

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1410 Session of
2001INTRODUCED BY BARD, TANGRETTI, HERMAN, ROSS AND LESCOVITZ,
APRIL 24, 2001AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, OCTOBER 2, 2001

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,
2 as amended, "An act relating to the finances of the State
3 government; providing for the settlement, assessment,
4 collection, and lien of taxes, bonus, and all other accounts
5 due the Commonwealth, the collection and recovery of fees and
6 other money or property due or belonging to the Commonwealth,
7 or any agency thereof, including escheated property and the
8 proceeds of its sale, the custody and disbursement or other
9 disposition of funds and securities belonging to or in the
10 possession of the Commonwealth, and the settlement of claims
11 against the Commonwealth, the resettlement of accounts and
12 appeals to the courts, refunds of moneys erroneously paid to
13 the Commonwealth, auditing the accounts of the Commonwealth
14 and all agencies thereof, of all public officers collecting
15 moneys payable to the Commonwealth, or any agency thereof,
16 and all receipts of appropriations from the Commonwealth,
17 authorizing the Commonwealth to issue tax anticipation notes
18 to defray current expenses, implementing the provisions of
19 section 7(a) of Article VIII of the Constitution of
20 Pennsylvania authorizing and restricting the incurring of
21 certain debt and imposing penalties; affecting every
22 department, board, commission, and officer of the State
23 government, every political subdivision of the State, and
24 certain officers of such subdivisions, every person,
25 association, and corporation required to pay, assess, or
26 collect taxes, or to make returns or reports under the laws
27 imposing taxes for State purposes, or to pay license fees or
28 other moneys to the Commonwealth, or any agency thereof,
29 every State depository and every debtor or creditor of the
30 Commonwealth," further providing for definitions, for
31 property held by courts and public officers and agencies; and
32 making editorial changes.

1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 Section 1. The definitions of "holder" and "secretary" in
4 section 1301.1 of the act of April 9, 1929 (P.L.343, No.176),
5 known as The Fiscal Code, added December 9, 1982 (P.L.1057,
6 No.248), are amended to read:

7 Section 1301.1. Definitions.--As used in this article,
8 unless the context otherwise requires:

9 * * *

10 "Holder" shall include any person in possession of property
11 subject to this article belonging to another, or who is a
12 trustee in case of a trust, or is indebted to another on an
13 obligation subject to this article or any financial institution
14 which has paid amounts and sums to the [secretary] State
15 Treasurer under subsection (c) of section 1301.13 of this
16 article.

17 * * *

18 ["Secretary" shall mean the Secretary of Revenue of the
19 Commonwealth of Pennsylvania.]

20 * * *

21 Section 2. Sections 1301.9~~7~~ AND 1301.11(a), (b) and (d)~~7~~ <—
22 ~~1301.12 and 1301.13~~ of the act, amended May 16, 1986 (P.L.197,
23 No.60), are amended to read:

24 Section 1301.9. Property Held by Courts and Public Officers
25 and Agencies.--The following property is presumed abandoned and
26 unclaimed:

27 1. Except as provided in [clause 2] CLAUSES 2 AND 2.1, all <—
28 property held for the owner by any court, public corporation,
29 public authority or instrumentality of the United States, the
30 Commonwealth, or any other state, or by a public officer or

1 political subdivision thereof, unclaimed by the owner for more
2 than seven (7) years from the date it first became demandable or
3 distributable.

4 2. Bicycles held for the owner by a municipality unclaimed
5 by the owner for more than ninety (90) days from the date it
6 first became demandable or distributable.

7 2.1. All tangible property or assets, other than bicycles,
8 held for the owner by a municipality unclaimed by the owner for
9 more than two (2) years from the date it first became demandable
10 or distributable.

11 3. The bicycles held pursuant to clause 2 and tangible
12 property or assets which is held pursuant to clause 2.1 and
13 which the State Treasurer refuses to accept may be disposed of
14 by the municipality to the highest bidder after due notice by
15 advertisement for bids or at public auction at such time and
16 place as may be designated by the municipality or the governing
17 body may, by resolution, donate the bicycles or such tangible
18 property or assets to a charitable organization. Any proceeds
19 from the sale of the bicycles or such tangible property or
20 assets shall be retained by the municipality and used for
21 municipal purposes.

22 4. Bicycles held by or acquired by the Commonwealth for
23 ninety (90) days may be disposed of at public auction at such
24 time and place as may be designated by the [Secretary of
25 Revenue] State Treasurer. Proceeds of such sale or sales shall
26 be deposited in the General Fund.

27 5. All property held by or subject to the control of any
28 court, public corporation, public authority or instrumentality
29 of the Commonwealth or by a public officer or political
30 subdivision thereof, which is without a rightful or lawful

1 owner, to the extent not otherwise provided for by law, held for
2 more than one year.

3 Section 1301.11. Report of Property Subject to Custody and
4 Control of the Commonwealth under this Article.--(a) Every
5 person holding property which became subject to custody and
6 control of the Commonwealth under this article during the
7 preceding year shall report to the [secretary as hereinafter
8 provided] State Treasurer as provided in this article.

9 (b) The report shall be verified and shall include:

10 1. Except with respect to travelers checks and money orders,
11 the name, if known, and last known address, if any, of each
12 person appearing from the records of the holder to be the owner
13 of any property of the value of twenty-five dollars (\$25) or
14 more;

15 2. The nature and identifying number, if any, or description
16 of the property and the amount appearing from the records to be
17 due, except that items of value under twenty-five dollars (\$25)
18 each may be reported in the aggregate;

19 3. The date when the property became payable, demandable,
20 returnable or the date upon which the property was declared or
21 found to be without a rightful or lawful owner, and the date of
22 the last transaction with the owner with respect to the
23 property; and

24 4. Other information which the [secretary] State Treasurer
25 prescribes by rules or regulations as necessary for
26 administration of this article.

27 * * *

28 (d) The report shall be filed on or before April 15 of the
29 year following the year in which the property first became
30 subject to custody and control of the Commonwealth under this

1 article. The [secretary] State Treasurer may postpone for a
2 period not exceeding six (6) months the reporting date upon
3 written request by any person required to file a report.

4 * * *

5 SECTION 3. SECTION 1301.12 OF THE ACT, AMENDED MAY 16, 1986 <—
6 (P.L.197, NO.60) AND DECEMBER 15, 1999 (P.L.942, NO.66), IS
7 AMENDED TO READ:

8 Section 1301.12. Notice and Publication of Lists of Property
9 Subject to Custody and Control of the Commonwealth under this
10 Article.--(a) Within nine (9) months from the filing of the
11 report required by section 1301.11, the [secretary] State
12 Treasurer shall cause notice to be published at least once each
13 week for two (2) successive weeks in an English language
14 newspaper of general circulation in the county in which the
15 holder of the property has his principal place of business in
16 the Commonwealth or, if there is no such place, then at least
17 one time in the Pennsylvania Bulletin.

18 (b) The published notice shall be entitled "Notice of Names
19 of Persons Appearing to be Owners of Abandoned and Unclaimed
20 Property," and shall contain:

21 1. The names and last known addresses, if any, of persons
22 listed in the report and entitled to notice within the county as
23 hereinbefore specified and the name and address of the holder;

24 2. A statement that information concerning the amount or
25 description of the property and the name and address of the
26 holder may be obtained by any persons possessing an interest in
27 the property by addressing an inquiry to the holder;

28 3. A statement that a proof of claim should be presented by
29 the owner to the holder within three (3) months from the date of
30 the second published notice, and that thereafter claims should

1 be filed with the [secretary] State Treasurer.

2 (c) The [secretary] State Treasurer is not required to
3 publish in such notice any item of less than one hundred dollars
4 (\$100) unless he deems such publication to be in the public
5 interest.

6 (d) Within six (6) months from the receipt of the report
7 required by section 1301.11, the [secretary] State Treasurer
8 shall mail a notice to each person having an address listed who
9 appears to be entitled to property of the value of one hundred
10 dollars (\$100) or more subject to custody and control of the
11 Commonwealth under this article. The mailed notice shall
12 contain:

13 1. A statement that, according to a report filed with the
14 [secretary] State Treasurer, property is being held to which the
15 addressee appears entitled;

16 2. The name and address of the holder of the property and
17 any necessary information regarding changes of name and address
18 of the holder;

19 3. A statement that, if satisfactory proof of claim is not
20 presented by the owner to the holder by the date specified in
21 the published notice, claims should thereafter be filed with the
22 [secretary] State Treasurer.

23 (e) This section is not applicable to sums payable on
24 travelers checks and money orders or to property reported to be
25 without a rightful or lawful owner.

26 SECTION 4. SECTIONS 1301.13 OF THE ACT, AMENDED MAY 16, 1986 <—
27 (P.L.197, NO.60), IS AMENDED TO READ:

28 Section 1301.13. Payment or Delivery.--(a) Every person who
29 holds property subject to the custody and control of the
30 Commonwealth shall, within sixty (60) days after receipt of

1 written demand from the [secretary] State Treasurer and after
2 compliance with section 1301.12, where required, pay or deliver
3 to the [secretary] State Treasurer all property subject to
4 custody and control of the Commonwealth under this article,
5 except that, if the owner establishes his right to receive the
6 property to the satisfaction of the holder, or if it appears
7 that for some other reason the property is not then subject to
8 custody and control of the Commonwealth under this article, the
9 holder need not pay or deliver the property to the [secretary]
10 State Treasurer, but in lieu thereof shall file a verified
11 written explanation of the proof of claim or as to the reason
12 the property is not subject to custody and control of the
13 Commonwealth.

14 (b) A receipt shall be issued, on behalf of the
15 Commonwealth, for all property received under this article.

16 (c) Notwithstanding subsection (a) of this section, in the
17 case of the deposits and the sums payable under clauses 1 and 3
18 of section 1301.3 the amount of such deposits and such sums
19 shall be paid to the [secretary] State Treasurer on or before
20 the final date for filing the report required by section
21 1301.11.

22 (d) Any person who holds property which may become subject
23 to the custody and control of the Commonwealth pursuant to this
24 act may, with the consent of the [secretary] State Treasurer,
25 report and deliver such property prior to the expiration of any
26 holding period specified for such reporting. Any person who pays
27 or delivers property prior to the expiration of such holding
28 period shall be relieved of further liability pursuant to
29 section 1301.14. Property thus reported may be disposed of
30 pursuant to sections 1301.12 and 1301.17, but in no event shall

1 the period for filing of claims be diminished by such early
2 delivery or disposition.

3 Section ~~3~~ 5. Sections 1301.14, 1301.15 and 1301.16 of the <—
4 act, added December 9, 1982 (P.L.1057, No.248), are amended to
5 read:

6 Section 1301.14. Relief from Liability by Payment or
7 Delivery.--Upon the payment or delivery of the property to the
8 [secretary] State Treasurer, the Commonwealth shall assume
9 custody and shall be responsible for the safekeeping thereof.
10 Any person who pays or delivers property to the [secretary]
11 State Treasurer under this article is relieved of all liability
12 with respect to the safekeeping of such property so paid or
13 delivered for any claim which then exists or which thereafter
14 may arise or be made in respect to such property. Any holder who
15 has paid moneys to the [secretary] State Treasurer pursuant to
16 this article may make payment to any person appearing to such
17 holder to be entitled thereto. In the case of deposits and sums
18 paid to the [secretary] State Treasurer under subsection (c) of
19 section 1301.13, financial institutions shall make payment to
20 any person appearing to such financial institution to be
21 entitled thereto. Upon proof of such payment by a holder and
22 proof that the payee was entitled thereto, the [secretary] State
23 Treasurer shall forthwith reimburse the holder for such payment
24 together with interest from the date of receipt of such proofs
25 by the [secretary] State Treasurer to a date within thirty (30)
26 days of the date of mailing of the reimbursement. Interest under
27 this section shall be at the rate prevailing for tax over
28 payments on the date of receipt of the proofs by the [secretary]
29 State Treasurer as provided for in section 806 of this act.

30 Section 1301.15. Income Accruing After Payment or

1 Delivery.--When property is paid or delivered to the [secretary]
2 State Treasurer under this article, the owner is entitled to
3 receive income or other increments actually received by the
4 [secretary] State Treasurer.

5 Section 1301.16. Periods of Limitation.--Except as
6 hereinbelow set forth, the expiration of any period of time
7 specified by statute or court order, during which an action may
8 be commenced or maintained, or could have been commenced or
9 maintained, by the owner against the holder of the property,
10 shall not prevent such property from being subject to the
11 custody and control of the Commonwealth under this article, nor
12 affect the duty to file a report or to pay or deliver the
13 property to the [secretary] State Treasurer, as required by this
14 article, nor bar any action by the [secretary] State Treasurer
15 under this article, provided that:

16 1. If any holder required to file a report under any act in
17 effect prior to the effective date of this article, or under
18 this article, has filed or files a report, no action shall be
19 commenced or maintained against such holder unless it has been
20 or is commenced within fifteen (15) years after such report has
21 been or is filed.

22 2. If any holder was not required to file a report under any
23 act in effect prior to the effective date hereof, no action
24 shall be commenced or maintained unless it has been or is
25 commenced within fifteen (15) years after the property first
26 became escheatable or payable into the State Treasury without
27 escheat.

28 Section 4 6. Section 1301.17 of the act, amended May 16,
29 1986 (P.L.197, No.60), is amended to read:

30 Section 1301.17. Disposition of Property.--(a) Within a

1 reasonable time after delivery to him of any property under this
2 article, the [secretary] State Treasurer may sell it to the
3 highest bidder at public sale in whatever city in the
4 Commonwealth affords, in his judgment, the most favorable market
5 for the property involved. The [secretary] State Treasurer may
6 decline the highest bid or reoffer the property for sale if he
7 considers the price bid insufficient. He need not offer any
8 property for sale, if, in his opinion, the probable cost of sale
9 exceeds the value of the property.

10 (b) If the property is of a type customarily sold on a
11 recognized market or of a type which is subjected to widely
12 distributed standard price quotations, the [secretary] State
13 Treasurer may sell the property without notice by publication or
14 otherwise.

15 (c) Property reported or delivered to the custody or control
16 of the [secretary] State Treasurer pursuant to this act may be
17 donated to the use of the Commonwealth or any of its political
18 subdivisions or otherwise consumed or discarded, at the
19 discretion of the [secretary] State Treasurer where, in the
20 opinion of the [secretary] State Treasurer, the costs associated
21 with delivery, notice or sale exceed the value of the property.
22 Property which is refused or is to be donated to the use of a
23 political subdivision shall first be offered to the political
24 subdivision which holds the property. A donee or purchaser at
25 any sale conducted by the [secretary] State Treasurer pursuant
26 to this article shall receive title to the property purchased,
27 free from all claims of the owner or prior holder thereof and of
28 all persons claiming through or under them. The [secretary]
29 State Treasurer shall execute all documents necessary to
30 complete the transfer of title.

1 Section ~~5~~ 7. Sections 1301.18, 1301.19, 1301.20 and 1301.21 <—
2 of the act, added December 9, 1982 (P.L.1057, No.248), are
3 amended to read:

4 Section 1301.18. Deposit of Funds.--(a) All funds received
5 under this article, including the proceeds from the sale of
6 property under section 1301.17, shall forthwith be deposited by
7 the [secretary] State Treasurer in the General Fund of the
8 Commonwealth, except that the [secretary] State Treasurer shall
9 retain in a separate trust fund an amount not exceeding twenty-
10 five thousand dollars (\$25,000) plus twenty per centum of
11 deposits and sums paid to the [secretary] State Treasurer under
12 subsection (c) of section 1301.13 during the preceding twelve
13 (12) months from which he shall make reimbursements under
14 section 1301.14 and prompt payment of claims duly allowed under
15 section 1301.19. Before making the deposit he shall record the
16 name and last known address of each person appearing from the
17 holders' reports to be entitled to the property and of the name
18 and last known address of each insured person or annuitant, and
19 with respect to each policy or contract listed in the report of
20 an insurer, its number, the name of the insurer and the amount
21 due. The record with respect to any specific claim shall be
22 available to the claimant at all regular business hours.

23 (b) Before making any deposit to the credit of the General
24 Fund, the [secretary] State Treasurer may deduct:

25 (i) Reasonable costs in connection with sale of the
26 property,

27 (ii) Reasonable costs of mailing and publication in
28 connection with any property, and

29 (iii) Reasonable service charges.

30 Section 1301.19. Claim for Property Paid or Delivered.--Any

1 person claiming an interest in any property paid or delivered to
2 the Commonwealth under this article may file a claim thereto or
3 to the proceeds from the sale thereof on the form prescribed by
4 the [secretary] State Treasurer.

5 Section 1301.20. Determination of Claims.--(a) The
6 [secretary] State Treasurer shall consider any claim filed under
7 this article and may hold a hearing and receive evidence
8 concerning it. If a hearing is held, he shall prepare a finding
9 and a decision in writing on each claim filed, stating the
10 substance of any evidence heard by him and the reasons for his
11 decision. The decision shall be a public record.

12 (b) If the claim is allowed, the [secretary] State Treasurer
13 shall make payment forthwith.

14 Section 1301.21. Judicial Action upon Determinations.--Any
15 person aggrieved by a decision of the [secretary] State
16 Treasurer, or as to whose claim the [secretary] State Treasurer
17 has failed to act within ninety (90) days after the filing of
18 the claim, may commence an action in the Commonwealth Court to
19 establish his claim. The proceeding shall be brought within
20 thirty (30) days after the decision of the [secretary] State
21 Treasurer or within one hundred twenty (120) days from the
22 filing of the claim if the [secretary] State Treasurer fails to
23 act. The action shall be tried de novo without a jury.

24 Section ~~6~~ 8. Section 1301.22 of the act, amended May 16, <—
25 1986 (P.L.197, No.60), is amended to read:

26 Section 1301.22. Election to Take Payment or Delivery.--The
27 [secretary] State Treasurer may decline to receive any item of
28 property reported, in which event the holder thereof shall be
29 discharged of any liability to the Commonwealth with respect
30 thereto. Unless the holder of the property is notified to the

1 contrary within one hundred twenty (120) days after filing the
2 report required under section 1301.11, the [secretary] State
3 Treasurer shall be deemed to have elected to receive the custody
4 of the property.

5 Section 7 9. Sections 1301.23, 1301.24, 1301.25 and 1301.26 <—
6 of the act, added December 9, 1982 (P.L.1057, No.248), are
7 amended to read:

8 Section 1301.23. Examination of Records.--If the [secretary]
9 State Treasurer has reason to believe that any holder has failed
10 to report property that should have been reported pursuant to
11 this article, the [secretary] State Treasurer may, at reasonable
12 times and upon reasonable notice, examine the records of such
13 person with respect to such property.

14 Section 1301.24. Proceeding to Compel Reporting or
15 Delivery.--(a) If any person refuses to report or deliver
16 property to the [secretary] State Treasurer as required under
17 this article, the Commonwealth shall bring an action in a court
18 of appropriate jurisdiction to enforce reporting or delivery. In
19 any such action the Pennsylvania Rules of Civil Procedure shall
20 apply, including without limitation those pertaining to
21 discovery.

22 (b) If any holder fails, without proper cause, (i) to report
23 or (ii) to pay and deliver to the [secretary] State Treasurer
24 property subject to custody and control of the Commonwealth
25 under this article, such holder shall be liable to pay to the
26 [secretary] State Treasurer interest at the rate of twelve per
27 centum per annum from the time such report should have been
28 filed, to be computed on the value of such property as
29 established in an action by the [secretary] State Treasurer
30 under subsection (a), and such interest shall be recoverable in

1 the same action.

2 Section 1301.25. Penalties.--(a) Any person who, without
3 proper cause, fails to render any report or perform other duties
4 required under this article, shall, upon conviction in a summary
5 proceeding be sentenced to pay a fine of ten dollars (\$10) for
6 each day such report is withheld, but not more than one thousand
7 dollars (\$1,000).

8 (b) Any person who, without proper cause, refuses to pay or
9 deliver property to the [secretary] State Treasurer as required
10 under this article shall be guilty of a misdemeanor and, upon
11 conviction thereof, shall be sentenced to pay a fine of not less
12 than one hundred dollars (\$100) nor more than one thousand
13 dollars (\$1,000), or imprisonment for not more than twelve (12)
14 months, or both.

15 Section 1301.26. Rules and Regulations.--The [secretary]
16 State Treasurer is hereby authorized to make necessary rules and
17 regulations to carry out the provisions of this article.

18 Section 8 10. This act shall take effect in 60 days.

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