

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/19/15
A Bill

HOUSE BILL 1782

5 By: Representative Jean
6

7 **For An Act To Be Entitled**

8 AN ACT TO AMEND THE LAWS CONCERNING UNCLAIMED
9 PROPERTY; TO AMEND THE TIME PERIODS FOR THE
10 PRESUMPTION OF ABANDONMENT OF UNCLAIMED PROPERTY; TO
11 AMEND THE REPORTING REQUIREMENTS RELATED TO ABANDONED
12 MINERAL PROCEEDS; AND FOR OTHER PURPOSES.
13

14
15 **Subtitle**

16 TO AMEND THE LAWS CONCERNING UNCLAIMED
17 PROPERTY; TO AMEND THE TIME PERIODS FOR
18 THE PRESUMPTION OF ABANDONMENT OF
19 UNCLAIMED PROPERTY; AND TO AMEND THE
20 REPORTING REQUIREMENTS RELATED TO
21 ABANDONED MINERAL PROCEEDS.
22

23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 18-28-202(a), concerning the time periods
27 for the presumption of abandonment of unclaimed property, is amended to read
28 as follows:

29 (a) Property is presumed abandoned if it is unclaimed by the apparent
30 owner during the time ~~set forth~~ stated below for the particular property:

31 (1) ~~traveler's~~ Traveler's check, fifteen (15) years after
32 issuance;

33 (2) ~~money~~ Money order, seven (7) years after issuance;

34 (3) ~~stock~~ Stock or other equity interest in a business
35 association or financial organization, including a security entitlement under
36 § 4-8-101 et seq. (UCC – Investment Securities), five (5) years after the



1 earlier of ~~(i) the:~~

2 (A) The date of the most recent dividend, stock split, or
3 other distribution unclaimed by the apparent owner; ~~;~~ or ~~(ii) the~~

4 (B) The date of the second mailing of a statement of
5 account or other notification or communication that was returned as
6 undeliverable or after the holder discontinued mailings, notifications, or
7 communications to the apparent owner;

8 ~~(4) debt~~ Debt of a business association or financial
9 organization, other than a bearer bond or an original issue discount bond,
10 ~~five (5) three (3)~~ three (3) years after the date of the most recent interest payment
11 unclaimed by the apparent owner;

12 ~~(5) a~~ A demand, savings, or time deposit, including a deposit
13 that is automatically renewable, ~~five (5) three (3)~~ three (3) years after the earlier
14 of maturity or the date of the last indication by the owner of interest in
15 the property; but a deposit that is automatically renewable ~~shall not be~~
16 ~~deemed~~ is not matured for purposes of this section upon its initial date of
17 maturity, unless the most recent correspondence from the financial
18 organization to the owner has been returned unclaimed or undelivered to the
19 financial organization by the postal service;

20 ~~(6) money~~ Money or credits owed to a customer as a result of a
21 retail business transaction, three (3) years after the obligation accrued;

22 ~~(7) amount~~ Amount owed by an insurer on a life or endowment
23 insurance policy or an annuity that has matured or terminated, three (3)
24 years after the obligation to pay arose or, in the case of a policy or
25 annuity payable upon proof of death, three (3) years after the insured has
26 attained, or would have attained if living, the limiting age under the
27 mortality table on which the reserve is based;

28 ~~(8) property~~ Property distributable by a business association or
29 financial organization in a course of dissolution, one (1) year after the
30 property becomes distributable;

31 ~~(9) property~~ Property received by a court as proceeds of a class
32 action, and not distributed pursuant to the judgment, one (1) year after the
33 distribution date;

34 ~~(10) property~~ Property held by a court, government, governmental
35 subdivision, agency, or instrumentality, one (1) year after the property
36 becomes distributable;

1 (11) ~~wages~~ Wages or other compensation for personal services,
2 one (1) year after the compensation becomes payable;

3 (12) ~~deposit~~ Deposit or refund owed to a subscriber by a
4 utility, one (1) year after the deposit or refund becomes payable;

5 (13) ~~property~~ Property in an individual retirement account,
6 defined benefit plan, or other account or plan that is qualified for tax
7 deferral under the income tax laws of the United States, three (3) years
8 after the earliest of the date of the distribution or attempted distribution
9 of the property, the date of the required distribution as stated in the plan
10 or trust agreement governing the plan, or the date, if determinable by the
11 holder, specified in the income tax laws of the United States by which
12 distribution of the property must begin in order to avoid a tax penalty;

13 (14) ~~all~~ All other property, ~~five (5)~~ three (3) years after the
14 owner's right to demand the property or after the obligation to pay or
15 distribute the property arises, whichever first occurs; and

16 (15) ~~unclaimed~~ Unclaimed property payable or distributable in
17 the course of a demutualization of an insurance company ~~five (5)~~ three (3)
18 years after the earlier of:

19 (A) ~~the~~ The date of last contact with the policy holder;
20 or

21 (B) ~~the~~ The date the property became payable or
22 distributable.

23
24 SECTION 2. Arkansas Code § 18-28-402 is amended to read as follows:
25 18-28-402. Escrow accounts.

26 (a)(1) A holder of mineral proceeds shall establish an escrow account
27 for mineral proceeds if the person entitled to the receipt of the mineral
28 proceeds is unknown or has not been located within one (1) year after the
29 funds became payable or distributable.

30 (2) The escrow account shall be for the benefit of the rightful
31 recipient of the mineral proceeds.

32 (3) ~~Any~~ A person showing to the holder of mineral proceeds
33 sufficient proof of identity and ~~ownership of marketable title to~~ the
34 property shall be promptly paid the sum accumulated for his or her benefit in
35 the escrow account.

36 (b)(1) If a holder of mineral proceeds is required to establish more

1 than one (1) escrow account by operation of this section, then the mineral
2 proceeds accruing may be commingled in a single escrow account.

3 (2) Separate records of each deposit and withdrawal on behalf of
4 specific persons shall be maintained.

5 ~~(e)(1) The Auditor of State and the Oil and Gas Commission shall~~
6 ~~require a report of each escrow account to be filed annually.~~

7 ~~(2) The report shall include, but shall not be limited to:~~

8 ~~(A) The name and last known address of the property owner;~~

9 ~~(B) The legal description of the property interest;~~

10 ~~(C) The location and account number of the escrow account;~~

11 ~~(D) The name of the person authorized to order withdrawals~~
12 ~~from the escrow account; and~~

13 ~~(E) Any other information that the Auditor of State and~~
14 ~~the commission may require.~~

15 ~~(d) Any (c) A~~ holder of mineral proceeds who violates this section is
16 subject to a civil penalty not to exceed two thousand five hundred dollars
17 (\$2,500) ~~for each violation.~~

18 ~~(e) (d) The ~~commission~~ Auditor of State shall enforce the provisions~~
19 ~~of this subchapter and shall may conduct random audits of the escrow accounts~~
20 ~~required by this section.~~

21
22 SECTION 3. Arkansas Code § 18-28-403(a), concerning abandoned mineral
23 proceeds, is amended to read as follows:

24 (a)(1)(A) All mineral proceeds that are held or owing by the holder
25 and that have remained unclaimed by the owner for longer than ~~five~~ (5) three
26 (3) years after the mineral proceeds became payable or distributable are
27 presumed abandoned.

28 (B) Abandoned mineral proceeds are subject to the
29 unclaimed property provisions of § 18-28-201 et seq., except that funds
30 received by the Auditor of State ~~pursuant to~~ under this section shall be
31 deposited by the Auditor of State into a special trust fund to be known as
32 the Abandoned Mineral Proceeds Trust Fund.

33 (C) Such funds shall be deposited ~~in~~ into accounts in one
34 (1) or more financial institutions authorized to do business in this state,
35 to be administered in accordance with the laws of this state pertaining to
36 the appropriation, administration, and expenditure of cash funds.

1 (2)(A) However, upon petition of the county attorney of the
 2 county ~~wherein~~ in which the abandoned minerals were produced or severed,
 3 abandoned mineral proceeds that are held pursuant to leases executed by
 4 receivers or their successors appointed by a court of proper jurisdiction,
 5 shall be remitted by the holder to the county ~~wherein~~ in which the minerals
 6 were produced or severed and deposited into the county general fund.

7 (B) The county attorney shall publish notice of his or her
 8 petition in a legal newspaper having general circulation in the county, and
 9 the notice shall be published at least ~~two (2) times a week for two (2)~~
 10 ~~consecutive weeks~~ one (1) time.

11 (3) The holder of abandoned mineral proceeds turned over to the
 12 Auditor of State under this section shall provide the following information
 13 to the Auditor of State:

14 (A) The name and last known address of the property owner;

15 (B) The applicable well name, uncontrolled lease name, or
 16 unitized area name as recognized by the Oil and Gas Commission;

17 (C) Either:

18 (i) The county, section, township, and range of the
 19 well; or

20 (ii) The county, section, township, and range from
 21 which the abandoned minerals were severed or produced; and

22 (D) Any other information required by the Auditor of
 23 State.

24
 25 SECTION 4. Arkansas Code Title 18, Chapter 28, Subchapter 4, is
 26 amended to add an additional section to read as follows:

27 18-28-404. Reports.

28 A report required to be made to the Auditor of State by a holder of
 29 abandoned mineral proceeds under this subchapter shall be submitted to the
 30 Auditor of State in an electronic format approved by the Auditor of State.

31
 32 /s/Jean

33
 34
 35 **APPROVED: 04/04/2015**