REQUIRES TWO-THIRDS MAJORITY VOTE (§§ 1, 4)

S.B. 167

SENATE BILL NO. 167–SENATOR CARE

MARCH 4, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing unclaimed property. (BDR 10-396)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 concerning reporting and notice requirements for unclaimed property; revising provisions concerning when certain unclaimed property must be delivered by the holder of the property to the State Treasurer; revising provisions concerning filing a claim for unclaimed property and receiving unclaimed property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Treasurer, in his capacity as the Administrator of Unclaimed Property, to take custody of and dispose of certain unclaimed property. (NRS 120A.500-120A.750) **Section 1** of this bill amends existing law to: (1) provide an apparent owner of unclaimed property the opportunity to claim property presumed to be abandoned before the holder of such property delivers the property to the Administrator; (2) require a holder of property presumed to be abandoned to file a report of unclaimed property electronically if the holder is reporting more than 10 items of unclaimed property; (3) authorize a holder of such property to charge the deposit, shares or account of an apparent owner for the expense of mailing a notice; (4) authorize the Administrator, when conducting business electronically, to substitute a declaration in place of a signature or record that must be notarized, acknowledged, verified or made under oath; and (5) require certain holders of property to file a negative report if the holder has no unclaimed property to report. (NRS 120A.560)

Section 2 of this bill amends existing law to remove the requirement that a holder of property wait to deliver any tangible property or other safekeeping depository to the Administrator until 60 days after filing the report of unclaimed property and instead requires this property to be delivered when the report is filed. (NRS 120A.570)

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Section 3 of this bill amends existing law to remove the requirement that the Administrator publish notice of unclaimed property in a newspaper of any county in Nevada for an apparent owner whose address is not in this State and instead requires the Administrator to determine the appropriate method for providing notice to an apparent owner whose address is not in this State. (NRS 120A.580)

Section 4 of this bill authorizes the Administrator to: (1) require a claimant to provide, either in the initial claim or in subsequent evidence, an English translation for any documents submitted in a language other than English as part of a claim for abandoned property; and (2) deduct the expense for mailing property by registered mail or courier service from the claimant's payment. (NRS 120A.640)

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

Section 1. NRS 120A.560 is hereby amended to read as follows:

120A.560 1. A holder of property presumed abandoned shall make a report to the Administrator concerning the property.

2. The report must be verified and must contain:

(a) A description of the property;

(b) Except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and the social security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of $50 or more;

(c) In the case of an amount of $50 or more held or owing under an annuity or a life or endowment insurance policy, the full name and last known address of the annuitant or insured and of the beneficiary;

(d) In the case of property held in a safe-deposit box or other safekeeping depository, an indication of the place where it is held and where it may be inspected by the Administrator and any amounts owing to the holder;

(e) The date, if any, on which the property became payable, demandable or returnable and the date of the last transaction with the apparent owner with respect to the property; and

(f) Other information that the Administrator by regulation prescribes as necessary for the administration of this chapter.

3. If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.

4. The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a

report with respect to an insurance company must be filed before May 1 of each year for the calendar year next preceding.

5. The holder of property presumed abandoned shall send written notice to the apparent owner, not more than 120 days or less than 60 days before filing the report, stating that the holder is in possession of property subject to this chapter, if:

(a) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

(b) The claim of the apparent owner is not barred by a statute of limitations; and

(c) The value of the property is $50 or more.

6. ***If the apparent owner completes, signs and returns to the holder of the property presumed abandoned the written notice described in subsection 5 before the date that the holder must file a report pursuant to subsection 4, the property will no longer be presumed abandoned.***

7. If a holder of property presumed abandoned is reporting more than 10 items of property pursuant to this section, the holder of the property shall file the report electronically with the Administrator, using the form prescribed by the Administrator.

8. The holder of property presumed abandoned may impose a fee of not more than $2 upon the deposit, shares or account of the apparent owner for the expense of mailing the written notice required pursuant to subsection 5. The fee must be deducted from the deposit, shares or account of the apparent owner before the filing of the report required pursuant to subsection 1.

9. Before the date for filing the report, the holder of property presumed abandoned may request the Administrator to extend the time for filing the report. The Administrator may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

~~[7.]~~ ***10.*** The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with subsection 5.

~~[8.]~~ ***11.*** The Administrator may require the report to be filed electronically in the manner determined by the Administrator.

12. In addition to the process authorized by NRS 719.280, if the Administrator is conducting business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Administrator may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 to satisfy the legal requirement.

13. Except as otherwise provided in this subsection, if a holder who is located in this State or who conducts business in this State does not have any property presumed abandoned, the holder shall file, before November 1 of each year or before May 1 of each year if the holder is an insurance company, with the Administrator an annual negative report indicating that the holder does not have any property presumed abandoned. A holder filing a negative report may request the Administrator to extend the time for filing the report and the Administrator may grant the extension for good cause. The Administrator may, by regulation, exempt holders from the requirements of this subsection. The regulations must set forth the criteria for the exemption, such as the amount of assets of the holder, the size of the payroll of the holder, the amount of sales of the holder or any other criteria the Administrator finds to be in the public interest.

Sec. 2. NRS 120A.570 is hereby amended to read as follows:

120A.570 1. ~~[Except for property held in a safe-deposit box or other safekeeping depository, upon]~~ ***Upon*** filing the report required by NRS 120A.560, the holder of property presumed abandoned shall pay, deliver or cause to be paid or delivered to the Administrator the property described in the report as unclaimed, but if the property is an automatically renewable deposit ~~[,]~~ and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. ~~[Tangible property held in a safe-deposit box or other safekeeping depository may not be delivered to the Administrator until 60 days after filing the report required by NRS 120A.560.]~~

2. If the property reported to the Administrator is a security or security entitlement under NRS 104.8101 to 104.8511, inclusive, the Administrator is an appropriate person to make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with NRS 104.8101 to 104.8511, inclusive.

3. If the holder of property reported to the Administrator is the issuer of a certificated security, the Administrator has the right to obtain a replacement certificate pursuant to NRS 104.8405, but an indemnity bond is not required.

4. An issuer, the holder and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be indemnified against claims of any person in accordance with NRS 120A.590.

Sec. 3. NRS 120A.580 is hereby amended to read as follows:

120A.580 1. The Administrator shall publish a notice not later than November 30 of the year next following the year in which abandoned property has been paid or delivered to the Administrator. The notice must be published in a newspaper of general circulation in the county of this State in which is located the last known address of any person named in the notice. If a holder does not report an address for the apparent owner ***,*** ~~[or the address is outside this State,]~~ the notice must be published in a county that the Administrator reasonably selects. ***If a holder reports an address for the apparent owner which is outside of this State, the Administrator shall determine an appropriate method for providing notice to the apparent owner.*** The ~~[advertisement]~~ ***notice*** must be in a form that, in the judgment of the Administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The form must contain:

(a) The name of each person appearing to be the owner of the property, as set forth in the report filed by the holder;

(b) The city or town in which the last known address of each person appearing to be the owner of the property is located, if a city or town is set forth in the report filed by the holder;

(c) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the Administrator; and

(d) A statement that information about the property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the Administrator.

2. The Administrator is not required to advertise the name and city or town of an owner of property having a total value ***of*** less than $50 or information concerning a traveler's check, money order or similar instrument.

Sec. 4. NRS 120A.640 is hereby amended to read as follows:

120A.640 1. A person, excluding another state, claiming property paid or delivered to the Administrator may file a claim on a form prescribed by the Administrator and verified by the claimant.

2. Within 90 days after a claim is filed, the Administrator shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Administrator shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Administrator or maintain an action under NRS 120A.650.

3. ***The Administrator may require the claimant, as part of the initial claim or evidence required pursuant to subsections 1 and 2,***

to provide an English translation for any claims that include documents written in a language other than English.

4. Except as otherwise provided in subsection ~~[5,]~~ ***7,*** within 30 days after a claim is allowed, the property or the net proceeds of a sale of the property must be delivered or paid by the Administrator to the claimant, together with any dividend, interest or other increment to which the claimant is entitled under NRS 120A.600 and 120A.610.

~~[4.]~~ ***5. Any payments or property mailed pursuant to subsection 4 to a claimant outside the United States may be sent by registered mail or by courier service at the expense of the claimant. The expense for mailing may be deducted from the payment due the claimant if the cost of mailing does not exceed the amount of payment due the claimant.***

6. A holder who pays the owner for property ~~[that]~~ ***which*** has been delivered to the State and which, if claimed from the Administrator by the owner ***,*** would be subject to an increment under NRS 120A.600 and 120A.610 may recover from the Administrator the amount of the increment.

~~[5.]~~ ***7.*** The Administrator may require a person with a claim in excess of $2,000 to furnish a bond and indemnify the State against any loss resulting from the approval of such claim if the claim is based upon an original instrument, including, without limitation, a certified check or a stock certificate or other proof of ownership of securities, which cannot be furnished by the person with the claim.

Sec. 5. This act becomes effective on July 1, 2009.

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