

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Gordon**

A Bill

SENATE BILL 637

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE CHAPTER
9 28, SUBCHAPTER 2, THE UNIFORM DISPOSITION OF UNCLAIMED
10 PROPERTY ACT; AND FOR OTHER PURPOSES."

Subtitle

13 "TO AMEND THE UNIFORM DISPOSITION OF UNCLAIMED PROPERTY
14 ACT."

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18 SECTION 1. Arkansas Code 18-28-201(12) and (13) are amended to read as
19 follows:

20 "(12) Gift certificates and credit memos means that a gift
21 certificate or a credit memo issued in the ordinary course of the issuer's
22 business which remains unclaimed by the owner for more than *seven (7)* years
23 after becoming payable or distributable is presumed abandoned;

24 (A) In the case of a gift certificate, the amount presumed
25 abandoned is the price paid by the purchaser of the gift certificate;

26 (B) In the case of a credit memo, the amount presumed abandoned
27 is the amount credited to the recipient of the credit memo;

28 (13) Wages, rents, and royalties means unpaid wages, including wages
29 represented by unrepresented payroll checks, rents, and royalties, owing in the
30 ordinary course of the holder's business which remain unclaimed by the owner
31 for more than *seven (7)* years after becoming payable and are presumed
32 abandoned;"

34 SECTION 2. Arkansas Code 18-28-202 is amended to read as follows:

35 "18-28-202. Property held by banking or financial organizations or by

1 business associations.

2 The following property held or owing by a banking or financial
3 organization or by a business association is presumed abandoned:

4 (a) Any demand, savings, or matured time deposit made in this state with
5 a banking organization, together with any interest or dividend thereon,
6 excluding any charges that may lawfully be withheld, unless the owner has
7 within seven (7) years:

8 (1) Increased or decreased the amount of the deposit, or presented the
9 passbook or other similar evidence of the deposit for the crediting of
10 interest; or

11 (2) Corresponded in writing with the banking organization concerning
12 the deposit; or

13 (3) Otherwise indicated an interest in the deposit as evidenced by a
14 memorandum on file with the banking organization, or unless the banking or
15 financial organization has corresponded with the owner of the property by mail
16 and said correspondence has not been returned unclaimed or undelivered to the
17 banking or financial organization by the postal service.

18 (b) Any funds paid in this state toward the purchase of shares or other
19 interest in a financial organization, or any deposit made therewith in this
20 state, and any interest or dividends thereon, excluding any charge that may
21 lawfully be withheld, unless the owner has within seven (7) years:

22 (1) Increased or decreased the amount of the funds or deposits, or
23 presented an appropriate record for the crediting of interest or dividends; or

24 (2) Corresponded in writing with the financial organization concerning
25 the funds or deposit; or

26 (3) Otherwise indicated an interest in the funds or deposit as
27 evidenced by a memorandum on file with the financial organization or unless
28 the banking or financial organization has corresponded with the owner of the
29 property by mail and said correspondence has not been returned unclaimed or
30 undelivered to the banking or financial organization by the postal service.

31 (c) Any sum payable on checks certified in this state or on written
32 instruments issued in this state on which a banking or financial organization
33 or business association is directly liable, including, by way of illustration
34 but not of limitation, certificates of deposit, drafts, money orders, and
35 traveler's checks, that, with the exception of traveler's checks, has been

1 outstanding for more than seven (7) years from the date it was payable, or
2 from the date of its issuance if payable on demand, or, in the case of
3 traveler's checks, that has been outstanding for more than fifteen (15) years
4 from the date of its issuance, unless the owner has within seven (7) years, or
5 within fifteen (15) years in the case of traveler's checks, corresponded in
6 writing with the banking or financial organization or business association
7 concerning it, or otherwise indicated an interest as evidenced by a memorandum
8 on file with the banking or financial organization or business association, or
9 unless the banking or financial organization has corresponded with the owner
10 of the property by mail and said correspondence has not been returned
11 unclaimed or undelivered to the banking or financial organization by the
12 postal service.

13 (d) Any funds or other personal property, tangible or intangible, removed
14 from a safe deposit box or any other safekeeping repository or agency or
15 collateral deposit box in this state on which the lease or rental period has
16 expired due to nonpayment of rental charges or other reason, or any surplus
17 amounts arising from the sale thereof pursuant to law, that have been
18 unclaimed by the owner for more than seven (7) years from the date on which
19 the lease or rental period expired.

20 Provided, property held or owing by a banking or financial organization
21 which is part of a fund established by any organization or individual to
22 provide perpetual care for a cemetery or to provide funds to pay the burial
23 expenses of one (1) or more persons shall not be deemed abandoned and need not
24 be reported as provided in this subchapter."

25

26 SECTION 3. Arkansas Code 18-28-203 is amended to read as follows:

27 "18-28-203. Unclaimed funds held by life insurance corporations.

28 (a) Unclaimed funds, as defined in this section, held and owing by a life
29 insurance corporation shall be presumed abandoned if the last known address,
30 according to the records of the corporation, of the person entitled to the
31 funds is within this state. If a person other than the insured or annuitant is
32 entitled to the funds and no address of such person is known to the
33 corporation, or if it is not definite and certain from the records of the
34 corporation what person is entitled to the funds, it is presumed that the last
35 known address of the person entitled to the funds is the same as the last

1 known address of the insured or annuitant according to the records of the
2 corporation.

3 (b) Unclaimed funds, as used in this section, means all moneys held and
4 owing by any life insurance corporation unclaimed and unpaid for more than
5 seven (7) years after the moneys became due and payable, as established from
6 the records of the corporation under any life or endowment insurance policy or
7 annuity contract which has matured or terminated. A life insurance policy not
8 matured by actual proof of the death of the insured is deemed to be matured
9 and the proceeds thereof are deemed to be due and payable if such policy was
10 in force when the insured attained the limiting age under the mortality table
11 on which the reserve is based, unless the person appearing entitled thereto
12 has within the preceding seven (7) years:

13 (1) Assigned, readjusted, or paid premiums on the policy, or subjected
14 the policy to loan; or

15 (2) Corresponded in writing with the life insurance corporation
16 concerning the policy. Moneys otherwise payable according to the records of
17 the corporation are deemed due and payable although the policy or contract has
18 not been surrendered as required."

19

20 SECTION 4. Arkansas Code 18-28-204 is amended to read as follows:

21 "18-28-204. Deposits and refunds held by utilities.

22 The following funds held or owing by any utility are presumed abandoned:

23 (a) Any deposit made by a subscriber with a utility to secure payment
24 for, or any sum paid in advance for, utility services to be furnished in this
25 state, less any lawful deductions, that has remained unclaimed by the person
26 appearing on the records of the utility entitled thereto for more than seven
27 (7) years after the termination of the services for which the deposit or
28 advance payment was made.

29 (b) Any sum which a utility has been ordered to refund and which was
30 received for utility services rendered in this state, together with any
31 interest thereon, less any lawful deductions, that has remained unclaimed by
32 the person appearing on the records of the utility entitled thereto for more
33 than seven (7) years after the date it became payable in accordance with the
34 final determination or order providing for the refund."

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1 SECTION 5. Arkansas Code 18-28-205 is amended to read as follows:

2 "18-28-205. Undistributed dividends and distributions of business
3 associations.

4 Any stock or other certificate of ownership, or any dividend, profit,
5 distribution, interest, payment on principal, or other sum held or owing by a
6 business association for, or to, a shareholder, certificate holder,
7 bondholder, or other security holder, who has not claimed it, or corresponded
8 in writing with the business association concerning it, within seven (7) years
9 after the date prescribed for payment or delivery, is presumed abandoned if:

10 (a) It is held or owing by a business association organized under the
11 laws of, or created in, this state; or

12 (b) It is held or owing by a business association doing business in this
13 state, but not organized under the laws of, or created in, this state, and the
14 records of the business association indicate that the last known address of
15 the person entitled thereto is in this state.

16 (c) Underlying shares are presumed abandoned when the owner fails to
17 exercise rights of ownership, including, but not limited to, cashing dividend
18 checks or communicating with the company which issued the stock within a
19 seven-year period. Underlying shares, regardless of when issued, shall be
20 considered subject to this subchapter."

21

22 SECTION 6. Arkansas Code 18-28-207 is amended to read as follows:

23 "18-28-207. Property held by fiduciaries.

24 All intangible personal property, and any income or increment thereon, held
25 in a fiduciary capacity for the benefit of another person is presumed
26 abandoned unless the owner has, within seven (7) years after it becomes
27 payable or distributable, increased or decreased the principal, accepted
28 payment of principal or income, corresponded in writing concerning the
29 property, or otherwise indicated an interest as evidenced by a memorandum on
30 file with the fiduciary:

31 (a) If the property is held by a banking organization, or a financial
32 organization, or a business association organized under the laws of, or
33 created in, this state; or

34 (b) If it is held by a business association doing business in this state,
35 but not organized under the laws of, or created in, this state, and the

1 records of the business association indicate that the last known address of
2 the person entitled thereto is in this state; or

3 (c) If it is held in this state by any other person."
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5 SECTION 7. Arkansas Code 18-28-208 is amended to read as follows:

6 "18-28-208. Property held by state courts and public officers and
7 agencies.

8 (a) All intangible personal property held for the owner by any court,
9 public corporation, public authority, or public officer of this state, or a
10 political subdivision thereof, that has remained unclaimed by the owner for
11 more than seven (7) years is presumed abandoned. Unclaimed property held by
12 local courts, law enforcement officers, or elected public officials of a
13 political subdivision of this state shall be deposited by the holder in the
14 county general fund wherein the holder is located.

15 (b) All intangible property, including, but not limited to, any interest,
16 dividend, or other earnings thereon, less any lawful charges, held by a
17 business association, federal, state, or local government, or governmental
18 subdivision, agency, or entity, or any other person or entity, regardless of
19 where the holder may be found, if the owner has not claimed or corresponded in
20 writing concerning the property within three (3) years after the date
21 prescribed for payment or delivery, is presumed abandoned and subject to the
22 custody of this state as unclaimed property if:

23 (1) The last known address of the owner is unknown; and

24 (2) The person or entity originating or issuing the intangible property
25 is this state or any political subdivision of this state, or is incorporated,
26 organized, created or otherwise located in this state.

27 (c) The provisions of subsection (b) of this section shall not apply to
28 property which is or may be presumed abandoned and subject to the custody of
29 this state pursuant to any other provision of law containing a dormancy period
30 different than that prescribed in subsection (b) of this section.

31 (d) The provisions of subsection (b) of this section shall apply to all
32 property held at the time of enactment or at any time thereafter regardless of
33 when such property became or becomes presumptively abandoned."
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1 SECTION 8. Arkansas Code 18-28-209 is amended to read as follows:

2 "18-28-209. Miscellaneous personal property held for another person.

3 All intangible personal property, not otherwise covered by this subchapter,
4 including any income or increment thereon and deducting any lawful charges,
5 that is held or owing in this state in the ordinary course of the holder's
6 business and has remained unclaimed by the owner for more than seven (7) years
7 after it became payable or distributable is presumed abandoned."

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9 SECTION 9. Arkansas Code 18-28-212(b) (3) is hereby repealed.

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11 SECTION 10. Arkansas Code 18-28-213 is amended to read as follows:

12 "18-28-213. Payment or delivery of abandoned property.

13 Every person who has filed a report under Section 18-28-211 or in the case
14 of sums payable on traveler_s checks or money orders presumed abandoned under
15 Section 18-28-202 at the time of the filing of the report shall pay or deliver
16 to the Auditor of State all abandoned property specified in this report and
17 remaining unclaimed by the apparent owner."

18

19 SECTION 11. Arkansas Code 18-28-220(b) is amended to read as follows:

20 "(b) If the claim is allowed, the Auditor of State shall make payment
21 forthwith. The claim shall be paid without deduction for costs of notices or
22 sale or for service charges, and any such claim paid shall include any
23 interest to which the owner would have been entitled had the property not been
24 presumed to be abandoned. Such interest shall not accrue more than seven (7)
25 years after such property has been determined to be abandoned."

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27 SECTION 12. Arkansas Code 18-28-403(a) (1) (A) is amended to read as
28 follows:

29 "(a) (1) (A) All mineral proceeds that are held or owing by the holder
30 and that have remained unclaimed by the owner for longer than seven (7) years
31 after the mineral proceeds became payable or distributable are presumed
32 abandoned."

33

34 SECTION 13. Subchapter 2 of Chapter 28 of Title 18 of the Arkansas Code
35 is amended by adding a new section at the end thereof to read as follows:

1 "18-28-233. Records Maintenance Requirement.

2 (a) Any banking organization, business association, financial
3 organization, holder, life insurance corporation or utility, as defined under
4 the provisions of this act, shall maintain any record pertaining to any
5 property subject to the provisions of this act for a period of at least two
6 (2) years beyond the expiration of the seven (7) year period required for
7 claiming property from the holder.

8 (b) This section shall become effective for holders acquiring property
9 subject to the provisions of this act on or after January 1, 1994."

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11 SECTION 14. All provisions of this act of a general and permanent
12 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
13 Code Revision Commission shall incorporate the same in the Code.

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15 SECTION 15. If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

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21 SECTION 16. All laws and parts of laws in conflict with this act are
22 hereby repealed.

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24 /s/ Senator Gordon

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