

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1294 Session of
2014

INTRODUCED BY HUGHES, ERICKSON, SCHWANK, KASUNIC, RAFFERTY,
FONTANA, COSTA, TARTAGLIONE, VANCE, FARNESE AND WILLIAMS,
MARCH 28, 2014

REFERRED TO FINANCE, MARCH 28, 2014

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," in disposition of abandoned and unclaimed
31 property, further providing for report of property subject to
32 custody and control of the Commonwealth under this article;
33 providing for certificate of finder registration, for

1 revocation of finder registration and for appeals; and
2 imposing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Section 1301.11(g) of the act of April 9, 1929
6 (P.L.343, No.176), known as The Fiscal Code, amended June 29,
7 2002 (P.L.614, No.91), is amended to read:

8 Section 1301.11. Report of Property Subject to Custody and
9 Control of the Commonwealth under this Article.--* * *

10 (g) All agreements or powers of attorney to recover or
11 collect abandoned and unclaimed property contained in the
12 reports filed under this article shall be valid and enforceable
13 only if the agreements:

14 1. are in writing and duly signed and acknowledged by the
15 owner;

16 2. clearly state the fee or compensation to be paid, which
17 shall not exceed fifteen per centum of the value of the
18 abandoned and unclaimed property;

19 3. disclose the nature and value of the property; [and]

20 4. disclose the name and address of the holder and, if
21 known, whether the abandoned and unclaimed property has been
22 paid or delivered to the State Treasurer[.];

23 5. identify the name, address and telephone number of the
24 person assisting in the location, delivery or recovery of the
25 abandoned and unclaimed property; and

26 6. identify the valid certificate of registration number
27 assigned by the State Treasurer to the person assisting in the
28 location, delivery or recovery of the abandoned and unclaimed
29 property under section 1301.11a.

30 * * *

31 Section 2. The act is amended by adding sections to read:

1 Section 1301.11a. Certificate of Finder Registration.--(a)
2 Except for a person who is admitted to practice law before a
3 court of Federal or State jurisdiction or subject to section
4 1301.11(i), a person may not on behalf of another:

5 1. engage in an activity for the purpose of locating,
6 delivering, recovering or assisting in the recovery of abandoned
7 or unclaimed property; and

8 2. receive a fee, compensation, commission or other
9 remuneration for the activity under clause 1 without first
10 obtaining a certificate of registration from the State Treasurer
11 in accordance with this section.

12 (b) An application for a certificate of registration shall
13 be in writing and on the form prescribed by the State Treasurer
14 and accompanied by a recent full face color photograph of the
15 applicant. In addition to information that may be requested by
16 the State Treasurer, the application shall provide the
17 following:

18 1. the applicant's full name, telephone number, e-mail
19 address, home address and work address;

20 2. a statement that the applicant has not, during the ten-
21 year period immediately preceding the submission of the
22 application, violated a provision of this article or has been
23 convicted of a felony or an offense of:

24 (i) theft or other related offenses against property as
25 enumerated under 18 Pa.C.S. Ch. 39 (relating to theft and
26 related offenses) or its equivalent if committed in another
27 jurisdiction;

28 (ii) forgery or other fraudulent practices as enumerated in
29 18 Pa.C.S. Ch. 41 (relating to forgery and fraudulent practices)
30 or its equivalent if committed in another jurisdiction; or

1 (iii) perjury, false swearing, fraud or other offense, as
2 enumerated in 18 Pa.C.S. Ch. 49 Subch. A (relating to perjury
3 and falsification in official matters) or its equivalent if
4 committed in another jurisdiction;

5 3. A statement that, to the applicant's knowledge, the
6 applicant is not the subject of an ongoing investigation or
7 prosecution involving an alleged violation of a provision of
8 this article or an offense of:

9 (i) theft or other related offenses against property as
10 enumerated under 18 Pa.C.S. Ch. 39 or its equivalent if
11 committed in another jurisdiction;

12 (ii) forgery or other fraudulent practices as enumerated in
13 18 Pa.C.S. Ch. 41 or its equivalent if committed in another
14 jurisdiction; or

15 (iii) perjury, false swearing, fraud or other offense as
16 enumerated in 18 Pa.C.S. Ch. 49 Subch. A or its equivalent if
17 committed in another jurisdiction; and

18 4. The notarized signature of the applicant immediately
19 following an acknowledgment that a false or perjured statement
20 subjects the applicant to criminal liability.

21 (c) Upon the filing of the application, the State Treasurer
22 may investigate the applicant to verify the information provided
23 in the application and to determine the applicant's eligibility
24 for a certificate of registration under this section. False
25 information on an application is grounds for a denial,
26 nonrenewal, suspension or revocation of the applicant's
27 certificate of registration.

28 (d) A certificate of registration with a unique registration
29 number may be issued to an applicant if the following conditions
30 are met:

1 1. During the ten-year period immediately preceding the
2 submission of the application, the applicant has not violated a
3 provision of this article and has not been convicted of a felony
4 or an offense of:

5 (i) theft or other related offenses against property as
6 enumerated under 18 Pa.C.S. Ch. 39 or its equivalent if
7 committed in another jurisdiction;

8 (ii) forgery or other fraudulent practices as enumerated in
9 18 Pa.C.S. Ch. 41 or its equivalent if committed in another
10 jurisdiction; or

11 (iii) perjury, false swearing, fraud or other offense as
12 enumerated in 18 Pa.C.S. Ch. 49 Subch. A or its equivalent if
13 committed in another jurisdiction; and

14 2. The applicant has executed a sworn statement that is a
15 commitment to conduct his actions as a finder of abandoned and
16 unclaimed property in compliance with this article and the
17 regulations promulgated under this article.

18 (e) The certificate of registration issued under this
19 section is for a period of two (2) years and may be renewed
20 every two (2) years if the following conditions are met:

21 1. The applicant submits a renewal application form
22 prescribed by the State Treasurer.

23 2. The applicant meets the conditions set forth under
24 subsection (d).

25 3. The applicant is not the subject of an ongoing
26 investigation or order of revocation by the State Treasurer or
27 the equivalent in another jurisdiction, or an ongoing
28 investigation or prosecution by a law enforcement agency
29 involving an offense enumerated under subsection (d)1.

30 Section 1301.11b. Revocation of Finder Registration.--(a)

After notice and an opportunity for a hearing, the State Treasurer may revoke, suspend or refuse to issue or renew a certificate of registration if the following are found:

1. The person violated a provision of this article, the regulations promulgated under this article or has been convicted of a felony or an offense of:

(i) theft or other related offenses against property as enumerated under 18 Pa.C.S. Ch. 39 (relating to theft and related offenses) or its equivalent if committed in another jurisdiction;

(ii) forgery or other fraudulent practices as enumerated in 18 Pa.C.S. Ch. 41 (relating to forgery and fraudulent practices) or its equivalent if committed in another jurisdiction; or

(iii) perjury, false swearing, fraud or other offense, as enumerated in 18 Pa.C.S. Ch. 49 Subch. A (relating to perjury and falsification in official matters) or its equivalent if committed in another jurisdiction.

2. In the opinion of the State Treasurer, the person's conduct as a finder of abandoned or unclaimed property undermines the confidence of the public or warrants the belief that the person's business will not be conducted honestly and fairly.

(b) The State Treasurer may investigate an allegation or complaint of misconduct involving an applicant for or a person holding a certification of registration.

(c) In conducting an investigation under this section, the State Treasurer may compel, by subpoena, witnesses to testify in relation to any alleged misconduct or complaint and may require the production of a book, record or other document pertaining to that matter. If a person fails to file a statement or report,

obey a subpoena, give testimony, produce a book, record or other document as required by a subpoena, or permit photocopying of a book, record or other document subpoenaed, the Commonwealth Court, upon application made to it by the State Treasurer, may compel obedience by an attachment proceeding for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify in the court.

(d) If a person is engaged in an activity that constitutes a violation of this article or has attempted or committed an offense identified under subsection (a)1, the State Treasurer shall immediately revoke the certificate of registration of the person.

Section 1301.11c. Appeals.--(a) The Commonwealth Court shall be vested with exclusive appellate jurisdiction to consider appeals of a final order, determination or decision of the State Treasurer involving the issuance, nonissuance, renewal, nonrenewal, revocation or suspension of a certification of registration under this article.

(b) Notwithstanding any law to the contrary, orders, determinations or decisions of the State Treasurer involving the issuance, nonissuance, renewal, nonrenewal, revocation or suspension of a certification of registration under this article shall be affirmed unless it is found that the State Treasurer committed an error of law or that the order, determination or decision was arbitrary and there was a capricious disregard of the evidence.

Section 3. Section 1301.25 of the act is amended by adding a subsection to read:

Section 1301.25. Penalties.--* * *

(d) A person who is found to have violated section 1301.11

1 or 1301.11a, in addition to other sanctions as may be imposed by
2 this article, shall be guilty of a misdemeanor of the third
3 degree and shall, upon conviction, be sentenced to pay a fine
4 not to exceed one thousand dollars (\$1,000) for the first
5 offense. A person who is found guilty of a subsequent offense
6 shall be guilty of a felony of the third degree and shall, upon
7 conviction, be sentenced to pay a fine not less than five
8 thousand dollars (\$5,000).

9 Section 4. This act shall take effect in 180 days.