
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1133 Session of 2003

INTRODUCED BY GANNON, THOMAS, BARD, BEBKO-JONES, BELFANTI, BUNT, CAPPELLI, CIVERA, CLYMER, CREIGHTON, CRUZ, DALLY, DeWEESE, DiGIROLAMO, EGOLF, FRANKEL, GABIG, GEIST, GODSHALL, GOODMAN, HARHAI, HERMAN, HORSEY, JAMES, KELLER, KIRKLAND, LAUGHLIN, LEWIS, MANDERINO, MANN, McGEEHAN, McNAUGHTON, MELIO, R. MILLER, NAILOR, PALLONE, PERZEL, REICHLEY, ROONEY, ROSS, SAYLOR, SCAVELLO, SCHRODER, SCRIMENTI, SHANER, STABACK, STERN, WASHINGTON, WATSON, WEBER, YOUNGBLOOD, BENNINGHOFF, DeLUCA AND WHEATLEY, APRIL 9, 2003

SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS AMENDED, DECEMBER 19, 2003

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

1 collect taxes, or to make returns or reports under the laws
2 imposing taxes for State purposes, or to pay license fees or
3 other moneys to the Commonwealth, or any agency thereof,
4 every State depository and every debtor or creditor of the
5 Commonwealth," further providing for definitions, THE <—
6 DEFINITIONS OF "COST OF THE STAMPING AGENT" AND "DEALER" AND
7 FOR INTEREST ON OVERPAYMENTS; PROVIDING FOR THE DEFINITIONS
8 OF "CRIME VICTIM'S COMPENSATION FUND" AND "RESTITUTION"; AND
9 FURTHER PROVIDING FOR PROPERTY HELD BY FINANCIAL
10 INSTITUTIONS, FOR ESCHEAT OF PROPERTY HELD BY INSURERS, for
11 property held by courts, public officers and agencies, FOR <—
12 MISCELLANEOUS PROPERTY HELD FOR OR OWING TO ANOTHER and for
13 depositing funds relating to abandoned and unclaimed
14 property.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 ~~Section 1. Section 1301.1 of the act of April 9, 1929~~ <—
18 ~~(P.L.343, No.176), known as The Fiscal Code, is amended by~~
19 ~~adding definitions to read:~~

20 SECTION 1. THE DEFINITIONS OF "COST OF THE STAMPING AGENT" <—
21 AND "DEALER" IN SECTION 202-A OF THE ACT OF APRIL 9, 1929
22 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE, ADDED JULY 2, 1993
23 (P.L.250, NO.46), ARE AMENDED TO READ:

24 SECTION 202-A. DEFINITIONS.--AS USED IN THIS ARTICLE--* * *

25 "COST OF THE STAMPING AGENT" SHALL MEAN THE BASIC COST OF
26 CIGARETTES PLUS THE COST OF DOING BUSINESS BY THE CIGARETTE
27 STAMPING AGENT IN EXCESS OF THE BASIC COST OF CIGARETTES,
28 EXPRESSED AS A PERCENTAGE AND APPLIED TO THE BASIC COST OF
29 CIGARETTES. ANY FRACTIONAL PART OF A CENT IN THE COST PER CARTON
30 OF CIGARETTES SHALL BE ROUNDED OFF TO THE NEXT HIGHER CENT. IN
31 THE CASE OF SALES AT RETAIL BY CIGARETTE STAMPING AGENTS, THE
32 COST OF THE CIGARETTE STAMPING AGENT SHALL BE THE SAME AS THE
33 COST OF THE RETAILER. THERE SHALL BE DETERMINED A SEPARATE COST
34 OF THE CIGARETTE STAMPING AGENT FOR SALES TO WHOLESALE DEALERS
35 AND FOR SALES TO RETAIL DEALERS. IN THE ABSENCE OF FILING OF
36 SATISFACTORY PROOF OF A LESSER COST OF DOING BUSINESS OF THE

1 CIGARETTE STAMPING AGENT MAKING THE SALE, THE COST OF DOING
2 BUSINESS SHALL BE PRESUMED TO BE ONE AND SEVEN-TENTHS PER CENTUM
3 OF THE BASIC COST OF CIGARETTES TO THE STAMPER FOR SALES TO
4 WHOLESALE DEALERS AND [FOUR PER CENTUM OF THE BASIC COST OF
5 CIGARETTES] WITH RESPECT TO SALES TO RETAIL DEALERS, THE COST OF
6 THE STAMPING AGENT PLUS THE COST OF THE WHOLESALER. WHEN A
7 CIGARETTE STAMPING AGENT ESTABLISHES A LESSER COST OF DOING
8 BUSINESS THAN THE PRESUMPTIVE COSTS CONTAINED HEREIN, SUCH
9 LESSER COST OF DOING BUSINESS MAY BE USED TO COMPUTE THE COST OF
10 THE CIGARETTE STAMPING AGENT FOR A PERIOD OF TIME NO GREATER
11 THAN TWELVE MONTHS, AT THE END OF WHICH TIME THE COST OF THE
12 CIGARETTE STAMPING AGENT SHALL BE COMPUTED USING THE PRESUMPTIVE
13 COSTS CONTAINED HEREIN, UNLESS THE CIGARETTE STAMPING AGENT
14 AGAIN ESTABLISHES A LESSER COST OF DOING BUSINESS.

15 * * *

16 "DEALER" SHALL MEAN ANY CIGARETTE STAMPING AGENCY, WHOLESALER
17 OR RETAILER AS THESE TERMS ARE MORE SPECIFICALLY DEFINED HEREIN.
18 WHEN USED IN THIS ARTICLE, THE TERM SHALL INCLUDE ALL OF THE
19 ABOVE-MENTIONED CATEGORIES. NOTHING CONTAINED IN THIS ARTICLE
20 SHALL PRECLUDE ANY PERSON FROM BEING A CIGARETTE STAMPING
21 AGENCY, WHOLESALER OR RETAILER: PROVIDED, THAT SUCH PERSON MEETS
22 THE REQUIREMENTS FOR EACH CATEGORY OF DEALER AND THAT, WHERE A
23 PERSON HOLDS MORE THAN ONE LICENSE, THE PRESUMPTIVE MINIMUM
24 PRICE SHALL INCLUDE ALL PRESUMPTIVE COSTS OF DOING BUSINESS IF
25 THE PRODUCT IS SOLD AT RETAIL.

26 * * *

27 SECTION 2. SECTION 806.1(B) OF THE ACT, AMENDED DECEMBER 9,
28 1982 (P.L.1057, NO.248), IS AMENDED AND THE SECTION IS AMENDED
29 BY ADDING A SUBSECTION TO READ:

30 SECTION 806.1. INTEREST ON OVERPAYMENTS.--* * *

1 (B) INTEREST ON OVERPAYMENTS SHALL BE ALLOWED AND PAID AT
2 THE [SAME] RATE AS IS PRESCRIBED FOR UNDERPAYMENTS UNDER SECTION
3 806 LESS TWO PER CENTUM.

4 (B.1) INTEREST ON OVERPAYMENTS OF THE TAX IMPOSED UNDER
5 ARTICLE III OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS
6 THE "TAX REFORM CODE OF 1971," SHALL BE ALLOWED AND PAID AT THE
7 SAME RATE AS IS PRESCRIBED FOR UNDERPAYMENTS UNDER SECTION 806.

8 * * *

9 SECTION 3. SECTION 1301.1 OF THE ACT IS AMENDED BY ADDING
10 DEFINITIONS TO READ:

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

13 * * *

14 "Crime Victim's Compensation Fund" shall mean the special
15 nonlapsing fund created by the act of November 24, 1998
16 (P.L.882, No.111), known as the "Crime Victims Act."

17 * * *

18 "Restitution" shall mean restitution ordered by a court in
19 accordance with the provisions of 18 Pa.C.S. § 1106 (relating to
20 restitution for injuries to person or property) and collected in
21 accordance with the provisions of 42 Pa.C.S. § 9728 (relating to
22 collection of restitution, reparation, fees, costs, fines and
23 penalties).

24 * * *

25 ~~Section 2. Sections 1301.9 and 1301.18 of the act, amended~~ <—
26 ~~June 29, 2002 (P.L.614, No.91), are amended to read:~~

27 SECTION 4. CLAUSE 3 OF SECTION 1301.3 AND SECTIONS 1301.4, <—
28 1301.9, 1301.10 AND 1301.18 OF THE ACT, AMENDED JUNE 29, 2002
29 (P.L.614, NO.91), ARE AMENDED TO READ:

30 SECTION 1301.3. PROPERTY HELD BY FINANCIAL INSTITUTIONS.--

1 THE FOLLOWING PROPERTY HELD OR OWING BY A FINANCIAL INSTITUTION
2 IS PRESUMED ABANDONED AND UNCLAIMED:

3 * * *

4 3. ANY SUM PAYABLE ON CHECKS OR ON WRITTEN INSTRUMENTS
5 INCLUDING, BUT NOT LIMITED TO, DRAFTS, MONEY ORDERS AND
6 TRAVELERS CHECKS, ON WHICH A FINANCIAL INSTITUTION IS DIRECTLY
7 LIABLE, AND (I) WHICH HAVE BEEN OUTSTANDING FOR MORE THAN FIVE
8 (5) YEARS, OR IN THE CASE OF TRAVELERS CHECKS, FIFTEEN (15)
9 YEARS, OR IN THE CASE OF MONEY ORDERS, SIX (6) YEARS IN CALENDAR
10 YEAR 2003 AND SEVEN (7) YEARS IN CALENDAR YEAR 2004 AND
11 THEREAFTER, FROM THE DATE PAYABLE OR FROM THE DATE OF ISSUANCE
12 IF PAYABLE ON DEMAND; AND (II) THE OWNER OF WHICH HAS NOT
13 WRITTEN TO THE FINANCIAL INSTITUTION CONCERNING IT, NOR
14 OTHERWISE INDICATED AN INTEREST AS EVIDENCED BY A WRITING ON
15 FILE WITH THE FINANCIAL INSTITUTION.

16 * * *

17 SECTION 1301.4. PROPERTY HELD BY INSURERS.--(A) IN THE CASE
18 OF LIFE INSURANCE, THE FOLLOWING PROPERTY HELD OR OWING BY AN
19 INSURER IS PRESUMED ABANDONED AND UNCLAIMED:

20 1. ANY MONEYS HELD OR OWING BY AN INSURER AS ESTABLISHED BY
21 ITS RECORDS UNDER ANY CONTRACT OF ANNUITY OR POLICY OF LIFE
22 INSURANCE INCLUDING PREMIUMS RETURNABLE OR DIVIDENDS PAYABLE,
23 UNCLAIMED AND UNPAID FOR MORE THAN FIVE (5) YEARS AFTER THE
24 MONEYS HAVE OR SHALL BECOME DUE AND PAYABLE UNDER THE PROVISIONS
25 OF SUCH CONTRACT OF ANNUITY OR POLICY OF INSURANCE. A LIFE
26 INSURANCE POLICY NOT MATURED BY ACTUAL PROOF OF THE DEATH OF THE
27 INSURED IS DEEMED TO BE MATURED AND THE PROCEEDS THEREOF ARE
28 DEEMED TO BE DUE AND PAYABLE IF SUCH POLICY WAS IN FORCE WHEN
29 THE INSURED ATTAINED THE LIMITING AGE UNDER THE MORTALITY TABLE
30 ON WHICH THE RESERVE IS BASED, UNLESS THE PERSON APPEARING

1 ENTITLED THERETO HAS WITHIN THE PRECEDING FIVE (5) YEARS, (I)
2 ASSIGNED, READJUSTED OR PAID PREMIUMS ON THE POLICY, OR
3 SUBJECTED THE POLICY TO LOAN, OR (II) CORRESPONDED IN WRITING
4 WITH THE INSURER CONCERNING THE POLICY.

5 2. IF A PERSON OTHER THAN THE INSURED OR ANNUITANT IS
6 ENTITLED TO THE FUNDS AND NO ADDRESS OF SUCH PERSON IS KNOWN TO
7 THE INSURER OR IF IT IS NOT DEFINITE AND CERTAIN FROM THE
8 RECORDS OF THE INSURER WHAT PERSON IS ENTITLED TO THE FUNDS, IT
9 IS PRESUMED THAT THE LAST KNOWN ADDRESS OF THE PERSON ENTITLED
10 TO THE FUNDS IS THE SAME AS THE LAST KNOWN ADDRESS OF THE
11 INSURED OR ANNUITANT ACCORDING TO THE RECORDS OF THE INSURER.

12 3. MONEYS OTHERWISE PAYABLE ACCORDING TO THE RECORDS OF THE
13 INSURER ARE DEEMED DUE AND PAYABLE ALTHOUGH THE POLICY OR
14 CONTRACT HAS NOT BEEN SURRENDERED AS REQUIRED.

15 4. PROPERTY DISTRIBUTABLE IN THE COURSE OF A DEMUTUALIZATION
16 OR RELATED REORGANIZATION OF AN INSURANCE COMPANY IS DEEMED
17 ABANDONED TWO (2) YEARS AFTER THE DATE OF THE DEMUTUALIZATION OR
18 REORGANIZATION IF INSTRUMENTS OR STATEMENTS REFLECTING THE
19 DISTRIBUTION ARE EITHER MAILED TO THE OWNER AND RETURNED BY THE
20 POST OFFICE AS UNDELIVERABLE, OR NOT MAILED TO THE OWNER BECAUSE
21 OF A KNOWN BAD ADDRESS ON THE BOOKS AND RECORDS OF THE HOLDER.

22 (B) IN THE CASE OF INSURANCE OTHER THAN LIFE INSURANCE, THE
23 FOLLOWING PROPERTY HELD OR OWING BY AN INSURER IS PRESUMED
24 ABANDONED AND UNCLAIMED:

25 1. ANY MONEYS HELD OR OWING BY AN INSURER AS ESTABLISHED BY
26 ITS RECORDS UNDER ANY CONTRACT OF INSURANCE OTHER THAN ANNUITY
27 OR LIFE INSURANCE, INCLUDING PREMIUMS OR DEPOSITS RETURNABLE OR
28 DIVIDENDS PAYABLE TO POLICY OR CONTRACT HOLDERS OR OTHER PERSONS
29 ENTITLED THERETO, UNCLAIMED AND UNPAID FOR MORE THAN FIVE (5)
30 YEARS AFTER THE MONEYS HAVE OR SHALL BECOME DUE AND PAYABLE

1 UNDER THE PROVISIONS OF SUCH CONTRACTS OF INSURANCE.

2 2. IF A PERSON OTHER THAN THE INSURED, THE PRINCIPAL OR THE
3 CLAIMANT IS ENTITLED TO THE FUNDS AND NO ADDRESS OF SUCH PERSON
4 IS KNOWN TO THE INSURER OR IF IT IS NOT DEFINITE AND CERTAIN
5 FROM THE RECORDS OF THE INSURER WHAT PERSON IS ENTITLED TO THE
6 FUNDS, IT IS PRESUMED THAT THE LAST KNOWN ADDRESS OF THE PERSON
7 ENTITLED TO THE FUNDS IS THE SAME AS THE LAST KNOWN ADDRESS OF
8 THE INSURED, THE PRINCIPAL OR THE CLAIMANT ACCORDING TO THE
9 RECORDS OF THE INSURER.

10 Section 1301.9. Property Held by Courts and Public Officers
11 and Agencies.--The following property is presumed abandoned and
12 unclaimed:

13 1. Except as provided in clause 2 or 6, all property held
14 for the owner by any court, public corporation, public authority
15 or instrumentality of the United States, the Commonwealth, or
16 any other state, or by a public officer or political subdivision
17 thereof, unclaimed by the owner for more than five (5) years
18 from the date it first became demandable or distributable.

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

22 3. The bicycles held pursuant to clause 2 may be disposed of
23 by the municipality at public auction at such time and place as
24 may be designated by the municipality or the governing body may,
25 by resolution, donate the bicycles to a charitable organization.
26 Any proceeds from the sale of the bicycles shall be retained by
27 the municipality and used for municipal purposes.

28 4. Bicycles held by or acquired by the Commonwealth for
29 ninety (90) days may be disposed of at public auction at such
30 time and place as may be designated by the State Treasurer.

1 Proceeds of such sale or sales shall be deposited in the General
2 Fund.

3 5. All property held by or subject to the control of any
4 court, public corporation, public authority or instrumentality
5 of the Commonwealth or by a public officer or political
6 subdivision thereof, which is without a rightful or lawful
7 owner, to the extent not otherwise provided for by law, held for
8 more than one year.

9 6. Restitution held for the owner by any court, public
10 corporation, public authority or instrumentality of the
11 Commonwealth, or by a public officer or political subdivision
12 thereof, unclaimed by the owner for more than five (5) years
13 from the date it first became demandable or distributable.

14 SECTION 1301.10. MISCELLANEOUS PROPERTY HELD FOR OR OWING TO <—
15 ANOTHER.--THE FOLLOWING PROPERTY, HELD OR OWING TO ANY OWNER, IS
16 PRESUMED ABANDONED AND UNCLAIMED:

17 1. ALL PROPERTY, NOT OTHERWISE COVERED BY THIS ARTICLE, THAT
18 IS ADMITTED IN WRITING BY THE HOLDER AND ADJUDICATED TO BE DUE,
19 THAT IS HELD OR OWING IN THE ORDINARY COURSE OF THE HOLDER'S
20 BUSINESS, AND THAT HAS REMAINED UNCLAIMED BY THE OWNER FOR MORE
21 THAN FIVE (5) YEARS AFTER IT BECAME PAYABLE OR DISTRIBUTABLE IS
22 PRESUMED ABANDONED AND UNCLAIMED EXCEPT FOR CLAUSE 2.

23 2. WAGES OR OTHER COMPENSATION FOR PERSONAL SERVICES THAT
24 HAVE REMAINED UNCLAIMED BY THE OWNER FOR MORE THAN [THREE (3)]
25 TWO (2) YEARS AFTER THE WAGES OR OTHER COMPENSATION FOR PERSONAL
26 SERVICES BECOME PAYABLE OR ARE DISTRIBUTED ARE PRESUMED
27 ABANDONED AND UNCLAIMED.

28 Section 1301.18. Deposit of Funds.--(a) [All] Except as
29 provided in subsection (a.1), all funds received under this
30 article, including the proceeds from the sale of property under

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

18 (a.1) (1) On or before the thirtieth day of June, all of
19 the funds received under clause (6) of section 1301.9 shall
20 forthwith be deposited annually by the State Treasurer in the
21 Crime Victims' Compensation Fund.

22 (2) Of these funds, the State Treasurer shall transfer five
23 per centum in a special fund hereby established in the State
24 Treasury to be designated the Rightful Owners' Claims Payment
25 Fund from which the State Treasurer shall make reimbursements
26 and prompt payments of claims for funds received under clause
27 (6) of section 1301.9 duly allowed as provided by this act.

28 (3) If at any time the State Treasurer determines that there
29 are insufficient funds in the Rightful Owners' Claims Payment
30 Fund to pay all claims duly allowed by the State Treasurer or by

order of a court of law to be paid, the State Treasurer shall withdraw from the Crime Victims' Compensation Fund an amount sufficient to pay such claims, and need only notify the administrators of the Crime Victims' Compensation Fund as to when and what amount shall be withdrawn.

(4) If, however, the Rightful Owners' Claims Payment Fund has sufficient funds to satisfy all claims duly allowed by the State Treasurer or by order of a court of law to be paid throughout the twelve (12) month period immediately following the annual deposit by the State Treasurer in the Crime Victims' Compensation Fund, the remaining balance, if any, of the five per centum transferred by the State Treasurer during the preceding year shall be transferred to the Crime Victims' Compensation Fund.

(5) Before making the deposit in the Crime Victims' Compensation Fund and the Rightful Owners' Claims Payment Fund, the State Treasurer shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property. The record with respect to any specific claim shall be available to the claimant at all regular business hours.

(6) Notwithstanding any other provision of this subsection, the State Treasurer shall make reimbursements and prompt payment of claims for funds received under clause (6) of section 1301.9 first under clause (2) of this section and then from other available sources as provided by this act.

(b) The General Assembly shall annually appropriate to the State Treasurer such funds as it deems necessary and appropriate to administer this article.

~~Section 3. This act shall take effect in 60 days.~~

<—

1 SECTION 5. THE FOLLOWING PROVISIONS SHALL APPLY TO INTEREST <—
2 ACCRUING AFTER DECEMBER 31, 2003:

3 (1) THE AMENDMENT OF SECTION 806.1(B) OF THE ACT.
4 (2) THE ADDITION OF SECTION 806.1(B.1) OF THE ACT.

5 SECTION 6. PROPERTY SUBJECT TO PARAGRAPH 4 OF SECTION
6 1301.4(A) OF THE ACT SHALL BE REPORTED AND DELIVERED AS PROVIDED
7 IN SECTION 1301.13 OF THE ACT; HOWEVER, THE INITIAL REPORT UNDER
8 PARAGRAPH 4 CONSISTING OF ALL PROPERTY DEEMED ABANDONED AS OF
9 DECEMBER 31, 2002, SHALL BE REPORTED AND DELIVERED TO THE STATE
10 TREASURER 45 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

11 SECTION 7. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

12 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
13 IMMEDIATELY:

14 (I) THE AMENDMENT OF SECTIONS 1301.3, 1301.4 AND
15 1301.10 OF THE ACT.
16 (II) SECTION 6.
17 (III) THIS SECTION.

18 (2) THE AMENDMENT OF THE DEFINITIONS OF "COST OF THE
19 STAMPING AGENT" AND "DEALER" IN SECTION 202-A OF THE ACT
20 SHALL TAKE EFFECT JANUARY 7, 2004.

21 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
22 DAYS.