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SECOND REPRINT

S.B. 44

SENATE BILL NO. 44—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE STATE TREASURER)

PREFILED NOVEMBER 19, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions of the Uniform Unclaimed Property Act. (BDR 10-480)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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; adopting provisions of the 2016 Revised Uniform Unclaimed Property Act; providing penalties for making fraudulent claims; permitting interagency information sharing under certain conditions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises Nevada's Uniform Unclaimed Property Act to reflect changes adopted by the Uniform Law Commission in the 2016 Revised Uniform Unclaimed Property Act (RUUPA). (Chapter 120A of NRS) **Section 4** of this bill permits the Administrator of Unclaimed Property to enter into interagency agreements to protect confidential information shared with other agencies and to otherwise help locate apparent owners of abandoned property. **Sections 5 and 6** of this bill provide penalties relating to fraudulent claims for unclaimed property. **Sections 2 and 3** of this bill add the definitions of "payroll card" and "stored-value card," respectively. **Section 8** of this bill expands the definition of "holder." **Section 9** of this bill revises the definition of "money order." **Section 10** of this bill expands and revises the definition of "property." **Section 11** of this bill revises the method for determining whether certain property is abandoned. **Section 12** of this bill: (1) permits the holder of property that is presumed to be abandoned to contract with a third party to file reports with the Administrator but does not relieve the holder from liability for proper reporting, transfer of the property and any penalties, interest and fees under the law; and (2) revises requirements governing the reports and payments which must be provided to the Administrator. **Section 14** of this bill provides that property held by the Administrator is subject to claims for certain



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debts, including, without limitation, child support, civil and criminal fines or penalties imposed by an administrative agency or court, and state and local taxes, penalties and interest. **Section 15** of this bill provides a penalty for failing to properly file a report of abandoned property and properly make payments through the State business portal. **Section 16** of this bill provides that this bill becomes effective on July 1, 2019.

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

Section 1. Chapter 120A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *“Payroll card” means a record that evidences a payroll card account, as defined in Regulation E, 12 C.F.R. Part 1005, as amended, adopted pursuant to the federal Electronic Fund Transfer Act, as amended, 15 U.S.C. §§ 1693 et seq.*

Sec. 3. 1. *“Stored-value card” means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services or money will be provided to the owner of record to the value or amount shown in the record.*

2. *The term includes:*

(a) A record that contains or consists of a microprocessor chip, magnetic strip or other means for the storage of information which is prefunded and whose value or amount is decreased on each use and increased by payment of additional consideration; and

(b) A payroll card.

3. *The term does not include a loyalty card or game-related digital content.*

Sec. 4. 1. *In order to facilitate the return of property under this chapter, the Administrator may enter into cooperative agreements with an agency from this State concerning the protection of shared confidential information, rules for data matching and other issues. Upon the execution of such an agreement, the Administrator may provide to the agency with which the Administrator has entered the cooperative agreement information regarding the apparent owners of unclaimed or abandoned property pursuant to this chapter, including, without limitation, the name and social security number of the apparent owner. An agency that has entered into a cooperative agreement with the Administrator pursuant to this section shall notify the Administrator of the last known address of each apparent owner for which information was provided to the agency pursuant to this section, except as prohibited by federal law.*



2. The Administrator may adopt regulations to facilitate delivery of property or pay the amount owing to an apparent owner matched under this section without filing a claim. Such regulations must set forth the conditions for such payment.

Sec. 5. Any person who knowingly makes a fraudulent claim from the Administrator on the property of another with the intent to deprive that person of the property shall be punished:

1. Where the value of the property involved is \$650 or more, for a category C felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. Where the value of the property is less than \$650, for a misdemeanor.

Sec. 6. A person is guilty of a misdemeanor:

1. If the person knowingly makes or causes to be made, either directly or indirectly, or through any agency whatsoever, any false statement in writing, with the intent that it be relied upon, respecting the right to claim property or money held by the Administrator, for the purpose of procuring the delivery of such property or money, for the benefit of either himself or herself or of another person; or

2. If the person, knowing that a false statement in writing has been made respecting the right to claim property held by the Administrator, procures upon the faith thereof, the delivery of such property or money for the benefit of either himself or herself or of another person.

Sec. 7. NRS 120A.020 is hereby amended to read as follows:

120A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 120A.025 to 120A.120, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 120A.080 is hereby amended to read as follows:

120A.080 "Holder" means a person *or business* obligated, *or assumed to be obligated*, to hold for the account of, or deliver or pay to, the owner property that is subject to this chapter.

Sec. 9. NRS 120A.098 is hereby amended to read as follows:

120A.098 "Money order" *means an order for payment of a specified amount of money. The term* includes an express money order and a personal money order, on which the remitter is the purchaser. The term does not include a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.

Sec. 10. NRS 120A.113 is hereby amended to read as follows:

120A.113 1. "Property" means tangible property described in NRS 120A.510 or a fixed and certain interest in intangible property



that is held, issued or owed in the course of a holder's business or by a government, governmental subdivision, agency or instrumentality ~~. [, and all income or increments therefrom.]~~

2. The term includes, without limitation ~~[, property]~~ :

(a) *All income from or increments to the property.*

(b) *Property* that is referred to as or evidenced by:

~~[1. Money or a check, draft, deposit, interest or dividend;~~

~~—2.] (1) Money, virtual currency or interest, or a payroll card, dividend, check, draft or deposit;~~

(2) A credit balance, customer's overpayment, *stored-value card*, security deposit, refund, credit memorandum, unpaid wage, *unused ticket for which the issuer has an obligation to provide a refund*, mineral proceeds or unidentified remittance;

~~[3. Stock or other evidence of ownership of an interest in a business association or financial organization;~~

~~—4.] (3) A security, except for a security that is subject to a lien, legal hold or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold or restriction restricts the holder's or owner's ability to receive, transfer, sell or otherwise negotiate the security;~~

(4) A bond, debenture, note or other evidence of indebtedness;

~~[5.] (5) Money deposited to redeem [stocks, bonds, coupons or other securities or to make distributions;~~

~~—6.] a security, make a distribution or pay a dividend;~~

(6) An amount due and payable under the terms of an annuity or insurance policy ; ~~[, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance;]~~ and

~~[7.] (7) An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits.~~

3. *The term does not include:*

(a) *Property held in an ABLE account described in section 529A of the Internal Revenue Code, 26 U.S.C. § 529A;*

(b) *Game-related digital content; or*

(c) *A loyalty card.*

Sec. 11. NRS 120A.500 is hereby amended to read as follows:

120A.500 1. Except as otherwise provided in subsections 6 and 7, property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) A traveler's check, 15 years after issuance;



(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose ~~for, in the case of a policy or annuity payable upon proof of death, 3 years after the~~ *under the terms of the policy or contract or, if a policy or contract for which payment is owed on proof of death has not matured by proof of death of the insured or annuitant:*

(1) With respect to an amount owed for a life or endowment insurance policy, 3 years after the earlier of the date:

(I) The insurance company has knowledge of the death of the insured; or

(II) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based; and

(2) With respect to an amount owed on an annuity contract, 3 years after the date the insurance company has knowledge of the death of the annuitant;

(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;



(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the ~~earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and~~ later of:

(1) The date determined as follows:

(I) Except as otherwise provided in sub-subparagraph (II), the date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or

(II) If the second communication is sent later than 30 days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States Postal Service; or

(2) The earlier of the following dates:

(I) The date the apparent owner becomes 70.5 years of age, if determinable by the holder; or

(II) If the Internal Revenue Code requires distribution to avoid a tax penalty, 2 years after the date the holder receives, in the ordinary course of business, confirmation of the death of the apparent owner;

(n) *An account of funds established to meet the costs of burial, 3 years after the earlier of:*

(1) The date of death of the beneficiary; or

(2) If the holder does not know whether the beneficiary is deceased, the date the beneficiary has attained, or would have attained if living, the age of 105 years; and



(o) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1 or 7, as applicable, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

6. The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:

(a) An account or asset managed through a guardianship;



- (b) An account blocked at the direction of a court;
- (c) A trust account established to address a special need;
- (d) A qualified income trust account;
- (e) A trust account established for tuition purposes; *and*
- (f) A trust account established on behalf of a client . ~~[-; and~~

~~—(g) An account or fund established to meet the costs of burial.]~~

7. For property described in paragraphs (c) to (f), inclusive, and ~~[(a)] (o)~~ of subsection 1, the 3-year period described in each of those paragraphs must be reduced to a 2-year period if the holder of the property reported more than \$10 million in property presumed abandoned on the holder's most recent report of abandoned property made pursuant to NRS 120A.560.

Sec. 12. 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. *A holder may contract with a third party, including, without limitation, a transfer agent, to make the report required by subsection 1.*

3. *Whether or not a holder contracts with a third party pursuant to subsection 2, the holder is responsible:*

(a) *To the Administrator for the complete, accurate and timely reporting of property presumed abandoned;*

(b) *For paying or delivering to the Administrator the property described in the report; and*

(c) *For any penalties, interest and fees due pursuant to NRS 120A.730.*

4. 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]~~ *location of the property* 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;]~~ *identified in subsection 1 of NRS 120A.500 from which the length of time*



required in subsection 1 or 7 of NRS 120A.500 must be measured to determine whether the property is presumed abandoned pursuant to NRS 120A.500 or, if the property is a gift certificate, the date identified in subsection 1 of NRS 120A.520, as applicable;
and

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

~~[3.]~~ 5. 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]~~

6. *Except as otherwise provided in subsection 7, 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]~~

7. A report with respect to an insurance company must be filed before May 1 of each year for the *immediately preceding* calendar year. ~~[next preceding.~~

~~—5.]~~ 8. 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;]~~ *invalid and is sufficient to direct delivery of first-class United States mail to the apparent owner; and*

(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.

↪ *If a holder is required to send written notice to the apparent owner pursuant to this subsection and the apparent owner has consented to receive delivery from the holder by electronic mail, as defined in NRS 41.715, the holder shall send the notice by first-class United States mail to the apparent owner's last known mailing address, as described in paragraph (a), and by electronic mail, unless the holder believes the apparent owner's electronic mail address is invalid.*

~~[6.]~~ 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.~~

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

11. Except as otherwise provided in subsection 12, the holder of property presumed abandoned shall, through a business portal established by the Administrator, electronically file the report and make the payment of the total amount due.

12. The Administrator may waive the requirement to file the report and make the payment electronically for good cause shown by the holder. The holder must request the waiver on or before the deadline established by the Administrator.

Sec. 13. (Deleted by amendment.)

Sec. 14. 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. Except as otherwise provided in subsection 5, 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. A holder who pays the owner for property that 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. 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.

6. Property held under this chapter by the Administrator is subject to a claim for the payment of a debt which the



Administrator determines to be enforceable and which the owner owes in this State for:

(a) Support of a child, including, without limitation, any related collection costs and any amounts which may be combined with maintenance for a former spouse;

(b) A civil or criminal fine or penalty, court costs or a surcharge or restitution imposed by a final order of an administrative agency or a final judgment of a court; or

(c) A state or local tax, and any related penalty and interest.

Sec. 15. NRS 120A.730 is hereby amended to read as follows:

120A.730 1. A holder who fails to report, pay or deliver property within the time prescribed by this chapter shall pay to the Administrator interest at the rate of 18 percent per annum on the property or value thereof from the date the property should have been reported, paid or delivered.

2. Except as otherwise provided in subsection 3, a holder who fails to report, pay or deliver property within the time prescribed by this chapter or fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of \$200 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of \$5,000.

3. A holder who willfully fails to report, pay or deliver property within the time prescribed by this chapter or willfully fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of \$1,000 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of \$25,000, plus 25 percent of the value of any property that should have been but was not reported.

4. A holder who makes a fraudulent report shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of \$1,000 for each day from the date a report under this chapter was due, up to a maximum of \$25,000, plus 25 percent of the value of any property that should have been but was not reported.

5. The Administrator for good cause may waive, in whole or in part, interest under subsection 1 and penalties under subsections 2 and 3, and shall waive penalties if the holder acted in good faith and without negligence.

6. A holder who fails to make a payment as required by subsections 11 and 12 of NRS 120A.560 must be assessed by the Administrator a fee for each such payment in an amount equal to the greater of \$50 or 2 percent of the amount of the payment.



1 **Sec. 16.** This act becomes effective on July 1, 2019.

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