

SIFMA MD HB 305 Testimony.pdf

Uploaded by: Chris DiPietro

Position: FAV

**Statement of
Securities Industry and Financial Markets Association
Senate Committee on Finance Regarding
HB 305, An Act concerning Financial Institutions – Presumption of Property
Abandonment- Revisions
March 24, 2022**

Dear Chair Kelley and Members of the Senate Finance Committee:

On behalf of the Securities Industry and Financial Market Association (SIFMA)¹, we are writing to express our support for HB 305 as amended, which would revise Maryland’s Abandoned Property Law. SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers located throughout Maryland and across the country. In fact, more than 94,000 people work in the finance and insurance industries, more than 16,800 of them work at securities firms, and 37 broker-dealer main offices call Maryland home.

SIFMA supports consumer-friendly policies that protect savers and investors from unnecessarily having their investments escheated to (and often liquidated by) the state. Currently, Maryland uses an inactivity standard to determine when property is considered abandoned.² As a result, investors saving for retirement, college, a home, or whatever their savings goal may be, who failed to contact their broker-dealer by phone or mail within three years, risk having their account escheated in Maryland.

Many people who are invested in the market pursue a buy and hold strategy³ and do not actively trade or regularly contact the firm holding their securities. The current inactivity standard can create challenges for seniors, people with small account balances and active-duty military to meet their savings goals as they are less likely to contact their broker-dealers within the three-year timeframe and risk escheatment of their accounts. An inactivity standard does not take into consideration that not all savers and investors contact their broker-dealers once every three years because there is nothing they need to discuss. Many account holders believe that if they leave their funds untouched, the funds in their accounts will continue to grow and be there when they want or need to use them.

For these reasons, SIFMA supports using a returned mail standard as the dormancy trigger, and expanding the contact methods to include electronic communication because financial advisors and broker-dealers increasingly rely on digital communication such as email, social media, text, and video calls to provide the best, most timely customer service to their clients. Firms are moving away from

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

² [Maryland Title 17 - Abandoned Property Act and Regulations](#)

³ According to [Investopedia](#), “Buy and hold is a passive investment strategy in which an investor buys stocks (or other types of securities such as ETFs) and holds them for a long period regardless of fluctuations in the market.”

paper statements and mail and are increasingly relying on electronic communication for compliance and record keeping purposes.

In short, we applaud the bill sponsor and the Committee's work to protect Maryland investors saving for retirement, college, a home, or whatever their savings goal may be. We appreciate your willingness to consider our support for HB 305. If you have any questions, please contact SIFMA's Maryland council, Chris DiPietro, of CDI Consulting at 410-243-5782 or Nancy Lancia, of SIFMA at (212) 313-1233 or nlancia@sifma.org.

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Uploaded by: Matthew Celentano

Position: FAV



The League of Life
and Health Insurers
of Maryland



15 School Street, Suite 200
Annapolis, Maryland 21401
410-269-1554

March 24, 2022

The Honorable Delores Kelley
Chair, Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, MD 21401

Testimony
for the Senate Finance Committee
In Support of

House Bill 305 – Financial Institutions – Presumption of Property Abandonment – Revisions

Dear Chairman Kelley,

The League of Life and Health Insurers of Maryland, Inc. and The American Council of Life Insurers support House Bill 305 – Financial Institutions – Presumption of Property Abandonment – Revisions as amended by the House of Delegate and urge the committee to give the bill a favorable report.

Every state has an abandoned property law that applies to financial accounts, including investment accounts and banking accounts. These laws have been around since the 1800s. They were originally designed to serve a very important public purpose: if the financial institution holding the account for the owner loses touch with the owner, these laws establish a mechanism whereby the financial institution can turn the property over to the State. The State takes possession of the account and holds it in trust for the owner so, once the owner – or the owners’ heirs or beneficiaries – surface, the State can return the property to its rightful owner.

These laws are based on the premise that, when the financial institution loses touch with the account owner because the institution no longer has a valid address for the owner, turning the account over to the State will enable the State to use its “superior resources” – such as tax, voting, property, and drivers’ license records – to find the owner and reunite them with their property.

In the past, the financial institution was deemed to have lost contact with the owner of an account when mail sent by the institution to the owner was returned by the US Post Office to the institution as

“undeliverable.” For investment accounts, such as mutual fund accounts, it’s important to remember that federal law requires account statements to be sent to the owner of the account at least quarterly and tax forms are mailed at least annually. In other words, in any given year, a mutual fund company is sending mail to the account owner at least 4 or 5 times a year. If any of this mail is returned by the US Post Office as undeliverable, the mutual fund company knows right away that it may no longer have a valid address for the shareholder.

When this happens, rules under the Securities Exchange Act of 1934 require the mutual fund to conduct searches of national data bases to try to find an updated address on the account owner. If the fund is successful, it can reestablish contact with the account owner. If it’s not successful, then it must start the State’s dormancy clock and, when that clock runs out, the property must be escheated to the state. In Maryland, this dormancy clock is three years.

As mentioned, this is the way the law used to be. Today, however, rather than deeming property abandoned by the owner when mail sent to the owner is undeliverable, Maryland considers the account abandoned if three years have passed without the owner of the account taking some affirmative action to contact the financial institution. This is true even though the owner remains at their address of record and is receiving all mail sent to that address from the financial institution. In other words, with Maryland’s “no contact” escheatment trigger, property must be turned over to the State even though there is no “lost” shareholder and no need for the State to use its “superior resources” to obtain a valid address for the account owner. The financial institution knows exactly where to find the owner – they’re at the address of record on the account. As a result, the public purpose these laws were designed to service doesn’t exist – the “superior resources” of the State are not needed to find the shareholder.

By using this “no contact” trigger instead of a “returned mail” trigger to deem an account abandoned, the State is deeming accounts abandoned on an arbitrary basis and this results in real harm to account owners and particularly to owners of investment accounts, like mutual funds. Indeed, this trigger imposes an affirmative duty on owners to continuously contact their financial institutions to avoid escheatment. Unfortunately, most account owners have no idea they have this duty and, as a result, they unknowingly risk having their accounts escheat. Once the account escheats, not only does the owner have to contact the state to try to recoup the account but, when they do so, they only get the cash value of the account as of the date it was liquidated.

Section 17-316 of Maryland’s unclaimed property law requires the State to liquidate all accounts within one year of their escheatment. Any interest earned on the liquidated proceeds goes to the State, not to the account owner.

Think about this for a mutual fund account. You could have an owner who purchased mutual funds with the intent to leave the account untouched while it continues to grow. The owner would be receiving his or her quarterly statements from the fund and, unless the owner moves or wants to make a change to the account, it would have no reason to contact the mutual fund company. In Maryland, such an owner is at risk of having the account deemed abandoned, turned over to the State, and liquidated. When the owner discovers the account no longer exists, the most the owner can get back is the value of the account as of the date it was liquidated. The shares held in the account, which have likely appreciated, are not returned to the owner. To re-establish the investment account, the owner will have to start over from scratch, open a new account with the fund company, and purchase shares at the current price. Moreover, the owner likely owes the IRS taxes and capital gains penalties for the account’s liquidation, even though it was liquidated without the owner’s consent. So the money to fund this new account is considerably diminished.

To end the real and significant harm caused to Maryland's citizens by the current abandoned property law, we strongly recommend that Sections 17-101, 17-301, and 17-304 of Maryland's law be amended to add a new trigger to the law. This new trigger will be in addition to the current "no contact" trigger. Under this additional trigger, so long as a financial institution has a valid address for the account's owner, the account cannot be presumed to be abandoned and it will not escheat to the State. The amendments adding this new trigger to the law will ensure that an account will not be presumed abandoned until the later of either the current "no contact" trigger or the new trigger based on mail sent to the account owner being "undeliverable" by the post office.

Amending the bill in this way is consistent with the most recent rewrite of the Revised Uniform Unclaimed Property Act, which was adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 2016. The NCCUSL Act included a returned mail standard based on evidence presented to it of the harm that comes from using a "no contact" trigger to escheat financial account.

For these reasons, the League and ACLI urge the committee to give House Bill 305 a favorable report.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew Celentano", with a long horizontal line extending to the right.

Matthew Celentano
Executive Director, League of Life and Health Insurers

A handwritten signature in black ink, appearing to read "Michelle Foster", written in a cursive style.

Michelle Foster
Regional Vice President, ACLI

cc: Members, Senate Finance Committee

MD HB 305 Senate Testimony (March 2022).pdf

Uploaded by: Tamara Salmon

Position: FAV

**TESTIMONY IN SUPPORT OF HB 305
SENATE FINANCE COMMITTEE**

**Tamara K. Salmon
Investment Company Institute
March 24, 2022**

I appreciate having the opportunity to submit testimony to the Senate Finance Committee on House Bill 305 as amended in the House. My name is Tamara Salmon and I'm submitting this testimony on behalf of the Investment Company Institute and mutual fund shareholders. The Investment Company Institute is the trade association for mutual funds. The Institute represents the US mutual fund industry and the more than 100 million shareholders who have purchased mutual funds to save for their future, including their children's education, their retirement, and for a rainy day. Our interest in House Bill 305 is to make sure that, when the day comes for a mutual fund shareholder to redeem all, or a portion, of their mutual fund account, that account will be intact and the owner will be able to reap the benefits of long-term investing. Unfortunately, under Maryland's current abandoned property law, that may not, in fact, be the case. Let me explain why I say that.

Every state has an abandoned property law that applies to financial accounts, including investment accounts and banking accounts. These laws have been around since the 1800s. They were originally designed to serve a very important public purpose: if the financial institution holding the account for the owner

loses touch with the owner, these laws establish a mechanism whereby the financial institution can turn the property over to the State. The State takes possession of the account and holds it in trust for the owner so, once the owner – or the owners’ heirs or beneficiaries – surface, the State can return the property to its rightful owner. These laws are based on the premise that, when the financial institution loses touch with the account owner because the institution no longer has a valid address for the owner, turning the account over to the State will enable the State to use its “superior resources” – such as tax, voting, property, and drivers’ license records – to find the owner and reunite them with their property.

In the past, the financial institution was deemed to have lost contact with the owner of an account when mail sent by the institution to the owner was returned by the US Post Office to the institution as “undeliverable.” For investment accounts, such as mutual fund accounts, it’s important to remember that federal law requires account statements to be sent to the owner of the account at least quarterly and tax forms are mailed at least annually. In other words, in any given year, a mutual fund company is sending mail to the account owner at least 4 or 5 times. If any of this mail is returned by the US Post Office as undeliverable, the mutual fund company knows right away that it may no longer have a valid address for the shareholder.

When this happens, rules under the Securities Exchange Act of 1934 *require* the mutual fund to conduct searches of national data bases to try to find an updated

address on the account owner. If the fund is successful, it can reestablish contact with the account owner. If it's not successful, then it must start the State's dormancy clock and, when that clock runs out, the property must be escheated to the state. In Maryland, this dormancy clock is three years.

As I mentioned, this is the way the law used to be. Today, however, rather than deeming property abandoned by the owner when mail sent to the owner is undeliverable, Maryland considers the account abandoned if three years have passed **without the owner of the account taking some affirmative action to contact the financial institution.** This is true *even though the owner remains at their address of record and is receiving all mail sent to that address from the financial institution.* In other words, with Maryland's "no contact" escheatment trigger, property must be turned over to the State even though there is no "lost" shareholder and no need for the State to use its "superior resources" to obtain a valid address for the account owner. The financial institution knows exactly where to find the owner – they're at the address of record on the account. As a result, the public purpose these laws were designed to service doesn't exist – the "superior resources" of the State are not needed to find the shareholder.

By using this "no contact" trigger instead of a "returned mail" trigger to deem an account abandoned, the State is deeming accounts abandoned on an arbitrary basis and *this results in real harm to account owners and particularly to owners of investment accounts, like mutual funds.* Indeed, this trigger imposes an affirmative duty on owners to continuously contact their financial institutions to avoid

escheatment. Unfortunately, most account owners have no idea they have this duty and, as a result, they unknowingly risk having their accounts escheat.

Once the account escheats, not only does the owner have to contact the state to try to recoup the account but, when they do so, they only get the cash value of the account as of the date it was liquidated. Section 17-316 of Maryland's unclaimed property law *requires* the State to liquidate all accounts within one year of their escheatment. Any interest earned on the liquidated proceeds goes to the State, not to the account owner.

Think about this for a mutual fund account. You could have an owner who purchased mutual funds with the intent to leave the account untouched while it continues to grow. The owner would be receiving his or her quarterly statements from the fund and, unless the owner moves or wants to make a change to the account, it would have no reason to contact the mutual fund company. In Maryland, such an owner is at risk of having the account deemed abandoned, turned over to the State, and liquidated. When the owner discovers the account no longer exists, the most the owner can get back is the value of the account as of the date it was liquidated. The shares held in the account, which have likely appreciated, are not returned to the owner. To re-establish the investment account, the owner will have to start over from scratch, open a new account with the fund company, and purchase shares at the current price. Moreover, the owner likely owes the IRS taxes and capital gains penalties for the account's

liquidation, even though it was liquidated without the owner's consent. So the money to fund this new account is considerably diminished.

To end the real and significant harm caused to Maryland's citizens by the current abandoned property law, we strongly recommend that Sections 17-101, 17-301, and 17-304 of Maryland's law be amended to add a new trigger to the law. This new trigger will be in addition to the current "no contact" trigger. Under this additional trigger, so long as a financial institution has a valid address for the account's owner, the account **cannot** be presumed to be abandoned and it will not escheat to the State. The amendments adding this new trigger to the law will ensure that an account will not be presumed abandoned until *the later of* either the current "no contact" trigger or the new trigger based on mail sent to the account owner being "undeliverable" by the post office.

Amending the bill in this way is consistent with the most recent rewrite of the Revised Uniform Unclaimed Property Act, which was adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 2016. The NCCUSL Act included a returned mail standard based on evidence presented to it of the harm that comes from using a "no contact" trigger to escheat financial account. Importantly, in addition to the mutual fund industry, these amendments are supported by the banking industry (the Maryland Bankers Association), the broker-dealer industry (SIFMA), the insurance industry (ACLI), and the Comptrollers Office, which administers Maryland's unclaimed property law and must search for owners of lost property.

We appreciate your consideration of our views.
