

# COMMITTEE REPORT

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## 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:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 state and local administration.
- 4 Delete everything after the enacting clause and insert the
- 5 following:
- 6 SECTION 1. IC 32-34-1-21 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. **(a)** Except as
- 8 provided in **subsection (b) or (c) or** another state statute, property
- 9 located in Indiana or another state is subject to the custody of this state
- 10 as unclaimed property if the property is presumed abandoned and if:
- 11 (1) the last known address of the apparent owner, as shown on
- 12 the records of the holder, is in Indiana;
- 13 (2) the records of the holder do not reflect the identity of the
- 14 person entitled to the property and it is established that the last
- 15 known address of the person entitled to the property is in
- 16 Indiana;
- 17 (3) the records of the holder do not reflect the last known address
- 18 of the apparent owner and it is established that:
- 19 (A) the last known address of the person entitled to the
- 20 property is in Indiana; or
- 21 (B) the holder is a domiciliary or a government or
- 22 governmental subdivision or agency of this state and has not
- 23 previously paid or delivered the property to the state of the
- 24 last known address of the apparent owner or other person
- 25 entitled to the property;
- 26 (4) the last known address of the apparent owner, as shown on

- 1 the records of the holder, is in a state that does not provide for  
 2 the escheat or custodial taking of the property and the holder is  
 3 a domiciliary or a government or governmental subdivision or  
 4 agency of this state;  
 5 (5) the last known address of the apparent owner, as shown on  
 6 the records of the holder, is in a foreign country and the holder  
 7 is a domiciliary or a government or governmental subdivision or  
 8 agency of this state;  
 9 (6) the transaction out of which the property arose occurred in  
 10 Indiana, the holder is a domiciliary of a state that does not  
 11 provide for the escheat or custodial taking of the property, and  
 12 the last known address of the apparent owner or other person  
 13 entitled to the property is:  
 14 (A) unknown; or  
 15 (B) in a state that does not provide for the escheat or  
 16 custodial taking of the property; or  
 17 (7) the property is a traveler's check or money order:  
 18 (A) purchased in Indiana; or  
 19 (B) for which the issuer of the traveler's check or money  
 20 order has its principal place of business in Indiana and the  
 21 issuer's records:  
 22 (i) do not show the state in which the instrument was  
 23 purchased; or  
 24 (ii) show that the instrument was purchased in a state  
 25 that does not provide for the escheat or custodial taking  
 26 of the property.
- 27 **(b) Tangible property held in a safe deposit box or any other**  
 28 **safekeeping depository in Indiana that is presumed abandoned is**  
 29 **subject to the custody of this state regardless of the last known**  
 30 **address of the apparent owner.**
- 31 **(c) Tangible property held in a safe deposit box or any other**  
 32 **safekeeping depository in another state that is presumed**  
 33 **abandoned is subject to the custody of this state if:**  
 34 **(1) the last known address of the owner is in Indiana; and**  
 35 **(2) the property is located in a state that does not provide for**  
 36 **the escheat or custodial taking of the property.**
- 37 SECTION 2. IC 32-34-1-24 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 24. If:  
 39 (1) tangible or intangible property that is held in a safe deposit  
 40 box or any other safekeeping depository in Indiana in the  
 41 ordinary course of the holder's business; or  
 42 (2) the proceeds resulting from the sale of the property described  
 43 in subdivision (1) as authorized by other law;  
 44 remain unclaimed by the owner for more than ~~five (5)~~ **three (3)** years  
 45 after expiration of the lease or rental period on the box or other  
 46 depository, the property or proceeds are presumed abandoned.
- 47 SECTION 3. IC 32-34-1-26 IS AMENDED TO READ AS  
 48 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 26. (a) A holder of  
 49 property that is presumed abandoned and that is subject to custody as  
 50 unclaimed property under this chapter shall report in writing to the

1 attorney general concerning the property. Items of value of less than  
2 fifty dollars (\$50) may be reported by the holder in the aggregate.

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

6 (1) The apparent owner's:

7 (A) name, if known;

8 (B) last known address, if any; and

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

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

13 (A) a description of the property;

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

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

17 (3) The date:

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

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

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

25 (c) If:

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

30 (2) the holder has changed its name while holding the property;  
31 the holder shall file with the report required by subsection (a) the  
32 former names of the holder, if any, and the known name and address of  
33 any previous holder of the property.

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

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

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

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

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

47 (f) Before the date of filing the report required by subsection (a),  
48 the holder may request the attorney general to extend the time for filing  
49 the report. The attorney general may grant the extension upon a  
50 showing of good cause. The holder, upon receipt of the extension, may

1 make an interim payment on the amount the holder estimates will  
 2 ultimately be due. The making of an interim payment under this  
 3 subsection suspends the accrual of interest on the amount.

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

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

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

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

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

22 (d) If the property reported to the attorney general is a security or  
 23 security entitlement under IC 26-1-8.1, the attorney general may make  
 24 an endorsement, instruction, or entitlement order on behalf of the  
 25 apparent owner to invoke the duty of the issuer or its transfer agent or  
 26 the securities intermediary to transfer or dispose of the security or the  
 27 security entitlement in accordance with IC 26-1-8.1.

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

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

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

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

- 45 (1) Selling abandoned property.
- 46 (2) Mailing notices.
- 47 (3) Making publications required by this chapter.
- 48 (4) Paying other operating expenses and administrative  
 49 expenses, including:
  - 50 (A) salaries and wages reasonably incurred by the attorney

- 1           general in the administration and enforcement of this  
2           chapter; and
- 3           (B) costs incurred in examining records of the holders of  
4           property and in collecting the property from the holders.
- 5           (b) If the balance of the principal of the abandoned property fund  
6           established by section 33 of this chapter exceeds five hundred thousand  
7           dollars (\$500,000), the treasurer of state may, and at least once each  
8           fiscal year shall, transfer to the state general fund the balance of the  
9           principal of the abandoned property fund that exceeds five hundred  
10          thousand dollars (\$500,000).
- 11          (c) If a claim is allowed or a refund is ordered under this chapter  
12          that is more than five hundred thousand dollars (\$500,000), the  
13          treasurer of state shall transfer from the state general fund sufficient  
14          money to make prompt payment of the claim. There is annually  
15          appropriated to the treasurer of state from the state general fund the  
16          amount of money sufficient to implement this subsection.
- 17          (d) Before making a deposit into the abandoned property fund, the  
18          attorney general shall record the following:
- 19               (1) The name and last known address of each person appearing  
20               from the holder's reports to be entitled to the abandoned  
21               property.
- 22               (2) The name and last known address of each insured person or  
23               annuitant.
- 24               (3) The number, the name of the corporation, and the amount  
25               due concerning any policy or contract listed in the report of a life  
26               insurance company.
- 27          (e) Except as provided in subsection (f), earnings on the property  
28          custody fund and the abandoned property fund shall be credited to each  
29          fund.
- 30          (f) On July 1 of each year, the interest balance in the property  
31          custody fund established by section 32 of this chapter and the interest  
32          balance in the abandoned property fund shall be transferred to the state  
33          general fund.
- 34          SECTION 6. IC 32-34-1-36 IS AMENDED TO READ AS  
35          FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 36. (a) Except as  
36          provided in subsection (f), a person, except another state, claiming an  
37          interest in property paid or delivered to the attorney general may file a  
38          claim on a form prescribed by the attorney general and verified by the  
39          claimant. To be considered by the attorney general, the claim must  
40          meet the requirements established by the attorney general.
- 41          (b) Not later than ninety (90) days after a claim that meets the  
42          requirements established by the attorney general is filed under  
43          subsection (a), the attorney general shall:
- 44               (1) consider the claim; and
- 45               (2) give written notice to the claimant that the claim is granted  
46               or that the claim is denied in whole or in part.
- 47          (c) Not later than thirty (30) days after a claim is granted, the  
48          attorney general shall pay over or deliver to the claimant the property,  
49          or the net proceeds of the sale of property if the property has been sold  
50          by the attorney general, together with any additional amount to which

- 1 the claimant may be entitled under section 30 of this chapter.
- 2 (d) A holder who pays the owner for property that has been  
3 delivered to the state and that, if claimed from the attorney general by  
4 the owner, would be subject to an increment under section 30 of this  
5 chapter shall recover the amount of the increment from the attorney  
6 general.
- 7 (e) A person may file a claim under subsection (a) at any time  
8 within twenty-five (25) years after the date on which the property was  
9 first presumed abandoned under this chapter, notwithstanding the  
10 expiration of any other time specified by statute, contract, or court  
11 order during which an action or a proceeding may be commenced or  
12 enforced to obtain payment of a claim for money or recovery of  
13 property.
- 14 (f) The attorney general may pay over or deliver to the owner the  
15 property, or the net proceeds of the sale of property if the property has  
16 been sold by the attorney general, together with any additional amount  
17 to which the claimant may be entitled under section 30 of this chapter,  
18 without the owner filing a claim under subsection (a) if the attorney  
19 general identifies the owner.
- 20 **(g) The following costs may be deducted from the value of the**  
21 **property before the net proceeds are paid to the owner:**
- 22 **(1) Costs of selling the property, including tangible property**  
23 **and securities.**
- 24 **(2) Costs of identifying and recovering the property,**  
25 **including:**
- 26 **(A) costs of an examination under section 42 of this**  
27 **chapter; or**
- 28 **(B) costs incurred in connection with an interstate**  
29 **agreement under section 44 of this chapter.**
- (Reference is to SB 222 as introduced.)

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

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LONG, Chairperson