
By: Delegate Kittleman

Introduced and read first time: January 31, 1997

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Abandoned Property - Business Associations**

3 FOR the purpose of providing that certain laws governing the disposition of abandoned
4 property do not apply to business associations; providing that certain property held
5 by a business association under certain circumstances is not abandoned property;
6 providing that certain securities held by a business association for a certain amount
7 of time are not abandoned property under any circumstance; providing that
8 personal property distributable on forfeiture of the charter or voluntary dissolution
9 of a business association under certain circumstances is not abandoned property;
10 repealing certain provisions of law relating to certain stocks or sums held by a
11 business association; and generally relating to the disposition of abandoned
12 property held by a business association.

13 BY repealing

14 Article - Commercial Law
15 Section 17-304
16 Annotated Code of Maryland
17 (1990 Replacement Volume and 1996 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article - Commercial Law
20 Section 17-101, 17-301, and 17-305
21 Annotated Code of Maryland
22 (1990 Replacement Volume and 1996 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That Section(s) 17-304 of Article - Commercial Law of the Annotated
25 Code of Maryland be repealed.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
27 read as follows:

28 **Article - Commercial Law**

29 17-101.

30 (a) In this title the following words have the meanings indicated.

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1 (b) (1) "Abandoned property" means personal property that is considered
2 abandoned under this title.

3 (2) "Abandoned property" includes property in the custody of the federal
4 government that is classified as "unclaimed property" under federal law.

5 (c) "Administrator" means the State Comptroller.

6 (d) "Banking organization" means any bank, trust company, savings bank, land
7 bank, and any other similar organization engaged in business in the State.

8 (e) ["Business association" means any corporation, joint stock company, business
9 trust, partnership, or any association for business purposes of two or more individuals.

10 (f) "County" includes Baltimore City.

11 [(g)] (F) "Federal government" includes any of its agencies or instrumentalities.

12 [(h)] (G) "Financial organization" means any savings and loan association or
13 credit union engaged in business in the State.

14 [(i)] (H) "Holder" means any person who is:

15 (1) In possession of property subject to this title belonging to another;

16 (2) A trustee, in the case of a trust; or

17 (3) Indebted to another on an obligation subject to this title.

18 [(j)] (I) "Insurance corporation" means any association or corporation
19 transacting in the State the business of insurance on the lives of persons or insurance
20 pertaining to life insurance, including endowments and annuities, disability, accident and
21 health insurance, and property, casualty, and surety insurance, as these terms are defined
22 in Article 48A of the Code.

23 [(k)] (J) "Owner" means:

24 (1) In the case of a deposit, a depositor or a person entitled to receive the
25 funds as reflected on the records of the bank or financial organization;

26 (2) In the case of a trust, a beneficiary;

27 (3) In the case of other choses in action, a creditor, claimant, or payee;

28 (4) In the case of abandoned property in federal custody, the person who is
29 defined as the owner by any applicable federal law; or

30 (5) Any person who has a legal or equitable interest in property subject to
31 this title, or the legal representative of that person.

32 [(l)] (K) "Person" includes the State, any county, municipal corporation, or other
33 political subdivision of the State, or any of their units, an individual, [business
34 association,] corporation, business trust, estate, trust, partnership, association, two or
35 more persons having a joint or common interest, or any other legal or commercial entity.

36 [(m)] (L) "Personal property" does not include a gift certificate.

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1 [(n)] (M) "Utility" means any person who owns or operates in the State, for public
2 use, any plant, equipment, property, franchise, or license for the transmission of
3 communications, for the production, storage, transmission, sale, delivery, or furnishing of
4 electricity, water, steam, or gas, or for the transportation of persons or property.

5 [(o)] (N) "Service charge" means any type of deduction or charge made by a
6 holder on property presumed abandoned under this title.

7 17-301.

8 (a) The following property held by a banking or financial organization[, or
9 business association] is presumed abandoned, if the depositor has been issued a notice by
10 first class mail to the depositor's last known address of the fact that the property will be
11 considered abandoned and there is no response within 30 days to the notification:

12 (1) Any demand, savings, or matured time deposit account made with a
13 banking organization, together with any interest or dividend on it, excluding any charges
14 that lawfully may be withheld, unless, within 5 years, the owner has:

15 (i) Increased or decreased the amount of the deposit;

16 (ii) Presented evidence of the deposit for the crediting of interest;

17 (iii) Corresponded in writing with the banking organization concerning
18 the deposit;

19 (iv) Engaged in any credit, trust, or other deposit transaction with the
20 banking organization; or

21 (v) Otherwise indicated an interest in the deposit as evidenced by a
22 memorandum on file with the banking organization;

23 (2) Any funds paid toward the purchase of shares or other interest in a
24 financial organization, or any deposit made with these funds, and any interest or
25 dividends on these, excluding any charges that lawfully may be withheld, unless, within 5
26 years, the owner has:

27 (i) Increased or decreased the amount of the funds or deposit, or
28 presented an appropriate record for the crediting of interest or dividends;

29 (ii) Corresponded in writing with the financial organization concerning
30 the funds or deposit;

31 (iii) Engaged in any credit, share, or other deposit transaction with the
32 financial organization; or

33 (iv) Otherwise indicated an interest in the funds or deposit as
34 evidenced by a memorandum on file with the financial organization;

35 (3) Any sum payable on a check certified in this State or on a written
36 instrument issued in this State on which a banking or financial organization [or business
37 association] is directly liable, including any certificate of deposit, draft, traveler's check,
38 and money order, that has been outstanding for more than 5 years from the date it was
39 payable (or 15 years in the case of a traveler's check) or, if payable on demand, from the

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1 date of its issuance, unless, within 5 years or 15 years in the case of a traveler's check, the
2 owner has:

3 (i) Corresponded in writing with the banking or financial organization
4 [or business association] concerning it; or

5 (ii) Otherwise indicated an interest as evidenced by a memorandum on
6 file with the banking or financial organization [or business association]; and

7 (4) Any property removed from a safekeeping repository on which the lease
8 or rental period has expired or any surplus amounts arising from the sale of the property
9 pursuant to law, that have been unclaimed by the owner for more than 5 years from the
10 date on which the lease or rental period expired.

11 (b) Nothing in this section shall be construed to apply to any demand, savings, or
12 matured time deposits that are designated subject to the order of any court of this State.

13 (c) Property is subject to the custody of this State as unclaimed property if the
14 conditions raising a presumption of abandonment under this section are met and:

15 (1) The last known address, as shown on the records of the holder, of the
16 apparent owner is in this State;

17 (2) The records of the holder do not reflect the identity of the person
18 entitled to the property and it is established that the last known address of the person
19 entitled to the property is in this State;

20 (3) The records of the holder do not reflect the last known address of the
21 apparent owner, and it is established that:

22 (i) The last known address of the person entitled to the property is in
23 this State; or

24 (ii) The holder is a domiciliary or a government or governmental
25 subdivision or agency of this State and has not previously paid or delivered the property
26 to the State of the last known address of the apparent owner or other person entitled to
27 the property;

28 (4) The last known address, as shown on the records of the holder, of the
29 apparent owner is in a state that does not provide by law for the escheat or custodial
30 taking of the property or its escheat or unclaimed property law is not applicable to the
31 property and the holder is a domiciliary or a government or governmental subdivision or
32 agency of this State;

33 (5) The last known address, as shown on the records of the holder, of the
34 apparent owner is in a foreign nation and the holder is a domiciliary or a government or
35 governmental subdivision or agency of this State; or

36 (6) The transaction out of which the property arose occurred in this State
37 and:

38 (i) The last known address of the apparent owner or other person
39 entitled to the property is unknown or the last known address of the apparent owner or

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1 other person entitled to the property is in a state that does not provide by law for the
2 escheat or custodial taking of the property or its escheat or unclaimed property law is not
3 applicable to the property; and

4 (ii) The holder is a domiciliary of a state that does not provide by law
5 for the escheat or custodial taking of the property or its escheat or unclaimed property
6 law is not applicable to the property.

7 17-305.

8 All tangible or intangible personal property distributable on forfeiture of the
9 charter or voluntary dissolution of a [business association,] banking organization[,]or
10 financial organization organized under the laws of this State, that is unclaimed by the
11 owner 60 days after the date of final distribution, is presumed abandoned.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1997.