February 8, 2013

SENATE BILL No. 222

DIGEST OF SB 222 (Updated February 6, 2013 11:45 am - DI ck)

Citations Affected: IC 32-34.

Synopsis: Unclaimed property. Provides that certain property left unclaimed in a safe deposit box for three years is presumed abandoned. Permits electronic submission of certain documents in connection with unclaimed property, and permits the attorney general to determine the manner in which payment or delivery of certain property is made. Authorizes the attorney general to deduct certain expenses from proceeds of property paid to the owner.

Effective: July 1, 2013.

Steele

January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.
February 7, 2013, amended, reassigned to Committee on Judiciary.

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February 8, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 222

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 32-34-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. **(a)** Except as provided in **subsection (b) or (c) or** another state statute, property located in Indiana or another state is subject to the custody of this state as unclaimed property if the property is presumed abandoned and if:

(1) the last known address of the apparent owner, as shown on the records of the holder, is in Indiana;

(2) the records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in Indiana;

(3) the records of the holder do not reflect the last known address of the apparent owner and it is established that:

(A) the last known address of the person entitled to the property is in Indiana; or

(B) the holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of the last

known address of the apparent owner or other person entitled to the property;

(4) the last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property and the holder is a domiciliary or a government or governmental subdivision or agency of this state;

(5) the last known address of the apparent owner, as shown on the records of the holder, is in a foreign country and the holder is a domiciliary or a government or governmental subdivision or agency of this state;

(6) the transaction out of which the property arose occurred in Indiana, the holder is a domiciliary of a state that does not provide for the escheat or custodial taking of the property, and the last known address of the apparent owner or other person entitled to the property is:

(A) unknown; or

(B) in a state that does not provide for the escheat or custodial taking of the property; or

(7) the property is a traveler's check or money order:

(A) purchased in Indiana; or

(B) for which the issuer of the traveler's check or money order has its principal place of business in Indiana and the issuer's records:

(i) do not show the state in which the instrument was purchased; or

(ii) show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property.

(b) Tangible property held in a safe deposit box or any other safekeeping depository in Indiana that is presumed abandoned is subject to the custody of this state regardless of the last known address of the apparent owner.

(c) Tangible property held in a safe deposit box or any other safekeeping depository in another state that is presumed abandoned is subject to the custody of this state if:

(1) the last known address of the owner is in Indiana; and

(2) the property is located in a state that does not provide for the escheat or custodial taking of the property.

SECTION 2. IC 32-34-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 24. If:

(1) tangible or intangible property that is held in a safe deposit

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box or any other safekeeping depository in Indiana in the ordinary course of the holder's business; or

(2) the proceeds resulting from the sale of the property described in subdivision (1) as authorized by other law;

remain unclaimed by the owner for more than ~~five (5)~~ **three (3)** years after expiration of the lease or rental period on the box or other depository, the property or proceeds are presumed abandoned.

SECTION 3. IC 32-34-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 26. (a) A holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall report in writing to the attorney general concerning the property. Items of value of less than fifty dollars ($50) may be reported by the holder in the aggregate.

(b) For each item with a value of at least fifty dollars ($50), the report required under subsection (a) must be verified and must include the following:

(1) The apparent owner's:

(A) name, if known;

(B) last known address, if any; and

(C) Social Security number or taxpayer identification number, if readily ascertainable.

(2) In the case of the contents of a safe deposit box or other safekeeping depository of tangible property:

(A) a description of the property;

(B) the place where the property is held and may be inspected by the attorney general; and

(C) any amount that is owed to the holder.

(3) The date:

(A) the property became payable, demandable, or returnable; and

(B) of the last transaction with the apparent owner with respect to the property.

(4) Other information that the attorney general requires by rules adopted under IC 4-22-2 as necessary for the administration of this chapter.

(c) If:

(1) a holder of property that is presumed abandoned and that is subject to custody as unclaimed property is a successor to another person who previously held the property for the apparent owner; or

(2) the holder has changed its name while holding the property;

the holder shall file with the report required by subsection (a) the

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former names of the holder, if any, and the known name and address of any previous holder of the property.

(d) The attorney general shall establish filing dates for the report required by subsection (a).

(e) The holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall, not more than one hundred twenty (120) days or less than sixty (60) days before filing the report required by subsection (a), send written notice to the apparent owner of the property stating that the holder is in possession of property subject to this chapter if:

(1) the holder has a record of an address for the apparent owner that the holder's records do not show as inaccurate;

(2) the claim of the apparent owner is not barred by the statute of limitations; and

(3) the value of the property is at least fifty dollars ($50).

(f) Before the date of filing the report required by subsection (a), the holder may request the attorney general to extend the time for filing the report. The attorney general may grant the extension upon a showing of good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due. The making of an interim payment under this subsection suspends the accrual of interest on the amount.

(g) The holder shall file with the report an affidavit stating that the holder has complied with this section.

(h) The report required under this section shall be submitted electronically in a format approved by the attorney general.

SECTION 4. IC 32-34-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 27. (a) Except as provided in subsections (b) and (c), on the date a report is filed under section 26 of this chapter, the holder shall pay or deliver to the attorney general the property that is described in the report as unclaimed.

(b) In the case of an automatically renewable deposit, if at the time of delivery under subsection (a) a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the earliest date upon which a penalty or forfeiture would not result.

(c) Tangible property held in a safe deposit box or other safekeeping depository may not be delivered to the attorney general until one hundred twenty (120) days after the date the report describing the property under section 26 of this chapter is filed.

(d) If the property reported to the attorney general is a security or security entitlement under IC 26-1-8.1, the attorney general may make

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an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with IC 26-1-8.1.

(e) If the holder of property reported to the attorney general is the issuer of a certificated security, the attorney general has the right to obtain a replacement certificate under IC 26-1-8.1-405, and an indemnity bond is not required.

(f) An issuer, the holder, and any transfer agent or other person acting under the instructions of and on behalf of the issuer in accordance with this section are not liable to the apparent owner and must be indemnified against the claims of any person in accordance with section 29 of this chapter.

(g) Payment or delivery of property shall be made in the manner specified by the attorney general.

SECTION 5. IC 32-34-1-34, AS AMENDED BY P.L.246-2005, SECTION 217, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 34. (a) Except as provided in ~~section~~ **sections 36(g) and** 42(d) of this chapter, the treasurer of state shall, on order of the attorney general, pay the necessary costs of the following:

(1) Selling abandoned property.

(2) Mailing notices.

(3) Making publications required by this chapter.

(4) Paying other operating expenses and administrative expenses, including:

(A) salaries and wages reasonably incurred by the attorney general in the administration and enforcement of this chapter; and

(B) costs incurred in examining records of the holders of property and in collecting the property from the holders.

(b) If the balance of the principal of the abandoned property fund established by section 33 of this chapter exceeds five hundred thousand dollars ($500,000), the treasurer of state may, and at least once each fiscal year shall, transfer to the state general fund the balance of the principal of the abandoned property fund that exceeds five hundred thousand dollars ($500,000).

(c) If a claim is allowed or a refund is ordered under this chapter that is more than five hundred thousand dollars ($500,000), the treasurer of state shall transfer from the state general fund sufficient money to make prompt payment of the claim. There is annually appropriated to the treasurer of state from the state general fund the

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amount of money sufficient to implement this subsection.

(d) Before making a deposit into the abandoned property fund, the attorney general shall record the following:

(1) The name and last known address of each person appearing from the holder's reports to be entitled to the abandoned property.

(2) The name and last known address of each insured person or annuitant.

(3) The number, the name of the corporation, and the amount due concerning any policy or contract listed in the report of a life insurance company.

(e) Except as provided in subsection (f), earnings on the property custody fund and the abandoned property fund shall be credited to each fund.

(f) On July 1 of each year, the interest balance in the property custody fund established by section 32 of this chapter and the interest balance in the abandoned property fund shall be transferred to the state general fund.

SECTION 6. IC 32-34-1-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 36. (a) Except as provided in subsection (f), a person, except another state, claiming an interest in property paid or delivered to the attorney general may file a claim on a form prescribed by the attorney general and verified by the claimant. To be considered by the attorney general, the claim must meet the requirements established by the attorney general.

(b) Not later than ninety (90) days after a claim that meets the requirements established by the attorney general is filed under subsection (a), the attorney general shall:

(1) consider the claim; and

(2) give written notice to the claimant that the claim is granted or that the claim is denied in whole or in part.

(c) Not later than thirty (30) days after a claim is granted, the attorney general shall pay over or deliver to the claimant the property, or the net proceeds of the sale of property if the property has been sold by the attorney general, together with any additional amount to which the claimant may be entitled under section 30 of this chapter.

(d) A holder who pays the owner for property that has been delivered to the state and that, if claimed from the attorney general by the owner, would be subject to an increment under section 30 of this chapter shall recover the amount of the increment from the attorney general.

(e) A person may file a claim under subsection (a) at any time within twenty-five (25) years after the date on which the property was

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first presumed abandoned under this chapter, notwithstanding the expiration of any other time specified by statute, contract, or court order during which an action or a proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property.

(f) The attorney general may pay over or deliver to the owner the property, or the net proceeds of the sale of property if the property has been sold by the attorney general, together with any additional amount to which the claimant may be entitled under section 30 of this chapter, without the owner filing a claim under subsection (a) if the attorney general identifies the owner.

(g) The following costs may be deducted from the value of the property before the net proceeds are paid to the owner:

(1) Costs of selling the property, including tangible property and securities.

(2) Costs of identifying and recovering the property, including:

(A) costs of an examination under section 42 of this chapter; or

(B) costs incurred in connection with an interstate agreement under section 44 of this chapter.

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 222, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 222 as introduced.)

LONG, Chairperson

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