

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1407 Session of 2009

INTRODUCED BY DeLUCA, EACHUS, THOMAS, CLYMER, D. COSTA, DONATUCCI, FRANKEL, GEORGE, GERGELY, JOSEPHS, KULA, MILLARD, MUNDY, M. O'BRIEN, READSHAW, SIPTROTH, SOLOBAY, J. TAYLOR, WHITE, BARBIN, BISHOP, BOYLE, BROWN, BUXTON, CASORIO, COHEN, CONKLIN, P. COSTA, CURRY, DERMODY, FABRIZIO, FREEMAN, HARHAI, HARKINS, JOHNSON, W. KELLER, MANDERINO, MARKOSEK, MATZIE, McCALL, McILVAINE SMITH, MELIO, PARKER, SABATINA, SANTONI, SEIP, M. SMITH, R. TAYLOR, WALKO, WANSACZ, WATERS, WILLIAMS, YOUNGBLOOD, YUDICHAK, BRENNAN AND MILNE, MAY 4, 2009

REFERRED TO COMMITTEE ON FINANCE, MAY 4, 2009

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

1 other moneys to the Commonwealth, or any agency thereof,
2 every State depository and every debtor or creditor of the
3 Commonwealth," further providing for property held by
4 financial institutions, for property held by insurers, for
5 property held by utilities, for property held by business
6 associations, for property held by fiduciaries, for property
7 held by courts and public officers and agencies and for
8 miscellaneous property held for or owing to another.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 1301.3 of the act of April 9, 1929
12 (P.L.343, No.176), known as The Fiscal Code, amended June 29,
13 2002 (P.L.614, No.91) and December 23, 2003 (P.L.243, No.45), is
14 amended to read:

15 Section 1301.3. Property Held by Financial Institutions.--
16 The following property held or owing by a financial institution
17 is presumed abandoned and unclaimed:

18 1. Any demand, saving or matured time deposit in a financial
19 institution, or any funds paid toward the purchase of shares or
20 other interest in a savings association, savings and loan or
21 building and loan association, excluding any charges that may
22 lawfully be withheld, unless within the preceding [five (5)]
23 four (4) years the owner has:

24 (i) Increased the amount of the deposit, shares or claim,
25 otherwise than by the crediting of accrued interest, or
26 decreased it, or presented to the holder evidence of the
27 deposit, shares or claim; or

28 (ii) Corresponded in writing with the holder concerning the
29 deposit, shares or claim; or

30 (iii) Otherwise indicated an interest in the deposit, shares
31 or claim as evidenced by a writing on file with the holder; or

32 (iv) Received tax reports or regular statements of the
33 deposits, shares or claim by certified mail or other method of
34 communication that will provide the financial institution with a

1 record that such report or statement was transmitted and
2 received; or

3 (v) Owned other property held by the financial institution
4 to which subclause (i), (ii), (iii) or (iv) applies.

5 2. A deposit under clause 1 shall include any interest or
6 dividend which the financial institution would pay to the owner
7 upon claim therefor. The charges which may be excluded hereunder
8 shall not include any charge due to inactivity imposed, directly
9 or indirectly, after December 31, 1981 unless there is a valid
10 and enforceable written contract between the financial
11 institution and the owner of the deposit pursuant to which the
12 financial institution may impose said charge.

13 3. Any sum payable on checks or on written instruments
14 including, but not limited to, drafts, money orders and
15 travelers checks, on which a financial institution is directly
16 liable, and (i) which have been outstanding for more than [five
17 (5)] four (4) years, or in the case of travelers checks,
18 [fifteen (15)] ten (10) years, [or in the case of money orders,
19 six (6) years in calendar year 2003 and seven (7) years in
20 calendar year 2004 and thereafter,] from the date payable or
21 from the date of issuance if payable on demand; and (ii) the
22 owner of which has not written to the financial institution
23 concerning it, nor otherwise indicated an interest as evidenced
24 by a writing on file with the financial institution.

25 4. Any funds or other personal property, tangible or
26 intangible, removed from a safe deposit box or any other
27 safekeeping repository in the Commonwealth on which the lease or
28 rental period has expired due to nonpayment of rental charges or
29 other reason, or any surplus amounts arising from the sale
30 thereof pursuant to law, if the same has not been claimed by the

1 owner for more than [five (5)] four (4) years from the date on
2 which the rental period expired.

3 5. The following deposits described in clause 1 shall be
4 excluded from the presumption of being abandoned and unclaimed
5 only while the conditions described below are in effect:

6 (i) Deposits during any period when withdrawals may be made
7 only upon an order of a court of competent jurisdiction.

8 (ii) Deposits established under 20 Pa.C.S. Ch. 53 (relating
9 to Pennsylvania Uniform Transfers to Minors Act) or similar law
10 concerning transfers to minors while the custodianship has not
11 been terminated.

12 (iii) Burial reserve accounts and similar deposits
13 established under written agreements to provide for the funeral
14 and/or burial expenses of a person while the person is still
15 alive.

16 Section 2. Section 1301.4 of the act, amended December 23,
17 2003 (P.L.243, No.45), is amended to read:

18 Section 1301.4. Property Held by Insurers.--(a) In the case
19 of life insurance, the following property held or owing by an
20 insurer is presumed abandoned and unclaimed:

21 1. Any moneys held or owing by an insurer as established by
22 its records under any contract of annuity or policy of life
23 insurance including premiums returnable or dividends payable,
24 unclaimed and unpaid for more than [five (5)] four (4) years
25 after the moneys have or shall become due and payable under the
26 provisions of such contract of annuity or policy of insurance. A
27 life insurance policy not matured by actual proof of the death
28 of the insured is deemed to be matured and the proceeds thereof
29 are deemed to be due and payable if such policy was in force
30 when the insured attained the limiting age under the mortality

1 table on which the reserve is based, unless the person appearing
2 entitled thereto has within the preceding [five (5)] four (4)
3 years, (i) assigned, readjusted or paid premiums on the policy,
4 or subjected the policy to loan, or (ii) corresponded in writing
5 with the insurer concerning the policy.

6 2. If a person other than the insured or annuitant is
7 entitled to the funds and no address of such person is known to
8 the insurer or if it is not definite and certain from the
9 records of the insurer what person is entitled to the funds, it
10 is presumed that the last known address of the person entitled
11 to the funds is the same as the last known address of the
12 insured or annuitant according to the records of the insurer.

13 3. Moneys otherwise payable according to the records of the
14 insurer are deemed due and payable although the policy or
15 contract has not been surrendered as required.

16 4. Property distributable in the course of a demutualization
17 or related reorganization of an insurance company is deemed
18 abandoned two (2) years after the date of the demutualization or
19 reorganization if instruments or statements reflecting the
20 distribution are either mailed to the owner and returned by the
21 post office as undeliverable or not mailed to the owner because
22 of a known bad address on the books and records of the holder.

23 (b) In the case of insurance other than life insurance, the
24 following property held or owing by an insurer is presumed
25 abandoned and unclaimed:

26 1. Any moneys held or owing by an insurer as established by
27 its records under any contract of insurance other than annuity
28 or life insurance, including premiums or deposits returnable or
29 dividends payable to policy or contract holders or other persons
30 entitled thereto, unclaimed and unpaid for more than [five (5)]

1 four (4) years after the moneys have or shall become due and
2 payable under the provisions of such contracts of insurance.

3 2. If a person other than the insured, the principal or the
4 claimant is entitled to the funds and no address of such person
5 is known to the insurer or if it is not definite and certain
6 from the records of the insurer what person is entitled to the
7 funds, it is presumed that the last known address of the person
8 entitled to the funds is the same as the last known address of
9 the insured, the principal or the claimant according to the
10 records of the insurer.

11 Section 3. Section 1301.5 of the act, amended June 29, 2002
12 (P.L.614, No.91), is amended to read:

13 Section 1301.5. Property Held by Utilities.--The following
14 funds held or owing by any utility are presumed abandoned and
15 unclaimed:

16 1. Any customer advance, toll, deposit or collateral
17 security or any other property held by any utility if under the
18 terms of an agreement the advance, toll, deposit, collateral
19 security or other property is due to or demandable by the owner
20 and has remained unclaimed for [five (5)] four (4) years or more
21 from the date when it first became due to or demandable by the
22 owner under the agreement.

23 2. Any sum which a utility has been ordered to refund, less
24 any lawful deductions, and which has remained unclaimed by the
25 person appearing on the records of the utility entitled thereto
26 for two (2) years or more after the date it became payable in
27 accordance with the final order providing for the refund.

28 Section 4. Section 1301.6 of the act, amended June 29, 2002
29 (P.L.614, No.91) and November 9, 2006 (P.L.1335, No.138), is
30 amended to read:

1 Section 1301.6. Property Held by Business Associations.--The
2 following property held or owing by a business association is
3 presumed abandoned and unclaimed:

4 1. The consideration paid for a gift certificate or gift
5 card which has remained unredeemed for two (2) years or more
6 after its redemption period has expired or for [five (5)] four
7 (4) years or more from the date of issuance if no redemption
8 period is specified. The provisions of this clause shall not
9 apply to a qualified gift certificate.

10 2. Any certificate of stock or participating right in a
11 business association, for which a certificate has been issued or
12 is issuable but has not been delivered, whenever the owner
13 thereof has not claimed such property, or corresponded in
14 writing with the business association concerning it, within
15 [five (5)] four (4) years after the date prescribed for delivery
16 of the property to the owner.

17 3. Any sum due as a dividend, profit, distribution, payment
18 or distributive share of principal held or owing by a business
19 association, whenever the owner has not claimed such sum or
20 corresponded in writing with the business association concerning
21 it within [five (5)] four (4) years after the date prescribed
22 for payment or delivery.

23 4. Any sum due as principal or interest on the business
24 association's bonds or debentures, or coupons attached thereto,
25 whenever the owner has not claimed such sum or corresponded in
26 writing with the business association concerning it within [five
27 (5)] four (4) years after the date prescribed for payment.

28 5. Any sum or certificate or participating right due by a
29 cooperative to a participating patron, whenever the owner has
30 not claimed such property, or corresponded with the cooperative

1 concerning the same within [five (5)] four (4) years after the
2 date prescribed for payment or delivery.

3 Section 5. Section 1301.8 of the act, amended June 29, 2002
4 (P.L.614, No.91), is amended to read:

5 Section 1301.8. Property Held by Fiduciaries.--The following
6 property held by fiduciaries is presumed abandoned and
7 unclaimed:

8 All property held in a fiduciary capacity for the benefit of
9 another person, unless the owner within [five (5)] four (4)
10 years after it has or shall become payable or distributable has
11 increased or decreased the principal, accepted payment of
12 principal or income, corresponded in writing concerning the
13 property or otherwise indicated an interest therein as evidenced
14 by a writing on file with the fiduciary.

15 Section 6. Clause 1 of section 1301.9 of the act, amended
16 November 9, 2006 (P.L.1335, No.138), is amended to read:

17 Section 1301.9. Property Held by Courts and Public Officers
18 and Agencies.--The following property is presumed abandoned and
19 unclaimed:

20 1. Except as provided in clauses 2 and 2.1 or clause 6, all
21 property held for the owner by any court, public corporation,
22 public authority or instrumentality of the United States, the
23 Commonwealth, or any other state, or by a public officer or
24 political subdivision thereof, unclaimed by the owner for more
25 than [five (5)] four (4) years from the date it first became
26 demandable or distributable.

27 * * *

28 Section 7. Section 1301.10 of the act, amended December 23,
29 2003 (P.L.243, No.45), is amended to read:

30 Section 1301.10. Miscellaneous Property Held for or Owing to

1 Another.--The following property, held or owing to any owner, is
2 presumed abandoned and unclaimed:

3 1. All property, not otherwise covered by this article, that
4 is admitted in writing by the holder and adjudicated to be due,
5 that is held or owing in the ordinary course of the holder's
6 business, and that has remained unclaimed by the owner for more
7 than [five (5)] four (4) years after it became payable or
8 distributable is presumed abandoned and unclaimed except for
9 clause 2.

10 2. Wages or other compensation for personal services that
11 have remained unclaimed by the owner for more than three (3)
12 years after the wages or other compensation for personal
13 services become payable or are distributed are presumed
14 abandoned and unclaimed.

15 Section 8. All additional funds received under Article
16 XIII.1, including the proceeds from the sale of property under
17 section 1301.17 of the act, from July 1, 2009, to June 30, 2010,
18 as a result of the amendment of sections 1301.3, 1301.4, 1301.5,
19 1301.6, 1301.8, 1301.9 and 1301.10 of the act shall be deposited
20 into the Tobacco Settlement Fund established under the act of
21 June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement
22 Act, and shall be used only for the purposes set forth under
23 Chapter 13 of the Tobacco Settlement Act.

24 Section 9. This act shall take effect immediately.