for costs of notices or sale or for service charges, from the Abandoned Property Trust Fund as other claims against the State are paid.*

3. *The Administrator may require a person with a claim in excess of \$1,000 to furnish a bond and indemnify the State against any loss resulting from the approval of such claim if the claim is*



1 *based upon an original instrument, including, without limitation,*
2 *a certified check or a stock certificate, which cannot be furnished*
3 *by the person with the claim.*

4 **Sec. 5.** NRS 120A.450 is hereby amended to read as follows:

5 120A.450 1. Except as otherwise provided in subsection 2, in
6 addition to any penalties for which he may be liable, any person
7 who fails to report or to pay or deliver abandoned property within
8 the time prescribed by this chapter shall pay to the Administrator
9 interest at the rate of 18 percent per annum on the money or the
10 value of other property from the date on which the property should
11 have been paid or delivered.

12 2. The Administrator may waive the right to the payment of *all*
13 *or part of the* interest pursuant to this section if:

14 (a) The person otherwise obligated to make payment files with
15 the Administrator a verified statement of the facts, showing that his
16 failure to report or to make payment or delivery was not willful or
17 negligent but occurred because of circumstances beyond his control;
18 and

19 (b) The Administrator so finds.

20 **Sec. 6.** This act becomes effective on July 1, 2005.



