

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1410 Session of
2001

INTRODUCED BY BARD, TANGRETTI, HERMAN, ROSS AND LESCOVITZ,
APRIL 24, 2001

REFERRED TO COMMITTEE ON FINANCE, APRIL 24, 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.

33 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

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

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

8 * * *

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

16 * * *

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

19 * * *

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

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

26 1. Except as provided in clause 2, all property held for the
27 owner by any court, public corporation, public authority or
28 instrumentality of the United States, the Commonwealth, or any
29 other state, or by a public officer or political subdivision
30 thereof, unclaimed by the owner for more than seven (7) years

1 from the date it first became demandable or distributable.

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

5 2.1. All tangible property or assets, other than bicycles,
6 held for the owner by a municipality unclaimed by the owner for
7 more than two (2) years from the date it first became demandable
8 or distributable.

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

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

25 5. All property held by or subject to the control of any
26 court, public corporation, public authority or instrumentality
27 of the Commonwealth or by a public officer or political
28 subdivision thereof, which is without a rightful or lawful
29 owner, to the extent not otherwise provided for by law, held for
30 more than one year.

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

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

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

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

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

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

25 * * *

26 (d) The report shall be filed on or before April 15 of the
27 year following the year in which the property first became
28 subject to custody and control of the Commonwealth under this
29 article. The [secretary] State Treasurer may postpone for a
30 period not exceeding six (6) months the reporting date upon

1 written request by any person required to file a report.

2 * * *

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

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

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

19 2. A statement that information concerning the amount or
20 description of the property and the name and address of the
21 holder may be obtained by any persons possessing an interest in
22 the property by addressing an inquiry to the holder;

23 3. A statement that a proof of claim should be presented by
24 the owner to the holder within three (3) months from the date of
25 the second published notice, and that thereafter claims should
26 be filed with the [secretary] State Treasurer.

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

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

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

11 2. The name and address of the holder of the property and
12 any necessary information regarding changes of name and address
13 of the holder;

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

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

21 Section 1301.13. Payment or Delivery.--(a) Every person who
22 holds property subject to the custody and control of the
23 Commonwealth shall, within sixty (60) days after receipt of
24 written demand from the [secretary] State Treasurer and after
25 compliance with section 1301.12, where required, pay or deliver
26 to the [secretary] State Treasurer all property subject to
27 custody and control of the Commonwealth under this article,
28 except that, if the owner establishes his right to receive the
29 property to the satisfaction of the holder, or if it appears
30 that for some other reason the property is not then subject to

1 custody and control of the Commonwealth under this article, the
2 holder need not pay or deliver the property to the [secretary]
3 State Treasurer, but in lieu thereof shall file a verified
4 written explanation of the proof of claim or as to the reason
5 the property is not subject to custody and control of the
6 Commonwealth.

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

9 (c) Notwithstanding subsection (a) of this section, in the
10 case of the deposits and the sums payable under clauses 1 and 3
11 of section 1301.3 the amount of such deposits and such sums
12 shall be paid to the [secretary] State Treasurer on or before
13 the final date for filing the report required by section
14 1301.11.

15 (d) Any person who holds property which may become subject
16 to the custody and control of the Commonwealth pursuant to this
17 act may, with the consent of the [secretary] State Treasurer,
18 report and deliver such property prior to the expiration of any
19 holding period specified for such reporting. Any person who pays
20 or delivers property prior to the expiration of such holding
21 period shall be relieved of further liability pursuant to
22 section 1301.14. Property thus reported may be disposed of
23 pursuant to sections 1301.12 and 1301.17, but in no event shall
24 the period for filing of claims be diminished by such early
25 delivery or disposition.

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

28 Section 1301.14. Relief from Liability by Payment or
29 Delivery.--Upon the payment or delivery of the property to the
30 [secretary] State Treasurer, the Commonwealth shall assume

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

22 Section 1301.15. Income Accruing After Payment or
23 Delivery.--When property is paid or delivered to the [secretary]
24 State Treasurer under this article, the owner is entitled to
25 receive income or other increments actually received by the
26 [secretary] State Treasurer.

27 Section 1301.16. Periods of Limitation.--Except as
28 hereinbelow set forth, the expiration of any period of time
29 specified by statute or court order, during which an action may
30 be commenced or maintained, or could have been commenced or

1 maintained, by the owner against the holder of the property,
2 shall not prevent such property from being subject to the
3 custody and control of the Commonwealth under this article, nor
4 affect the duty to file a report or to pay or deliver the
5 property to the [secretary] State Treasurer, as required by this
6 article, nor bar any action by the [secretary] State Treasurer
7 under this article, provided that:

8 1. If any holder required to file a report under any act in
9 effect prior to the effective date of this article, or under
10 this article, has filed or files a report, no action shall be
11 commenced or maintained against such holder unless it has been
12 or is commenced within fifteen (15) years after such report has
13 been or is filed.

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

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

22 Section 1301.17. Disposition of Property.--(a) Within a
23 reasonable time after delivery to him of any property under this
24 article, the [secretary] State Treasurer may sell it to the
25 highest bidder at public sale in whatever city in the
26 Commonwealth affords, in his judgment, the most favorable market
27 for the property involved. The [secretary] State Treasurer may
28 decline the highest bid or reoffer the property for sale if he
29 considers the price bid insufficient. He need not offer any
30 property for sale, if, in his opinion, the probable cost of sale

1 exceeds the value of the property.

2 (b) If the property is of a type customarily sold on a
3 recognized market or of a type which is subjected to widely
4 distributed standard price quotations, the [secretary] State
5 Treasurer may sell the property without notice by publication or
6 otherwise.

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

23 Section 5. Sections 1301.18, 1301.19, 1301.20 and 1301.21 of
24 the act, added December 9, 1982 (P.L.1057, No.248), are amended
25 to read:

26 Section 1301.18. Deposit of Funds.--(a) All funds received
27 under this article, including the proceeds from the sale of
28 property under section 1301.17, shall forthwith be deposited by
29 the [secretary] State Treasurer in the General Fund of the
30 Commonwealth, except that the [secretary] State Treasurer shall

1 retain in a separate trust fund an amount not exceeding twenty-
2 five thousand dollars (\$25,000) plus twenty per centum of
3 deposits and sums paid to the [secretary] State Treasurer under
4 subsection (c) of section 1301.13 during the preceding twelve
5 (12) months from which he shall make reimbursements under
6 section 1301.14 and prompt payment of claims duly allowed under
7 section 1301.19. Before making the deposit he shall record the
8 name and last known address of each person appearing from the
9 holders' reports to be entitled to the property and of the name
10 and last known address of each insured person or annuitant, and
11 with respect to each policy or contract listed in the report of
12 an insurer, its number, the name of the insurer and the amount
13 due. The record with respect to any specific claim shall be
14 available to the claimant at all regular business hours.

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

17 (i) Reasonable costs in connection with sale of the
18 property,

19 (ii) Reasonable costs of mailing and publication in
20 connection with any property, and

21 (iii) Reasonable service charges.

22 Section 1301.19. Claim for Property Paid or Delivered.--Any
23 person claiming an interest in any property paid or delivered to
24 the Commonwealth under this article may file a claim thereto or
25 to the proceeds from the sale thereof on the form prescribed by
26 the [secretary] State Treasurer.

27 Section 1301.20. Determination of Claims.--(a) The
28 [secretary] State Treasurer shall consider any claim filed under
29 this article and may hold a hearing and receive evidence
30 concerning it. If a hearing is held, he shall prepare a finding

1 and a decision in writing on each claim filed, stating the
2 substance of any evidence heard by him and the reasons for his
3 decision. The decision shall be a public record.

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

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

16 Section 6. Section 1301.22 of the act, amended May 16, 1986
17 (P.L.197, No.60), is amended to read:

18 Section 1301.22. Election to Take Payment or Delivery.--The
19 [secretary] State Treasurer may decline to receive any item of
20 property reported, in which event the holder thereof shall be
21 discharged of any liability to the Commonwealth with respect
22 thereto. Unless the holder of the property is notified to the
23 contrary within one hundred twenty (120) days after filing the
24 report required under section 1301.11, the [secretary] State
25 Treasurer shall be deemed to have elected to receive the custody
26 of the property.

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

30 Section 1301.23. Examination of Records.--If the [secretary]

1 State Treasurer has reason to believe that any holder has failed
2 to report property that should have been reported pursuant to
3 this article, the [secretary] State Treasurer may, at reasonable
4 times and upon reasonable notice, examine the records of such
5 person with respect to such property.

6 Section 1301.24. Proceeding to Compel Reporting or
7 Delivery.--(a) If any person refuses to report or deliver
8 property to the [secretary] State Treasurer as required under
9 this article, the Commonwealth shall bring an action in a court
10 of appropriate jurisdiction to enforce reporting or delivery. In
11 any such action the Pennsylvania Rules of Civil Procedure shall
12 apply, including without limitation those pertaining to
13 discovery.

14 (b) If any holder fails, without proper cause, (i) to report
15 or (ii) to pay and deliver to the [secretary] State Treasurer
16 property subject to custody and control of the Commonwealth
17 under this article, such holder shall be liable to pay to the
18 [secretary] State Treasurer interest at the rate of twelve per
19 centum per annum from the time such report should have been
20 filed, to be computed on the value of such property as
21 established in an action by the [secretary] State Treasurer
22 under subsection (a), and such interest shall be recoverable in
23 the same action.

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

30 (b) Any person who, without proper cause, refuses to pay or

1 deliver property to the [secretary] State Treasurer as required
2 under this article shall be guilty of a misdemeanor and, upon
3 conviction thereof, shall be sentenced to pay a fine of not less
4 than one hundred dollars (\$100) nor more than one thousand
5 dollars (\$1,000), or imprisonment for not more than twelve (12)
6 months, or both.

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

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