

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1075
97TH GENERAL ASSEMBLY

4433S.03T

2014

AN ACT

To repeal sections 447.503, 447.535, 447.536, 447.547, 447.560, 447.569, and 447.584, RSMo, and to enact in lieu thereof nine new sections relating to unclaimed property, with penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 447.503, 447.535, 447.536, 447.547, 447.560, 447.569, and
2 447.584, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as
3 sections 447.503, 447.534, 447.535, 447.536, 447.547, 447.548, 447.560, 447.569, and 447.584,
4 to read as follows:

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

- 3 (1) "Banking organization", any bank, trust company, or safe deposit company, engaged
4 in business in this state;
- 5 (2) "Business association", any corporation, joint stock company, business trust,
6 partnership, limited partnership, or any association for business purposes, or any mutual fund or
7 other similar entity, whether operating in the form of a corporation or a trust, including but not
8 limited to any investment companies registered under the federal Investment Company Act of
9 1940;
- 10 (3) "**Business credit**", any credit offered by one business entity to another business
11 entity to be applied in exchange for goods or services but does not have a redeemable cash
12 value;

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.

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

15 **[(4)] (5)** "Financial organization", any savings and loan association, credit union, or loan
16 and investment company engaged in business in this state;

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.

447.534. 1. Notwithstanding the provisions of subsection 2 of section 447.532, section 447.533, and subsection 1 of section 447.545, United States savings bonds, which are unclaimed property and subject to the provisions of sections 447.500 to 447.595 shall be deemed abandoned when they have remained unclaimed for more than three years after their date of maturity and such bonds and the proceeds from such bonds, including all principal and interest due, in the possession of the treasurer or with an owner whose last known address is located in Missouri shall escheat to the state of Missouri three years after becoming unclaimed property by virtue of the provisions of sections 447.500 to 447.595 and all property rights and legal title to and ownership of such United States savings bonds and the proceeds from such bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, shall vest solely in the state of Missouri according to the procedure set forth in subdivisions (1) to (3) of this subsection.

(1) After one hundred eighty days following the second three-year period referenced in subsection 1 of this section, if no claim has been approved in accordance with the provisions of section 447.562 for such United States savings bonds or proceeds from such bonds, the treasurer shall commence a civil action in the circuit court of Cole county for a determination that such United States savings bonds and the proceeds from such bonds shall escheat to the state of Missouri. The treasurer may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the treasurer's custody to justify the expense of such proceedings.

(2) If no person shall file a claim or appear at the hearing to substantiate a claim or where the court determines that a claimant is not entitled to the United States savings bonds or proceeds from such bonds claimed by such claimant, then the court, if satisfied by evidence that the treasurer has substantially complied with the laws of the state of Missouri, shall enter a judgment that the subject United States savings bonds and the proceeds from such bonds have escheated to the state of Missouri, and all property rights and legal title to and ownership of such United States savings bonds and the proceeds from such bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, shall vest solely in the state of Missouri.

(3) The treasurer shall redeem such United States savings bonds escheated to the state of Missouri and the proceeds from such redemption of United States savings bonds shall be deposited in the abandoned fund account created by section 447.543.

33 **2. Any person making a claim for the United States savings bonds escheated to the**
34 **state of Missouri, or for the proceeds from such bonds, may file a claim in accordance with**
35 **the provisions of section 447.562. Upon providing sufficient proof of the validity of such**
36 **person's claim, the treasurer may pay such claim in accordance with the provisions of**
37 **section 447.565.**

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

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

 447.536. Except for the abandonment period for travelers checks and money orders
2 provided for in subdivision (3) of section 447.505; the abandonment period for dissolution of
3 business associations, banking organizations and financial organizations as provided for in
4 section 447.527; and the abandonment period for court-related bond proceeds as provided for
5 in section 447.595; all other abandonment periods referenced in sections 447.505 to 447.595,
6 shall change from seven to five years beginning January 1, 2000, **with the exception of payroll**
7 **checks which shall have the abandonment period reduced from five years to three years**

8 **beginning January 1, 2015.** The abandonment periods provision of this section shall not apply
9 to property which is held pursuant to any resolution, order or trust indenture entered into prior
10 to August 28, 1998, by a city, county, school district, authority, agency or other political
11 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.**

447.560. 1. The treasurer shall retain a record of the name and last known address of
2 each person appearing from the holders' reports to be entitled to the abandoned moneys and
3 property and of the name and last known address of each insured person or annuitant, and with
4 respect to each policy or contract listed in the report of a life insurance corporation, its number,

5 the name of the corporation, and the amount due. The record shall be available for public
6 inspection at all reasonable business hours.

7 2. Except as specifically provided by this section, no information furnished to the
8 treasurer in the holder reports, including Social Security numbers or other identifying
9 information, shall be open to public inspection or made public. Any officer, employee or agent
10 of the treasurer who, in violation of the provisions of this section, divulges, discloses or permits
11 the inspection of such information shall be guilty of a misdemeanor.

12 3. If an amount is turned over to the state that is less than fifty dollars, the amount
13 reported may be made available as public information, along with the name and last known
14 address of the person appearing from the holder report to be entitled to the abandoned moneys;
15 except that, no additional information other than provided for in this section may be released,
16 and any individual other than the person appearing from the holder report to be entitled to the
17 abandoned moneys shall be governed by sections 447.500 to 447.595 and other applicable
18 Missouri law in his or her use or dissemination of such information.

19 4. If the abandoned property is a military medal, the treasurer is authorized to make any
20 information, other than Social Security numbers, contained in the holder report and record under
21 subsection 1 of this section, and any photograph or other visual depiction of the military medal
22 available to the public in order to facilitate the identification of the original owner or such
23 owner's respective heirs or beneficiaries as described under subdivision (4) of section 447.559.

24 **5. The treasurer shall retain a record of the name and, if known, the last known**
25 **address of each person named on the United States savings bonds which have escheated**
26 **to the state of Missouri and which have been redeemed by the treasurer under section**
27 **447.534. The record shall be made public and available for public inspection at all**
28 **reasonable business hours. In addition, if a United States savings bond is redeemed in an**
29 **amount that is less than fifty dollars, the amount redeemed may be made available as**
30 **public information. No other information furnished to the treasurer in regard to such**
31 **United States savings bonds, including Social Security numbers or other identifying**
32 **information shall be open to public inspection or made public. Any officer, employee or**
33 **agent of the treasurer who, in violation of the provisions of this section, divulges, discloses,**
34 **or permits the inspection of such information shall be guilty of a misdemeanor.**

447.569. 1. Any [person] **claimant** aggrieved by a decision of the treasurer or as to
2 whose claim the treasurer has failed to act within ninety days after the filing of a claim shall be
3 entitled to a hearing under the provisions of chapter 536, and the proceedings instituted by him
4 shall be deemed a contested case under chapter 536.

5 **2. Any holder who has filed a report under section 447.539 aggrieved by a decision**
6 **of the treasurer shall be entitled to a hearing under the provisions of chapter 536, and the**
7 **proceedings instituted by such holder shall be deemed a contested case under chapter 536.**

 447.584. The treasurer, with the approval of the governor, may enter into agreements
2 with any person, firm or corporation to assist in the identification, collection, and processing of
3 abandoned **or escheated** property held by any business entity domiciled and located in another
4 state **or any governmental entity**. The treasurer may agree to pay a fee for such services based
5 in whole or in part on a percentage of the value of any property received pursuant to such
6 agreements. Any expenses paid pursuant to this section may not be deducted from the amount
7 subject to claim [by the owner] under sections 447.500 to 447.595.

 Section B. Because of the need to protect the interests of the state, the repeal and
2 reenactment of sections 447.560 and 447.584, and the enactment of section 447.534 of this act
3 is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 the repeal and reenactment of sections 447.560 and 447.584, and the enactment of section
6 447.534 of this act shall be in full force and effect upon its passage and approval.

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