

SECOND REGULAR SESSION

HOUSE BILL NO. 2146

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CAMPBELL AND SMITH (Co-sponsors).

Read 1st time March 12, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4280L.011

AN ACT

To repeal sections 470.010, 470.020, 470.030, 470.040, 470.050, 470.060, 470.070, 470.080, 470.130, 470.150, 470.190, 470.200, 470.210, 470.220, 470.230, 470.240, 470.250, 470.260, 470.270, 470.280, 470.290, 470.300, 470.310, 470.320, 470.330, 470.340, and 470.350, RSMo, and to enact in lieu thereof twelve new sections relating to escheats.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 470.010, 470.020, 470.030, 470.040, 470.050, 470.060, 470.070, 2 470.080, 470.130, 470.150, 470.190, 470.200, 470.210, 470.220, 470.230, 470.240, 470.250, 3 470.260, 470.270, 470.280, 470.290, 470.300, 470.310, 470.320, 470.330, 470.340, and 470.350, 4 RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 5 470.010, 470.020, 470.030, 470.060, 470.070, 470.080, 470.130, 470.150, 470.200, 470.210, 6 470.220, and 470.270, to read as follows:

470.010. If any person die intestate, seized of any real or personal property, leaving no 2 heirs or representatives **currently** capable of inheriting the same; or, if upon final settlement of 3 an executor or administrator, there is a balance in his **or her** hands belonging to some legatee 4 or distributee who is a nonresident or who is not in a situation to receive the same and give a 5 discharge thereof or who does not appear by himself **or herself** or agent to claim and receive the 6 same; or, if upon final settlement of an assignee for the benefit of creditors, there shall remain 7 in his **or her** possession any unclaimed dividends; or, if upon final report of any sheriff to the 8 court, it is shown that the interests in the proceeds of the sale of land in partition of certain 9 parties, who are absent from the state, who are nonresidents, who are not known or named in the 10 proceedings, or who, from any cause, are not in a situation to receive the same, are in his **or her**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

11 hands unpaid and unclaimed; or, if, upon final settlement of the receiver of any company or
12 corporation which has been doing business in this state, there is money in his **or her** hands
13 unpaid and unclaimed, in each and every such instance such real and personal estate shall
14 [escheat and vest in] **transfer to** the state, subject to and in accordance with the provisions of
15 sections 470.010 to [470.260] **470.220 and sections 447.500 to 447.595, RSMo.**

470.020. 1. Within one year after the final settlement of any executor or administrator,
2 assignee, sheriff or receiver, all moneys in his **or her** hands unpaid or unclaimed, as provided
3 in section 470.010, shall, upon the order of the court in which the settlement is made, be paid to
4 the state [director of revenue who shall issue his receipt therefor] **treasurer.**

5 2. [All moneys so received shall be deposited in the state treasury and credited to a fund,
6 to be known and designated as "Escheats"] **Beginning January 1, 2003, all real and personal**
7 **estate that transfers or has transferred to the state pursuant to section 470.010 shall be**
8 **deemed unclaimed property under the uniform disposition of unclaimed property act as**
9 **set forth in chapter 447, RSMo, and shall be treated in the same manner as all other**
10 **unclaimed property under such act.**

11 3. All moneys in the escheats fund on December 31, 2002, shall be transferred to the
12 abandoned fund account created in section 447.543, RSMo, and the escheats fund shall be
13 abolished. Any accounting information maintained by the commissioner of administration
14 for moneys paid into the state treasury and all moneys from the sale of lands vested in the
15 state shall be transferred to the unclaimed property division of the office of state treasurer.

16 4. The state treasurer shall remain custodian of any bonds purchased by the state
17 board of fund commissioners prior to January 1, 2003, and shall deposit all interest
18 received from such bonds into the abandoned fund account. The state treasurer, in
19 consultation with the state board of fund commissioners, shall determine the use and
20 disposition of proceeds from all such bonds purchased by the state board.

21 5. Beginning in fiscal year 2003 and for each subsequent fiscal year, the state
22 treasurer shall transfer from the abandoned fund account to the public schools fund an
23 amount equal to five percent of the annual amount transferred to the general revenue fund
24 from the abandoned fund account net any transfers from the general revenue to the
25 abandoned fund account.

470.030. 1. The court having the settlement of the accounts of such executor or
2 administrator, assignee, sheriff or receiver [upon the production of the receipt of the state director
3 of revenue,] shall give credit for the amount thereof; but if the moneys are not paid to the state
4 [director of revenue] **treasurer**, the prosecuting attorney of the county in which the executor or
5 administrator, assignee, sheriff or receiver resides, shall, upon giving ten days' previous notice
6 of his **or her** intention so to do, move the court to enter judgment against the executor or

7 administrator, assignee, sheriff or receiver, and his **or her** sureties, or either of them, for the
8 moneys in his **or her** possession, together with eight percent per annum thereon from the time
9 the same should have been turned over to the state [director of revenue] **treasurer** until the
10 rendition of the judgment.

11 2. The court shall determine the case in a summary manner, and if it finds the facts as
12 stated in the motion to be true, and no valid and reasonable excuse for the delay is offered, shall
13 enter judgment accordingly and adjudge the executor or administrator, assignee, sheriff or
14 receiver to pay all costs of the proceedings.

470.060. When the prosecuting attorney shall be informed, or have reason to believe, that
2 any real estate within his **or her** county [has escheated] **should transfer** to the state, and such
3 estate shall not have been sold according to law, within five years after the death of the person
4 last seized, for the payment of the debts of the deceased, [he] **the prosecuting attorney** shall file
5 an information in behalf of the state in the circuit court of the county in which such estate is
6 situate, setting forth a description of the estate, the name of the person last lawfully seized, the
7 names of the terre-tenants and persons claiming the same, if known, and the facts and
8 circumstances in consequence of which such estate is claimed to have [escheated] **transferred**
9 and alleging that, by reason thereof, the state of Missouri hath right to such estate.

470.070. Such court shall award and issue a scire facias against such person, bodies
2 politic or corporate, as shall be alleged in such information to hold, possess or claim such estate,
3 requiring them to appear and show cause why such estate should not be [vested in] **sold and**
4 **transferred to** the state, at the next term of such court.

470.080. Such scire facias shall be served fifteen days before the return day thereof, and
2 the court shall make an order, setting forth briefly the contents of such information, and requiring
3 all persons interested in or claiming title to said estate to appear and show cause, at the next term
4 of said court, why the same shall not be [vested in] **sold and the proceeds transferred to** the
5 state; which order shall be published for six weeks in some newspaper printed and published in
6 the county in which such proceedings are had.

470.130. If it appear that the state has no title in such estate, the defendant shall recover
2 his **or her** costs, to be taxed and certified by the clerk, provided that the court find, from the
3 facts, that the title to such estate is in [him. The commissioner of administration shall,] **the**
4 **defendant**. When such certificate of the clerk is filed in his **or her** office, [certify the claim to
5 the state auditor, who shall issue a warrant therefor on the state treasurer, which shall be paid]
6 **the state treasurer shall pay the certificate** as other demands on the treasury.

470.150. Upon the return of such writ of possession, the prosecuting attorney shall cause
2 the record and process to be exemplified under the seal of the court and deposit the same in the
3 office of the [director of revenue] **state treasurer**; and he **or she** shall cause the transcript of the

4 judgment to be recorded in the office of the recorder of the county in which such estate is situate;
5 and such judgment shall preclude all parties and privies thereto, their heirs and assigns, so long
6 as such judgment shall remain in force.

470.200. Whenever **title to** any real estate [shall have escheated and the title thereto] **has**
2 vested in the state, the circuit court of the county in which such estate is situate shall, upon the
3 application of the prosecuting attorney of said county, order and direct said real estate to be sold;
4 which sale shall be made by the sheriff of said county and shall be advertised and conducted in
5 the same manner as shall by law be provided for the sale of real estate under execution.

470.210. All moneys realized from the sale of any real estate, after paying all costs of
2 such proceedings, and such compensation to the prosecuting attorney as shall be allowed by the
3 court in which such order of sale is made, shall be paid by the sheriff into the state treasury
4 within ninety days after the receipt thereof; and if said sheriff fail to pay said money into the state
5 treasury within ninety days after the receipt thereof, [he] **the sheriff** shall be proceeded against
6 in the same manner as is provided in section 470.030. Moneys so paid into the state treasury
7 shall be **deemed unclaimed property under the uniform disposition of unclaimed property**
8 **act as set forth in chapter 447, RSMo, and shall be** credited into the [fund to be known and
9 designated as "Escheats"] **abandoned fund account**, and shall be [withdrawn or disposed of]
10 **treated in the same manner** as other moneys paid into the state treasury under sections 470.010
11 to [470.260] **470.220**.

470.220. The [commissioner of administration] **state treasurer** shall keep just and
2 accurate account of all money paid into the state treasury [and], all land vested in the state [as
3 aforesaid] **pursuant to sections 470.010 to 470.220, and all proceeds received from the sale**
4 **of such land**.

470.270. After the owner, [his] **the owner's** assignee, personal representative, grantee,
2 heirs, devisees or other successors, entitled to any moneys, refund of rates or premiums or effects
3 by reason of any litigation concerning rates, refunds, refund of premiums, fares or charges
4 collected by any person or corporation in the state of Missouri for any service rendered or to be
5 rendered in said state, or for any contract of insurance on property in this state, or under any
6 contract of insurance performed or to be performed in said state, which moneys, refund of rates
7 or premiums or effects have been paid into or deposited in connection with any cause in any
8 court of the state of Missouri or in connection with any cause in any United States court, or so
9 paid into the custody of any depositary, clerk, custodian, or other officer of such court, whether
10 the same be afterwards transferred and deposited in the United States treasury or not, shall be and
11 remain unknown, or the whereabouts of such person or persons shall be and has been unknown,
12 for the period heretofore, or hereafter, of five successive years, or such moneys, refund of rates
13 or premiums or effects remain unclaimed for the period heretofore, or hereafter, of five

14 successive years, from the time such moneys or property are ordered repaid or distributed by such
15 courts, such moneys or property shall [be escheatable to the state of Missouri, and may be
16 escheated] **transfer** to the state of Missouri [in the manner herein provided], with all interest and
17 earnings actually accrued thereon to the date of [the judgment and decree for the escheat]
18 **transfer** of the same. [The provisions of this section notwithstanding, this state may elect to take
19 custody of such unclaimed property by instituting a proceeding pursuant to section 447.575,
20 RSMo.] **All moneys or property transferring to the state pursuant to this section shall be**
21 **deemed unclaimed property under the uniform disposition of unclaimed property act as**
22 **set forth in chapter 447, RSMo, and shall be treated in the same manner as all other**
23 **unclaimed property under such act.**

2 [470.040. Within twenty-one years after any money has been paid to the state
3 director of revenue by an executor or administrator, assignee, sheriff or receiver, any
4 person who appears and claims the same may file his petition in the court in which
5 the final settlement of the executor or administrator, assignee, sheriff or receiver was
6 had, stating the nature of his claim and praying that the money be paid to him, a copy
7 of which petition shall be served upon the prosecuting attorney, who shall file an
answer to the same.]

2 [470.050. The court shall examine the claim, and the allegations and proofs,
3 and if it finds that the person is entitled to any money so paid to the state it shall order
4 the commissioner of administration to issue his warrant on the state treasurer for the
5 amount of the claim, but without interest or costs; a copy of which order under seal
of the court is a sufficient voucher for issuing the warrant.]

2 [470.190. After five years all persons, except those who are suffering under
3 a legal disability, shall be forever debarred and precluded from setting up title or
4 claim to any estate which has vested in the state under the provisions of sections
470.010 to 470.260.]

2 [470.230. All moneys paid into the state treasury under the provisions of
3 sections 470.010 to 470.260, after remaining therein unclaimed for twenty-one years,
4 shall escheat and vest absolutely in the state and be, on the order of the board of fund
commissioners, transferred to the public school fund.]

2 [470.240. The state board of fund commissioners shall invest all moneys paid
3 into the state treasury under the provisions of sections 470.010 to 470.260 that have
4 accumulated, or may hereafter accumulate, in the state treasury in registered United
5 States government and state of Missouri bonds, at not less than par value, and shall
6 at all times keep said fund so invested, provided that said board shall keep in the state
7 treasury in cash the amount appropriated by the general assembly each biennium to
pay claims duly approved under the provisions of sections 470.040 and 470.050.]

2 [470.250. The state treasurer shall be the custodian of the bonds purchased
3 under section 470.240, and shall deposit all interest received from the bonds into the
4 escheat fund, which interest shall be subject to investment and may be transferred to
the public school fund upon the order of the board of fund commissioners.]

2 [470.260. The state board of fund commissioners shall keep an account of
3 all bonds purchased by the fund commissioners and turned over to the state treasurer,
4 and the board of fund commissioners shall cause to be certified to the state auditor
5 a statement of all bonds purchased under the provisions of sections 470.240 to
470.260.]

2 [470.280. Whenever an escheat has occurred, or shall occur, of any such
3 moneys, or effects so paid into or deposited in the custody of, or under the control of,
4 any court of the state of Missouri, or any United States court, or in the custody of any
5 depository, clerk, custodian, or other officer of such court, the circuit court of the
6 county in which such court of the state of Missouri or United States court sits, or the
7 circuit court of Cole County, shall have jurisdiction to ascertain if an escheat has
8 occurred, and to enter a judgment or decree for escheat in favor of the state of
Missouri.]

2 [470.290. Such escheat action or proceeding shall, at the direction of the
3 attorney general of the state of Missouri, be instituted and determined by an action
4 at law or a proceeding in equity in the circuit court aforesaid, and such action at law
5 or proceeding in equity shall be brought by the attorney general of the state of
6 Missouri in the name and at the relation of the state of Missouri. The clerk,
7 custodian, or other officer of the court having custody of such moneys or property
8 shall be named a defendant in such action. After a decree for escheat in favor of the
9 state of Missouri, the said attorney general shall take such action in the court wherein
10 any such moneys or property are held as may be required to cause the same to be
11 delivered to the state treasurer, and the same shall be by the treasurer preserved and
kept in a separate fund to be known and designated as "Escheats".]

2 [470.300. At any time prior to the institution of an action or proceeding by
3 the attorney general on behalf of the state of Missouri as herein provided, said
4 attorney general shall serve or cause to be served on the officer, clerk or custodian
5 of such moneys or fund a notice, in writing, that such fund, designating it, is seized
6 as an escheat fund for the state of Missouri, which notice shall contain a statement
7 that a certain action or proceeding is being instituted and commenced for the escheat
8 of the same and if said fund has been transferred to any other custodian or to the
9 treasury of the United States, then a like notice shall be served on such other
10 custodian and if the fund be transferred to the treasury of the United States, then a
like notice shall be personally served on the attorney general of the United States.]

2 [470.310. Upon the institution and commencement of such action or
3 proceeding by said attorney general at the relation of and for and on behalf of the
4 state of Missouri for the escheat of such funds, proper service of process and
5 summons shall be had on all parties defendant as in other actions and if personal
6 service cannot be had as by law provided in other cases, the defendants shall be
served by publication as in other cases.]

2 [470.320. 1. If persons constituting the owners, their assignees, personal
3 representatives, grantees, heirs, devisees or other successors of such moneys or funds,
to be made parties defendant in such action or proceeding for escheat, are so

4 numerous as to render it impossible or impracticable to bring them all before the
5 court, and to serve them all with process as herein provided for, such of them, if
6 living, or if any of them be not living, their unknown assignees, personal
7 representatives, grantees, heirs, devisees, or other successors, as will fairly insure
8 adequate representation of all, may be sued and served with process as a class.
9 Whenever such action or proceeding is instituted against defendants as
10 representatives of a class, the petition or bill in equity shall allege such facts as shall
11 show that the defendants specifically named, if living, and if any of them be not
12 living, then his unknown assignee, personal representative, grantee, heirs, devisees,
13 or other successors, and served with process as herein provided have been fairly
14 chosen and adequately and fairly represent the whole class. The state shall be
15 required to prove such allegations and it shall not be sufficient to prove such facts by
16 the admission or admissions of the defendants who have entered their appearance.

17 2. If the proof shows that every person to be bound by the judgment or decree
18 is fairly and adequately represented, a judgment or decree of escheat for the entire
19 funds may be entered, notwithstanding the fact that the defendant or defendants make
20 default, but in such case the state shall be required to prove its case and, if the court
21 finds that a reasonable necessity therefor exists, it may appoint an attorney to
22 represent the defendants and allow him a reasonable attorney's fee to be taxed as
23 costs in the case. The costs of such action shall be paid from funds appropriated by
24 an act of the legislature of the state of Missouri.

25 3. Service by publication shall be allowed in such escheat class action or
26 proceeding and if the defendant or defendants so served do not appear, judgment of
27 escheat may be rendered affecting said moneys and funds and declaring the same to
28 escheat to the state of Missouri.

29 4. The attorney general desiring service by publication for such class action
30 or proceeding shall file an application with the circuit judge or clerk of the said
31 circuit court verified by his oath for an order of publication. The application shall
32 show why service cannot be had as in other cases, such as personal service, or by
33 publication as provided in other cases, and shall show that the owners of such
34 moneys or funds and their unknown assignees, personal representatives, grantees,
35 heirs, devisees or other successors are so very numerous as to render it impossible or
36 impracticable to bring them all before the court or to serve them with process as
37 provided for in other cases under the civil code of Missouri, and shall show that the
38 defendants specifically named in the petition or bill in equity have been fairly chosen
39 and adequately and fairly represent the whole class and said attorney general, as
40 affiant, shall allege in said application that he has exercised reasonable diligence to
41 ascertain the whereabouts of the owners of such moneys or funds, including their
42 unknown assignees, personal representatives, grantees, heirs, devisees, or other
43 successors, and that after so doing he has been unable to locate their whereabouts.

44 5. The judge or clerk, after the filing of said application, shall issue an order
45 of publication of notice to the named defendants, if they be living, and if any of them
46 be not living, then to their unknown assignees, personal representatives, grantees,

47 heirs, devisees or other successors, and to all claimants of said moneys or funds
48 whomsoever, notifying them of the commencement of the action, stating briefly the
49 facts and circumstances in consequence of which such moneys, refund of rates, or
50 premiums or effects is claimed to have escheated and alleging that by reason thereof
51 the state of Missouri has the right to such moneys, refund of rates, or premiums or
52 effects, and describing the moneys or property sought to be escheated to the state of
53 Missouri, giving a brief description of the origin of said moneys or funds to be
54 thereby affected and why the same has not been distributed. And, notifying all such
55 persons that the action is a class action and setting forth the approximate number of
56 owners of such fund, stating that it is impossible or impracticable to name and
57 designate all of such owners because of the fact that they are too numerous to name.

58 6. The notice shall also contain the name of the court and the name of the
59 parties who are named in said suit, including the unknown assignees, personal
60 representatives, grantees, heirs, devisees or other successors of the named defendants
61 and of all the other claimants whomsoever of such moneys or funds, and shall state
62 the name and address of the attorney general representing the state, as a party
63 plaintiff, and giving the time, which shall be at least forty-five days after the date of
64 the first publication, within which the defendants are required to appear and defend,
65 and shall notify such defendants, their unknown assignees, personal representatives,
66 grantees, heirs, devisees, or other successors and all claimants whomsoever that in
67 case of their failure to do so, judgment by default decreeing that all of such moneys
68 or funds be escheated to the state of Missouri will be rendered against them.

69 7. Such notice shall be published at least once each week for four successive
70 weeks in some newspaper published in the county where suit is instituted, if there be
71 a newspaper published there, which the attorney general may designate, if not, then
72 in some newspaper published in the state as designated by the judge of said circuit
73 court as most likely to give notice to the persons to be notified.

74 8. In such action or proceeding for the escheat of such moneys or funds,
75 except for class actions as herein provided, personal service shall be had on those
76 defendants whose whereabouts are known and can be served within the state of
77 Missouri, and for the defendants who are known and who come within the provisions
78 for service by publication as provided by the civil code of Missouri, service on such
79 defendants and their unknown assignees, personal representatives, grantees, heirs,
80 devisees or other successors shall be had as in other civil actions, and in class actions
81 or proceedings where the defendants are sued as a class, service on them shall be had
82 by publication as herein provided.]

2 [470.330. 1. Within two years after any moneys, refund of rates or
3 premiums, or effects are received by the Missouri state treasurer by reason of a
4 judgment or decree for escheat in favor of the state of Missouri, any person who
5 appears and claims the same or a part of the same may file his petition in the court
6 in which the judgment or decree for escheat was rendered, stating the nature of his
7 claim, showing he is entitled to the same and praying that such moneys or effects be
paid to him, a copy of which petition shall be personally served upon the attorney

8 general of the state of Missouri, who shall file answer to the same or make any other
9 defense or take any such action as he deems necessary.

10 2. The court shall hear evidence and examine the said claim, and the
11 allegations and proof and if it finds that such person is entitled to any of the moneys,
12 or effects, so paid into the state treasury, it shall order a state warrant to be issued as
13 provided by law for the amount of said claim, but without interest or costs after the
14 same was paid into the said state treasury; a duly certified copy of which order, under
15 seal of the court, shall be a sufficient voucher for issuing such warrant.]

[470.340. 1. Whenever an escheat of funds mentioned in sections 470.270
2 to 470.350 shall occur, or be supposed to occur, the attorney general of the state may,
3 if he so elects, file in the court in which such funds are deposited or under whose
4 jurisdiction same are being held, a motion, petition or other proper pleading praying
5 for an order or judgment of said court directing the payment of said funds to the state
6 treasurer. Notice of the filing of such pleading shall be given to such parties and in
7 such manner as the law and the orders of such court shall require. If said order is
8 made as prayed for, the state treasurer shall receive said funds and shall keep same
9 in a separate fund to be known and designated "Escheats".

10 2. Any person may appear and claim said funds or a part of same within the
11 time and in the same manner as provided by section 470.330, and like proceedings
12 shall be had upon such application as in said section provided.

13 3. The proceeding authorized by this section may be instituted and
14 prosecuted in lieu of the proceedings heretofore authorized by sections 470.270 to
15 470.350 or in addition to such other proceedings.]

[470.350. All moneys, refund of rates or premiums or effects paid into the
2 state treasury under the provisions of sections 470.270 to 470.350, after remaining
3 therein unclaimed for a period of two years, shall escheat and vest absolutely in the
4 state of Missouri and shall thereafter be used and appropriated as other escheat
5 property.]