

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 487

(Delegate Adams, *et al.*)

Economic Matters

Corporations and Associations - Electric Cooperatives - Nonescheat Capital Credits

This bill (1) establishes that “nonescheat capital credits” held by an electric cooperative may not presumed to be abandoned property and (2) authorizes the use of nonescheat capital credits only for specified purposes.

Fiscal Summary

State Effect: General/special fund revenues may decrease to the extent that specified property is no longer presumed abandoned, as discussed below. Expenditures are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines “nonescheat capital credits” as money (1) due to any past member of an electric cooperative in retirement of capital allocated on a patronage basis to the account of the past member for amounts received and receivable by the cooperative in excess of operating costs and expenses; (2) for which at least five years have passed since the credits were retired; and (3) that has not been claimed by the past member.

An electric cooperative may use nonescheat capital credits only to (1) assist members of the cooperative pursuant to the powers granted to the cooperative under the applicable

statute or (2) donate to nonprofit, charitable organizations approved by the cooperative's board of directors.

The bill may not be construed as relieving an electric cooperative of the obligation to refund nonescheat capital credits on application of a past member.

Current Law:

Electric Cooperative – In General

An electric cooperative is a cooperative, nonprofit, membership corporation organized under the Corporations and Associations Article for the purpose of supplying, promoting, and extending the use of electricity. If a person agrees to use electricity or other services supplied by the cooperative when the electricity or services are available through the cooperative's facilities, the person may become a member of the cooperative. An electric cooperative has broad statutory powers to act on behalf of the corporation, including, among others, the power to distribute, sell, supply, and dispose of electricity to its members and to provide assistance to persons to whom the cooperative supplies or will supply electricity, as specified.

Unless otherwise determined by a vote of the members of the electric cooperative, for each fiscal year, the revenues of a cooperative in excess of the amount necessary to provide for expenses, financing, working capital, and other purposes, as specified, must be allocated by the cooperative in the form of patronage credits to its members and other persons to whom the cooperative supplies electricity or provides other services. For each fiscal year, the patronage credits must be allocated to a member or other person in proportion to the patronage of the member or other person during the fiscal year.

Abandoned Property

Title 17 of the Commercial Law Article generally governs abandoned property in the State; the Comptroller is the administrator of abandoned property. Generally, property presumed abandoned includes (among numerous other items) any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held by a business association for or to, among others, a shareholder or participating patron of a cooperative, three years after the later of the date (1) the holder is deemed to not have a valid address for the owner of the property or (2) the owner last communicated with the business association regarding the property, as statutorily specified. The running of the three-year period of abandonment ceases immediately upon the occurrence of conditions specified in statute.

Statute includes additional notice and procedural requirements. For example, a 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.

A person holding abandoned property must also file a report with the Comptroller including information on the nature of the property and the property's presumed owner. The Comptroller is required to take specified actions, including those related to publication and the mailing of notice to apparent owners.

In general, within one year of taking custody of abandoned personal property, the Comptroller must sell the property at auction (subject to limited exceptions, such as if the Comptroller has determined the property has no commercial value). 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, the Comptroller's Office is generally required to sell property that has been deemed abandoned at auction after specified requirements have been satisfied. The bill removes nonescheat capital credits for members of an electric cooperative from the presumption of abandoned property under current law provisions. Although the Department of Legislative Services is unable to quantify an exact impact on State finances, the bill may reduce revenues for the Unclaimed Property Fund. Because net proceeds from unclaimed property are distributed to the general fund (after administrative costs and certain required distributions are made), general fund revenues may also be impacted.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. SB 956 and HB 1276 of 2023.

Designated Cross File: SB 510 (Senators Hershey and Mautz) - Judicial Proceedings.

Information Source(s): Comptroller's Office; State Department of Assessments and Taxation; Department of Legislative Services

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