

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 305
Economic Matters

(Delegate Kerr)

Finance

Financial Institutions - Presumption of Property Abandonment - Revisions

This bill generally alters the circumstances under which specified property held by a banking or financial organization or a business association in the State is presumed to be abandoned.

Fiscal Summary

State Effect: The bill may have a significant impact on State finances, as discussed below.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill alters the method by which specified property held by a banking or financial organization (or a business association) may be considered abandoned. Under the bill, property is presumed abandoned three 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) pursuant to current law, the date the owner has last interacted with the banking or financial organization (or business association) through specified actions.

Under the bill, a property holder is deemed to no longer have a valid address for the owner of the property on the later of:

- the date a second communication is returned by the U.S. Postal Service (USPS) to a holder as undeliverable to an apparent owner – if the holder sent the

second communication by first-class mail and a previous communication was sent by first-class mail immediately before the second communication and returned by USPS as undeliverable; or

- the date a previous communication is returned by USPS to a holder as undeliverable to an apparent owner – if the holder (1) sent the previous communication by first-class mail and immediately preceding a second communication and (2) sent the second communication by first-class mail and more than 30 days after the previous communication.

If a holder does not send communications to an apparent owner by first-class mail, then the holder must attempt to confirm the apparent owner's interest in the property by emailing the apparent owner within two years after the apparent owner's last indication of interest in the property. The holder must promptly attempt to contact the apparent owner by first-class mail if (1) the holder does not have the information needed to send an email to the apparent owner; (2) the holder believes the apparent owner's email address in the holder's records is not valid; (3) the holder receives notification that the email was not received; or (4) the apparent owner does not respond to the email communication within 30 days after the message was sent. If a mailing sent in accordance with these provisions is returned to the holder as undeliverable to the apparent owner, the mailing must constitute a communication, as specified. If a mailing is not returned as undeliverable, the holder must be presumed to have a valid address for the owner of the property.

The bill specifies that the running of the three-year period of abandonment ceases immediately on the holder obtaining a valid address for the owner of the property or the occurrence of specified actions regarding the owner's property (*e.g.*, increasing or decreasing the amount of the funds or a deposit, corresponding in writing concerning the funds or a deposit, *etc.*, as specified under current law provisions).

Current Law: Title 17 of the Commercial Law Article generally governs abandoned property in the State.

The Comptroller is required to publish the names of newly reported owners of property presumed abandoned within 365 days of the filing of the report by the holder of the abandoned property if the property has a value of at least \$100. Notice of property valued at \$100 or less is not required to be published unless the Comptroller considers publication to be in the public interest.

Any holder of presumed abandoned property valued at \$100 or more is required to send written notice (by first-class mail) to the apparent owner of the presumed abandoned property, at the apparent owner's last known address, informing the owner that the holder is in possession of the property and that the property will be considered abandoned unless the owner responds to the holder within 30 days after the notification.

Generally, property is presumed abandoned unless specified actions related to the property have been taken by the owner within the prior three years. Such actions include (1) increasing or decreasing the amount of the deposit; (2) engaging in any credit, trust, or other deposit transaction with the banking organization; or (3) communicating in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest. A person holding abandoned property must file a report with the Comptroller including information on the nature of the property and the property's presumed owner. Within 365 days after the report's filing, the Comptroller must publish a notice in a newspaper of general circulation in the county where the presumed owner's last known residence is located, naming the owner and holder of the property, and stating the means by which the owner may claim the property. The Comptroller must also mail out notices to owners of abandoned property valued at \$100 or more within 120 days of receipt of the report filed by the holders. The property must be delivered or paid to the Comptroller at the time an abandoned property report is filed, at which time the State takes custody of the property.

Within one year of taking custody of abandoned personal property, the Comptroller must sell the property at auction. A person who claims a legal interest in property delivered to the Comptroller must file a claim to the property or to the proceeds from its sale. For property sold at auction, if the Comptroller allows the claim, the Comptroller must pay the claimant an amount equal to the sales price.

State Fiscal Effect: As noted above, under current law, the Comptroller's Office is required to sell property that has been deemed abandoned at auction. The bill generally extends the period of time used to determine whether certain financial accounts are considered abandoned, which may result in fewer accounts being considered abandoned or otherwise prolong the existing abandonment determination process. Although unable to quantify an exact impact on State finances, the Comptroller's Office advises that the bill has significant implications on revenues for the Unclaimed Property Fund. Because the net proceeds from unclaimed property are distributed to the general fund (after administrative costs and certain required distributions are made), general fund revenues are likewise impacted.

Additional Comments: The Comptroller has an electronic [abandoned property database](#) on the agency's website.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division);
Comptroller's Office; Maryland Department of Labor; Department of Legislative Services

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