
HOUSE BILL No. 1204

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-9-1.5.

Synopsis: Unclaimed property. Excludes from the definition of "property" in the unclaimed property law an outstanding check or credit, a credit balance, or a purchase price rebate issued during the ordinary course of business, except insofar as such an item is held by a financial institution. Reduces to five years the statute of limitations on the commencement of an action by the attorney general to recover disputed unclaimed property. Withdraws the authority of the attorney general to enter into contingency fee agreements with third parties for recovery of unclaimed property.

Effective: July 1, 2000.

Atterholt

January 10, 2000, read first time and referred to Committee on Judiciary.

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Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

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HOUSE BILL No. 1204



A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-9-1.5-17 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. (a) The definition
- 3 in this section does not apply to section 24 of this chapter.
- 4 (b) **As used in this section, "financial institution" means a**
- 5 **depository financial institution that is organized or reorganized**
- 6 **under Indiana law, the law of another state, or United States law.**
- 7 **The term includes:**
- 8 (1) **a commercial bank;**
- 9 (2) **a trust company;**
- 10 (3) **a credit union;**
- 11 (4) **a savings bank;**
- 12 (5) **a savings association;**
- 13 (6) **a bank of discount and deposit;**
- 14 (7) **an industrial loan and investment company; or**
- 15 (8) **a depository financial institution similar to those listed in**
- 16 **subdivisions (1) through (7).**
- 17 (c) **Except as provided in subsection (d), as used in this chapter,**



1 "property" means an interest in intangible personal property, except an
 2 unliquidated claim, and all income or increment derived from the
 3 interest, including that which is referred to as or evidenced by:

- 4 (1) money, a check, a draft, a deposit, an interest, or a dividend;
 5 (2) a credit balance, a customer overpayment, a gift certificate, a
 6 security deposit, a refund, a credit memorandum, an unpaid wage,
 7 an unused airline ticket, mineral proceeds, or an unidentified
 8 remittance;
 9 (3) stock and other ownership interest in a business association;
 10 (4) a bond, debenture, note, or other evidence of indebtedness;
 11 (5) money deposited to redeem stocks, bonds, coupons, and other
 12 securities or to make distributions;
 13 (6) an amount due and payable under the terms of an insurance
 14 policy; and
 15 (7) an amount distributable from a trust or custodial fund
 16 established under a plan to provide health, welfare, pension,
 17 vacation, severance, retirement, death, stock purchase, profit
 18 sharing, employee savings, supplemental unemployment
 19 insurance, or similar benefits.

20 **(d) As used in this chapter, "property" does not include:**

- 21 **(1) an outstanding check or credit issued to a vendor or**
 22 **commercial customer in the ordinary course of business;**
 23 **(2) a credit balance in a vendor or commercial customer**
 24 **account that occurs in the ordinary course of business; or**
 25 **(3) a purchase price rebate issued to customers in the**
 26 **ordinary course of business;**

27 **except insofar as an item referred to in this subsection is held by a**
 28 **financial institution.**

29 SECTION 2. IC 32-9-1.5-42 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 42. (a) The expiration,
 31 before or after July 1, 1996, of any time specified by contract, statute,
 32 or court order, during which a claim for money or property can be made
 33 or an action or a proceeding may be commenced or enforced to obtain
 34 payment of a claim for money or to recover property, does not preclude
 35 the money or property from being presumed abandoned or affect any
 36 duty to file a report or to pay or deliver abandoned property to the
 37 attorney general as required by this chapter.

38 (b) An action or a proceeding may not be commenced by the
 39 attorney general to enforce the provisions of this chapter more than ~~ten~~
 40 **(10) five (5)** years after the holder either specifically reported the
 41 property to the attorney general or gave express notice to the attorney
 42 general of a dispute regarding the property. In the absence of a report



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1 the period of limitations is tolled. The period of limitations is also
2 tolled by the filing of a false or fraudulent report.

3 SECTION 3. IC 32-9-1.5-46 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 46. (a) The attorney
5 general may enter into agreements with other states to exchange
6 information relating to unclaimed property or the possible existence of
7 unclaimed property. The agreements may permit other states, or a
8 person acting on behalf of a state, to examine records as authorized in
9 section 43 of this chapter. The attorney general may by rule require the
10 reporting of information needed to enable compliance with agreements
11 made under this section and prescribe the form.

12 (b) The attorney general may join with other states to seek
13 enforcement of this chapter against a person who is or may be holding
14 property reportable under this chapter.

15 (c) At the request of another state, the attorney general may
16 commence an action on behalf of the administrator of the other state to
17 enforce in Indiana the unclaimed property laws of the other state
18 against a holder of property subject to escheat or a claim of
19 abandonment by the other state, if the other state has agreed to pay
20 expenses incurred by the attorney general in maintaining the action.

21 (d) The attorney general may request that the attorney general of
22 another state or any other attorney commence an action on behalf of the
23 attorney general in another state. The attorney general may retain
24 another attorney to commence an action in Indiana on behalf of the
25 attorney general. This state shall pay all expenses including attorney's
26 fees in maintaining an action under this subsection. With the attorney
27 general's approval, the expenses and attorney's fees may be paid from
28 money received under this chapter. ~~The attorney general may agree to~~
29 ~~pay the person bringing the action attorney's fees based in whole or in~~
30 ~~part on a percentage of the value of any property recovered in the~~
31 ~~action.~~ Expenses or attorney's fees paid under this subsection may not
32 be deducted from the amount that is subject to the claim by the owner
33 under this chapter.

34 (e) Documents and working papers obtained or compiled by the
35 attorney general or the attorney general's agents, employees, or
36 designated representatives in the course of conducting an audit under
37 section 43 of this chapter are confidential and are not public records
38 except:

- 39 (1) when used by the attorney general to maintain an action to
40 collect unclaimed property or otherwise enforce this chapter;
41 (2) when used in joint audits conducted with or under agreements
42 with other states, the federal government, or other governmental



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1 entities; or
2 (3) pursuant to subpoena or court order.
3 (f) The attorney general's final completed audit reports are public
4 records, available for inspection and copying under IC 5-14-3. A final
5 report may not contain confidential documentation or working papers
6 unless an exception under subsection (e) applies.
7 **(g) An agreement under which the attorney general authorizes**
8 **another person to examine records under section 43 of this chapter**
9 **may not provide for the person who examines the records to**
10 **receive fees based on a percentage of the value of any property**
11 **recovered.**

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