

SECOND REGULAR SESSION

# HOUSE BILL NO. 1075

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MILLER (Sponsor) AND DIEHL (Co-sponsor).

4433L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 447.503, 447.535, 447.536, and 447.547, RSMo, and to enact in lieu thereof five new sections relating to unclaimed property.

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

Section A. Sections 447.503, 447.535, 447.536, and 447.547, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 447.503, 447.535, 447.536, 447.547, and 447.548, to read as follows:

447.503. As used in sections 447.500 to 447.595, unless the context otherwise requires, the following terms mean:

(1) "Banking organization", any bank, trust company, or safe deposit company, engaged in business in this state;

(2) "Business association", any corporation, joint stock company, business trust, partnership, limited partnership, or any association for business purposes, or any mutual fund or other similar entity, whether operating in the form of a corporation or a trust, including but not limited to any investment companies registered under the federal Investment Company Act of 1940;

(3) "**Business credit**", any credit offered by one business entity to another business entity to be applied in exchange for goods or services but does not have a redeemable cash value;

(4) "Engaged in business in this state", any transaction of business within this state sufficient to support personal jurisdiction in the courts of this state;

[(4)] (5) "Financial organization", any savings and loan association, credit union, or loan and investment company engaged in business in this state;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17            [(5)] (6) "Holder", any person in possession of property subject to sections 447.500 to  
18 447.595 belonging to another, or who is trustee in case of a trust, or is indebted to another on an  
19 obligation subject to sections 447.500 to 447.595;

20            [(6)] (7) "Insurance corporation", any association or corporation transacting within this  
21 state the business of property insurance or casualty insurance or life insurance on the lives of  
22 persons or insurance appertaining thereto, including, but not by way of limitation, endowments  
23 and annuities;

24            [(7)] (8) "Military medals", any decoration or award that may be presented or awarded  
25 to a member of a unit of the armed forces or national guard;

26            [(8)] (9) "Owner", a depositor in case of a deposit, a beneficiary in case of a trust except  
27 a trust defined in section 456.500, the unclaimed property of which has not escheated pursuant  
28 to the provisions of section 456.650, a creditor, claimant, or payee in case of other choses in  
29 action, or any person having a legal or equitable interest in property subject to sections 447.500  
30 to 447.595, or such person's legal representative;

31            [(9)] (10) "Person", any individual, business association, government or political  
32 subdivision, public corporation, public authority, estate, trust except a trust defined in section  
33 456.500, two or more persons having a joint or common interest, or any other legal or  
34 commercial entity;

35            [(10)] (11) "Reasonable and necessary diligence as is consistent with good business  
36 practice", efforts appropriate to and commensurate with the nature and value of the property at  
37 issue; however, the holder shall send a notice regarding the unclaimed property via first class  
38 mail postage prepaid, marked "Address Correction Requested". Such letter shall be sent by the  
39 holder within twelve months prior to turning the property over to the treasurer. Notwithstanding  
40 the provisions of this section, the holder may treat letters sent in the ordinary course of business,  
41 first class and "Address Correction Requested" as satisfying the definition of "reasonable and  
42 necessary diligence as is consistent with good business practice". The holder may treat notices  
43 regarding the unclaimed property as satisfying the "reasonable and necessary standard" for  
44 contacting owners. If the postal service provides the holder with additional information as part  
45 of the address correction process, the holder shall send second and subsequent notices in the  
46 same format as the first notice to any new address provided to the holder;

47            [(11)] (12) "Treasurer", the Missouri state treasurer;

48            [(12)] (13) "Utility", any person who owns or operates within this state, for public use,  
49 any plant, equipment, property, franchise, or license for the transmission of communications or  
50 the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam,  
51 or gas or who engages in such business in this state.

447.535. 1. All intangible personal property, not otherwise covered by sections 447.500 to 447.595, including any income or increment thereon, and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years or five years as provided in section 447.536 after it became payable or distributable is presumed abandoned. Intangible personal property where the property is held in a jurisdiction in which the abandonment presumption is less than seven years or five years as provided in section 447.536 shall be accepted by the state of Missouri.

2. **Notwithstanding any provision to the contrary, any outstanding check, draft, credit balance, customer's overpayment, or unidentified remittance issued to a business entity or association as part of a commercial transaction in the ordinary course of a holder's business shall not be presumed abandoned if the holder and such business entity or association have an ongoing business relationship. An ongoing business relationship shall be deemed to exist if the holder has engaged in a commercial, business, or professional transaction involving the sale, lease, license, or purchase of goods or services with the business entity or association or a predecessor-in-interest of the business entity or association within the dormancy period immediately following the date of the check, draft, credit balance, customer's overpayment, or unidentified remittance giving rise to the unclaimed property interest. As used in this subsection, "dormancy period" means the period during which the holder may hold the property interest before it is presumed to be abandoned. A "predecessor-in-interest" is a person or entity whose interest in a business entity or association was acquired by its successor-in-interest, whether by purchase of the business ownership interest, purchase of business assets, statutory merger or consolidation, and includes successive acquisitions by whatever means accomplished.**

447.536. Except for the abandonment period for travelers checks and money orders provided for in subdivision (3) of section 447.505; the abandonment period for dissolution of business associations, banking organizations and financial organizations as provided for in section 447.527; and the abandonment period for court-related bond proceeds as provided for in section 447.595; all other abandonment periods referenced in sections 447.505 to 447.595, shall change from seven to five years beginning January 1, 2000, **with the exception of payroll checks which shall have the abandonment period reduced from five years to three years beginning January 1, 2015.** The abandonment periods provision of this section shall not apply to property which is held pursuant to any resolution, order or trust indenture entered into prior to August 28, 1998, by a city, county, school district, authority, agency or other political subdivision where the abandonment period or other abandonment provision specified in the

12 resolution, order or trust indenture is different than the abandonment period specified in this  
13 section.

447.547. 1. Sections 447.500 to 447.595 shall not affect property the title to which is  
2 vested in a holder by the operation of a statute of limitations prior to August 13, 1984, nor to any  
3 property held in a fiduciary capacity that was unclaimed property prior to August 13, 1974. This  
4 subsection shall not apply to property the title to which is vested in the holder when the holder  
5 is a federal, state, or local government or governmental subdivision, agency, entity, officer, or  
6 appointee thereof.

7 2. Payment and delivery of unclaimed property to the treasurer is not barred by statutes  
8 of limitations when title to the property has not vested in the holder prior to August 13, 1984.

9 3. Sections 447.500 to 447.595 shall not apply to final orders, judgments or decrees of  
10 distribution or to abandoned property entered by the probate division of the circuit court after  
11 August 13, 1984.

12 4. Sections 447.500 to 447.595 shall not apply to institutions chartered pursuant to the  
13 provisions of an act of the Congress of the United States known as the Farm Credit Act of 1971  
14 and acts amendatory thereto.

15 5. In addition to other exclusions, sections 447.500 to 447.595 shall not apply to any  
16 property that had been unclaimed prior to January 1, 1965, where the holder is a financial  
17 organization or banking organization which has a principal place of business in this state.

18 **6. Business credits between two business entities or two business associations are**  
19 **not subject to sections 447.500 to 447.595.**

**447.548. 1. The state treasurer shall not enforce this chapter for a reportable**  
2 **period more than three years after the holder:**

3 **(1) Filed a report with the state treasurer; or**

4 **(2) Gave express notice to the state treasurer of a dispute under this chapter.**

5 **2. If a fraudulent report is filed with the intent to evade escheatment of property,**  
6 **the state treasurer may enforce this chapter within six years after the report was filed.**

7 **3. If no report is filed, the state treasurer may enforce this chapter at any time.**

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