



Kristin Moore

Final Analysis
Legislative Service Commission

Sub. H.B. 108

125th General Assembly
(As Passed by the General Assembly)

Reps. Driehaus, Seitz, Redfern, Kearns, Hartnett, Skindell, Niehaus, Distel, Olman, Yates, S. Smith, Schneider, DePiero, Webster, Allen, DeBose, Harwood, Barrett, Raussen, Perry, Cirelli, Raga, Jerse, Domenick, Wilson, Hagan, Mason, Key, Book, Brown, Carano, Chandler, Collier, Daniels, Fessler, Flowers, Hollister, Hughes, Miller, Otterman, T. Patton, Price, Reidelbach, Schmidt, Seaver, Sferra, D. Stewart, J. Stewart, Strahorn, Widowfield, Woodard

Sens. Roberts, Mumper, Schuler, Robert Gardner, Schuring

Effective date: *

ACT SUMMARY

- Requires a holder of unclaimed funds to provide the mandatory notice to owners of the funds' existence by regular first class mail if the value of the funds is between \$50 and \$1,000.
- Requires a holder of unclaimed funds to provide the mandatory notice to owners of the funds' existence by certified mail if the value of the funds is \$1,000 or more.
- Specifies circumstances under which a holder that verifies an owner's last known address is inaccurate, is not required to provide the mandatory notice by certified mail.
- Authorizes a holder to charge unclaimed funds for providing the mandatory notice by certified mail.

** The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

CONTENT AND OPERATION

Continuing and former law

Former law generally required a holder of unclaimed funds (see **COMMENT**) to send notice *by first class mail* to each owner of each item of unclaimed funds *having a value of \$50 or more*. In the case of life insurance policies, the holder similarly was required to mail notice to each beneficiary unless the address and the surname of the beneficiary were the same as that of the insured. (Sec. 169.03(D).)

Continuing law requires the holder to mail the notice of the unclaimed funds' existence to the owner's or beneficiary's last known address as shown by the holder's records. The holder must not report an item of unclaimed funds in its annual report to the Director of Commerce earlier than the 30th day after the notice's mailing. (Sec. 169.03(D).)

A notice of the existence of unclaimed funds, under continuing law, must (1) set forth the nature and identifying number or description of the unclaimed funds, and the amount appearing on the holder's records as being due the owner or beneficiary and (2) inform the owner or beneficiary that the unclaimed funds will be reported to the Director of Commerce 30 days after the notice's mailing. The notice also must include a self-addressed, stamped envelope for the recipient to inform the holder of the recipient's continued interest in the unclaimed funds and to prevent them from being reported as unclaimed funds to the Director. (Sec. 169.03(D).)

Under continuing law, the mailing of the notice as specified in the Unclaimed Funds Law discharges the holder from any further responsibility to give notice. And, if there is no address of record for an owner or a beneficiary, the holder has no responsibility to provide notice to that person. An officer of the holder must execute verification of the mailing of the notice as specified in the Unclaimed Funds Law, apparently when making an annual report to the Director of Commerce. (Sec. 169.03(D) and (E).)

Changes made by the act

Notice mailing changes

The act generally requires that the notice of the existence of an item of unclaimed funds be mailed (1) by first class mail if the item has a value of \$50 or more but less than \$1,000 or (2) by certified mail, return receipt requested, if the item has a value of \$1,000 or more. But the certified mailing requirement generally does not apply if the last known address of the owner or beneficiary in

the holder's records is verified as being inaccurate. The act provides that a holder has verified that the last known address of the owner or beneficiary is not accurate by documenting *at least two* of the following: (1) the owner or beneficiary failed to respond to a first class mail notice sent to his or her last known address, (2) a first class mail notice sent by the holder to the last known address of the owner or beneficiary was returned as undeliverable, or (3) an electronic or manual search of available public records failed to confirm that the last known address of the owner or beneficiary is accurate. In the latter case, the holder must maintain documentation of its search efforts. And, if a search of public records or databases identifies a more recent address for the owner or beneficiary than the address in the holder's records, the holder must send notice of the unclaimed funds' existence to the owner or beneficiary at that more recent address in accordance with the act's mailing requirements. (Sec. 169.03(D).)

A holder that sends the notice by certified mail, return receipt requested, may charge the item of unclaimed funds up to \$20 for providing that notice (sec. 169.03(D)).

Annual report change

Under the act, if an item of unclaimed funds has a value of \$1,000 or more and the holder has verified that the owner's or beneficiary's last known address as shown by the holder's records is not accurate, the holder's annual report to the Director of Commerce must state that efforts were undertaken by the holder to verify that the address is not accurate. Any verifying documentation must be maintained by the holder for five years from the date of the report and be available upon request to the Director or the Director's designee. (Sec. 169.03(A)(2)(f).)

COMMENT

"Unclaimed funds" are moneys, rights to moneys, or intangible property as described in existing law when, as shown by the records of their holder, the owner has not done any of the following within specified time periods: (1) increased, decreased, or adjusted their amount, (2) assigned, paid premiums on, or encumbered them, (3) presented an appropriate record for their crediting or received payment of them by check, draft, or otherwise, (4) corresponded with their holder concerning them, (5) indicated an interest in or knowledge of them, or (6) transacted business with their holder (sec. 169.01(B)(1), not in the act).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-06-03	p. 213
Reported, H. State Government	05-01-03	p. 446
Passed House (97-2)	05-07-03	pp. 466-467
Reported, S. State & Local Gov't & Veterans Affairs	06-11-03	p. 448
Passed Senate (32-0)	06-11-03	pp. 452-453
Housed concurred in Senate amendments (97-1)	06-17-03	pp. 601-602

03-hb108-125.doc/kl

