

HB0305/553027/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 305

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Abandoned**” and substitute “**Presumption of**”; in the same line, after “**Property**” insert “**Abandonment**”; in the same line, strike “**Notice and Records**” and substitute “**Revisions**”; strike beginning with “requiring” in line 3 down through “property;” in line 6 and substitute “altering the circumstances under which certain property is presumed abandoned; altering the circumstances under which the running of the period of abandonment of certain property ceases; providing that the period of abandonment of certain property ceases under certain circumstances;”; after line 7, insert:

“BY repealing and reenacting, without amendments,

Article - Commercial Law

Section 17-101(a), (i), and (k)

Annotated Code of Maryland

(2013 Replacement Volume and 2021 Supplement)”;

in line 10, strike “17-308.2 and 17-312” and substitute “17-301, 17-304, 17-308(d), and 17-308.1(b)”; and strike in their entirety lines 13 through 17, inclusive.

AMENDMENT NO. 2

On pages 1 through 3, strike in their entirety the lines beginning with line 21 on page 1 through line 20 on page 3, inclusive, and substitute:

“17-101.

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

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(i) “Holder” means any person who is:

- (1) In possession of property subject to this title belonging to another;
- (2) A trustee, in the case of a trust; or
- (3) Indebted to another on an obligation subject to this title.

(k) “Owner” means:

- (1) In the case of a deposit, a depositor or a person entitled to receive the funds as reflected on the records of the bank or financial organization;
- (2) In the case of a trust, a beneficiary;
- (3) In the case of other choses in action, a creditor, claimant, or payee;
- (4) In the case of abandoned property in federal custody, the person who is defined as the owner by any applicable federal law; or
- (5) Any person who has a legal or equitable interest in property subject to this title, or the legal representative of that person.

17-301.

(a) (1) FOR PURPOSES OF THIS SECTION AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A HOLDER SHALL BE DEEMED TO NO LONGER HAVE A VALID ADDRESS FOR THE OWNER OF THE PROPERTY AS OF THE LATER OF:

(I) THE DATE A SECOND COMMUNICATION IS RETURNED BY THE U.S. POSTAL SERVICE TO A HOLDER AS UNDELIVERABLE TO AN APPARENT OWNER, IF:

1. THE HOLDER SENT THE SECOND COMMUNICATION TO THE APPARENT OWNER BY FIRST-CLASS MAIL; AND

2. A PREVIOUS COMMUNICATION WAS:

A. SENT BY FIRST-CLASS MAIL;

B. SENT IMMEDIATELY PRECEDING THE SECOND COMMUNICATION; AND

C. RETURNED BY THE U.S. POSTAL SERVICE TO THE HOLDER AS UNDELIVERABLE TO THE APPARENT OWNER; OR

(II) THE DATE A PREVIOUS COMMUNICATION IS RETURNED BY THE U.S. POSTAL SERVICE TO A HOLDER AS UNDELIVERABLE TO AN APPARENT OWNER, IF THE HOLDER:

1. SENT THE PREVIOUS COMMUNICATION TO THE APPARENT OWNER:

A. BY FIRST-CLASS MAIL; AND

B. IMMEDIATELY PRECEDING A SECOND COMMUNICATION; AND

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2. SENT THE SECOND COMMUNICATION TO THE APPARENT OWNER:

A. BY FIRST-CLASS MAIL; AND

B. MORE THAN 30 DAYS AFTER THE PREVIOUS COMMUNICATION UNDER THIS SUBPARAGRAPH WAS SENT.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE HOLDER DOES NOT SEND COMMUNICATIONS TO AN APPARENT OWNER BY FIRST-CLASS MAIL, THE HOLDER SHALL ATTEMPT TO CONFIRM THE APPARENT OWNER'S INTEREST IN THE PROPERTY BY E-MAILING THE APPARENT OWNER NOT LATER THAN 2 YEARS AFTER THE APPARENT OWNER'S LAST INDICATION OF INTEREST IN THE PROPERTY.

(II) THE HOLDER SHALL PROMPTLY ATTEMPT TO CONTACT THE APPARENT OWNER BY FIRST-CLASS MAIL IF:

1. THE HOLDER DOES NOT HAVE THE INFORMATION NEEDED TO SEND AN E-MAIL TO THE APPARENT OWNER;

2. THE HOLDER BELIEVES THE APPARENT OWNER'S E-MAIL ADDRESS IN THE HOLDER'S RECORDS IS NOT VALID;

3. THE HOLDER RECEIVES NOTIFICATION THAT THE E-MAIL WAS NOT RECEIVED; OR

4. THE APPARENT OWNER DOES NOT RESPOND TO THE E-MAIL COMMUNICATION WITHIN 30 DAYS AFTER THE E-MAIL WAS SENT.

(III) 1. IF A MAILING SENT IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH IS RETURNED BY THE U.S. POSTAL SERVICE TO THE HOLDER AS UNDELIVERABLE TO THE APPARENT OWNER, THE MAILING SHALL CONSTITUTE A COMMUNICATION FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.

2. IF A MAILING SENT IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH IS NOT RETURNED BY THE U.S. POSTAL SERVICE TO THE HOLDER AS UNDELIVERABLE TO THE APPARENT OWNER, THE HOLDER SHALL BE PRESUMED TO HAVE A VALID ADDRESS FOR THE OWNER OF THE PROPERTY.

(B) The following property held by a banking or financial organization, or business association is presumed abandoned:

(1) Any demand, savings, or matured time deposit account made with a banking organization, together with any interest or dividend on it, excluding any charges that lawfully may be withheld, [unless, within 3 years,] 3 YEARS AFTER THE LATER OF:

(I) THE DATE THE HOLDER IS DEEMED TO NO LONGER HAVE A VALID ADDRESS FOR THE OWNER OF THE PROPERTY; OR

(II) THE DATE the owner [has] LAST:

[(i)] 1. Increased or decreased the amount of the deposit;

[(ii)] 2. Presented evidence of the deposit for the crediting of interest;

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[(iii)] 3. Corresponded in writing with the banking organization concerning the deposit;

[(iv)] 4. Engaged in any credit, trust, or other deposit transaction with the banking organization; or

[(v)] 5. Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization;

(2) Any funds paid toward the purchase of shares or other interest in a financial organization, or any deposit made with these funds, and any interest or dividends on these, excluding any charges that lawfully may be withheld, [unless, within 3 years,] 3 YEARS AFTER THE LATER OF:

(I) THE DATE THE HOLDER IS DEEMED TO NO LONGER HAVE A VALID ADDRESS FOR THE OWNER OF THE PROPERTY; OR

(II) THE DATE the owner [has] LAST:

[(i)] 1. Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends;

[(ii)] 2. Corresponded in writing with the financial organization concerning the funds or deposit;

[(iii)] 3. Engaged in any credit, share, or other deposit transaction with the financial organization; or

[(iv)] 4. Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization;

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(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 certificate of deposit, draft, traveler's check, and money order, that has been outstanding for more than 3 years from the date it was payable (or 15 years in the case of a traveler's check) or, if payable on demand, from the date of its issuance, unless, within 3 years or 15 years in the case of a traveler's check, the owner has:

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

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

(4) Any property removed from a safekeeping repository on which the lease or rental period has expired or any surplus amounts arising from the sale of the property pursuant to law, that have been unclaimed by the owner for more than 3 years from the date on which the lease or rental period expired.

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

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

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

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

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

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

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

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

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

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

(i) The last known address of the apparent owner or other person entitled to the property is unknown or the last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the

escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property; and

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

(E) (1) THE RUNNING OF THE 3-YEAR PERIOD OF ABANDONMENT CEASES IMMEDIATELY ON:

(I) THE HOLDER OBTAINING A VALID ADDRESS FOR THE OWNER OF THE PROPERTY; OR

(II) THE OCCURRENCE OF AN ACTION REFERRED TO IN SUBSECTION (B)(1)(II) OR (2)(II) OF THIS SECTION.

(2) IF ANY FUTURE DIVIDEND, DISTRIBUTION, OR OTHER SUM PAYABLE TO THE OWNER AS A RESULT OF THE INTEREST IS SUBSEQUENTLY NOT CLAIMED BY THE OWNER, A NEW PERIOD OF ABANDONMENT COMMENCES AND RELATES BACK TO THE TIME A SUBSEQUENT DIVIDEND, DISTRIBUTION, OR OTHER SUM BECAME DUE AND PAYABLE.

17-304.

(a) (1) FOR PURPOSES OF THIS SECTION AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A HOLDER SHALL BE DEEMED TO NO LONGER HAVE A VALID ADDRESS FOR THE OWNER OF THE PROPERTY AS OF THE LATER OF:

(Over)

(I) THE DATE A SECOND COMMUNICATION IS RETURNED BY THE U.S. POSTAL SERVICE TO A HOLDER AS UNDELIVERABLE TO AN APPARENT OWNER, IF:

1. THE HOLDER SENT THE SECOND COMMUNICATION TO THE APPARENT OWNER BY FIRST-CLASS MAIL; AND

2. A PREVIOUS COMMUNICATION WAS:

A. SENT BY FIRST-CLASS MAIL;

B. SENT IMMEDIATELY PRECEDING THE SECOND COMMUNICATION; AND

C. RETURNED BY THE U.S. POSTAL SERVICE TO THE HOLDER AS UNDELIVERABLE TO THE APPARENT OWNER; OR

(II) THE DATE A PREVIOUS COMMUNICATION IS RETURNED BY THE U.S. POSTAL SERVICE TO A HOLDER AS UNDELIVERABLE TO AN APPARENT OWNER, IF THE HOLDER:

1. SENT THE PREVIOUS COMMUNICATION TO THE APPARENT OWNER:

A. BY FIRST-CLASS MAIL; AND

B. IMMEDIATELY PRECEDING A SECOND COMMUNICATION; AND

2. SENT THE SECOND COMMUNICATION TO THE APPARENT OWNER:

A. BY FIRST-CLASS MAIL; AND

B. MORE THAN 30 DAYS AFTER THE PREVIOUS COMMUNICATION UNDER THIS SUBPARAGRAPH WAS SENT.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE HOLDER DOES NOT SEND COMMUNICATIONS TO AN APPARENT OWNER BY FIRST-CLASS MAIL, THE HOLDER SHALL ATTEMPT TO CONFIRM THE APPARENT OWNER'S INTEREST IN THE PROPERTY BY E-MAILING THE APPARENT OWNER NOT LATER THAN 2 YEARS AFTER THE APPARENT OWNER'S LAST INDICATION OF INTEREST IN THE PROPERTY.

(II) THE HOLDER SHALL PROMPTLY ATTEMPT TO CONTACT THE APPARENT OWNER BY FIRST-CLASS MAIL IF:

1. THE HOLDER DOES NOT HAVE THE INFORMATION NEEDED TO SEND AN E-MAIL TO THE APPARENT OWNER;

2. THE HOLDER BELIEVES THE APPARENT OWNER'S E-MAIL ADDRESS IN THE HOLDER'S RECORDS IS NOT VALID;

3. THE HOLDER RECEIVES NOTIFICATION THAT THE E-MAIL WAS NOT RECEIVED; OR

4. THE APPARENT OWNER DOES NOT RESPOND TO THE E-MAIL COMMUNICATION WITHIN 30 DAYS AFTER THE E-MAIL WAS SENT.

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(III) 1. IF A MAILING SENT IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH IS RETURNED BY THE U.S. POSTAL SERVICE TO THE HOLDER AS UNDELIVERABLE TO THE APPARENT OWNER, THE MAILING SHALL CONSTITUTE A COMMUNICATION FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.

2. IF A MAILING SENT IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH IS NOT RETURNED BY THE U.S. POSTAL SERVICE TO THE HOLDER AS UNDELIVERABLE TO THE APPARENT OWNER, THE HOLDER SHALL BE PRESUMED TO HAVE A VALID ADDRESS FOR THE OWNER OF THE PROPERTY.

(B) Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held by a business association for or to a shareholder, certificate holder, member, bondholder or other security holder, or participating patron of a cooperative[, who has not claimed it or corresponded in writing with the business association concerning it within 3 years after the date prescribed for payment or delivery,] is presumed abandoned 3 YEARS AFTER THE LATER OF:

(1) THE DATE THE HOLDER IS DEEMED TO NO LONGER HAVE A VALID ADDRESS FOR THE OWNER OF THE PROPERTY; OR

(2) THE DATE THE OWNER LAST COMMUNICATED WITH THE BUSINESS ASSOCIATION REGARDING THE PROPERTY if:

[(1)] (I) It is held by a business association organized under the laws of or created in this State;

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[(2)] (II) It is held by a business association doing business in this State but not organized under the laws of this State, and the records of the business association indicate that the last known address of the person entitled to it is in this State; or

[(3)] (III) It is held by a business association not doing business in this State and not organized under the laws of this State, but the records of the business association indicate that the last known address of the person entitled to it is in this State.

[(b)] (C) This section shall apply to the stock or other certificate of ownership on, for or from which the amounts described in subsection [(a)] (B) of this section have been presumed abandoned ONLY if [the]:

(1) THE HOLDER IS DEEMED TO NO LONGER HAVE A VALID ADDRESS FOR THE OWNER OF THE PROPERTY FOR THE PRECEDING 3 YEARS; OR

(2) THE owner of said underlying stock or certificate has not, within the 3-year period giving rise to the presumption of abandonment:

[(1)] (I) Communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or

[(2)] (II) Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

[(c)] (D) (1) At the expiration of a 3-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at

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least 3 dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner.

(2) If 3 dividends, distributions, or other sums are paid during the 3–year period, the period leading to a presumption of abandonment commences on the date payment of the first such unclaimed dividend, distribution, or other sum became due and payable.

(3) If 3 dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been 3 dividends, distributions, or other sums that have not been claimed by the owner.

[(d)] (E) **(1)** The running of the 3–year period of abandonment ceases immediately upon [the]:

(I) THE HOLDER OBTAINING A VALID ADDRESS FOR THE OWNER OF THE PROPERTY; OR

(II) THE occurrence of a communication referred to in subsection [(b)] (C)(2) of this section.

(2) If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

[(e)] (F) At the time an interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

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[(f)] (G) This section does not apply to any stock or other intangible ownership 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 ownership interest not enrolled in the reinvestment plan, that [the]:

(1) THE HOLDER IS DEEMED TO NO LONGER HAVE A VALID ADDRESS FOR THE OWNER OF THE STOCK OR OTHER INTANGIBLE OWNERSHIP INTEREST; OR

(2) THE owner has not within 3 years communicated in any manner described in subsection [(b)] (C)(2) of this section.

[(g)] (H) (1) The holder of an interest under this section shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the Administrator.

(2) Upon delivery of a duplicate certificate to the Administrator, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with the provision of § 17-313 of this subtitle to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the Administrator, for any losses or damages resulting to any person by the issuance and delivery to the Administrator of the duplicate certificate.

17-308.

(d) Property is reportable to this State under subsection (b) of this section under the priority rules established under § [17-301(c)] 17-301(D) of this subtitle.

17-308.1.

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(b) A holder may consider a money order dormant or inactive for purposes of imposing a service charge if the owner has taken none of the actions set forth in § [17–301(a)(3)] **17–301(B)(3)** of this subtitle for 1 year from the date of issuance of the money order.”.