

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 406

Introduced by Gragert, 40.

Read first time January 18, 2019

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to the Uniform Disposition of Unclaimed
- 2 Property Act; to amend sections 24-345, 25-2717, 69-1310, 69-1311,
- 3 69-1317, and 69-1321, Reissue Revised Statutes of Nebraska; to
- 4 change provisions relating to abandoned property reports, abandoned
- 5 property notices, disposition of funds, transfers of funds, and
- 6 duties of the State Treasurer; to harmonize provisions; and to
- 7 repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-345, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 24-345 All money, other than witness fees, fines, penalties,
4 forfeitures and license money, that comes into the possession of the
5 clerk of the district court for any county in the State of Nebraska by
6 virtue of his or her office and remains in the custody of the clerk of
7 the district court, uncalled for by the party or parties entitled to the
8 money for a period of three years following the close of litigation in
9 relation to the money, shall be remitted by the clerk of the district
10 court to the State Treasurer on the first Tuesday in January, April,
11 July, or October, respectively, following the expiration of the three-
12 year period, for deposit in the Unclaimed Property Escheat Trust Fund a
13 ~~separate trust fund~~ pursuant to section 69-1317. Such payment shall
14 release the bond of the clerk of the district court making such payment
15 from all liability for the money so paid in compliance with this section.

16 Sec. 2. Section 25-2717, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 25-2717 If any fees, money, condemnation awards, legacies, devises,
19 sums due creditors, or costs due or belonging to any heir, legatee, or
20 other person or persons have not been paid to or demanded by the person
21 or persons entitled to the funds within three years from the date the
22 funds were paid to the county judge or his or her predecessors in office,
23 it shall be the duty of the county judge to notify the State Treasurer of
24 the fees, money, condemnation awards, legacies, devises, sums due
25 creditors, or costs remaining. When directed by the State Treasurer, the
26 county judge shall remit the fees, money, condemnation awards, legacies,
27 devises, sums due creditors, or costs to the State Treasurer for deposit
28 in the Unclaimed Property Escheat Trust Fund a ~~separate trust fund~~
29 pursuant to section 69-1317. Such payment shall release the bond of the
30 county judge making such payment of all liability for such fees, money,
31 condemnation awards, legacies, devises, sums due creditors, and costs due

1 to heirs, legatees, or other persons paid in compliance with this
2 section.

3 Sec. 3. Section 69-1310, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 69-1310 (a) Every person holding funds or other property, tangible
6 or intangible, presumed abandoned under the Uniform Disposition of
7 Unclaimed Property Act shall report to the State Treasurer with respect
8 to the property as set forth in this section ~~hereinafter provided~~.

9 (b) The report shall be verified and shall include:

10 (1) Except with respect to traveler's checks and money orders, the
11 name, if known, and last-known address, if any, of each person appearing
12 from the records of the holder to be the owner of any property presumed
13 abandoned under the act;

14 (2) In case of unclaimed funds of life insurance corporations, the
15 full name of the insured or annuitant and his or her last-known address
16 according to the life insurance corporation's records;

17 (3) The nature and identifying number, if any, or description of the
18 property and the amount appearing from the records to be due, ~~except that~~
19 ~~items of less than twenty-five dollars may be reported in the aggregate;~~

20 (4) The date when the property became payable, demandable, or
21 returnable, and the date of the last transaction with the owner with
22 respect to the property; and

23 (5) Other information which the State Treasurer may prescribe by
24 rule as necessary for the administration of the act.

25 (c) If the person holding property presumed abandoned is a successor
26 to other persons who previously held the property for the owner, or if
27 the holder has changed his or her name while holding the property, he or
28 she shall file with his or her report all prior known names and addresses
29 of each holder of the property.

30 (d) The report shall be filed before November 1 of each year as of
31 June 30 next preceding, but the report of life insurance corporations

1 shall be filed before May 1 of each year as of December 31 next
2 preceding. A one-time supplemental report shall be filed by life
3 insurance corporations with regard to property subject to section
4 69-1307.05 before November 1, 2003, as of December 31, 2002, as if
5 section 69-1307.05 had been in effect before January 1, 2003. The
6 property must accompany the report unless excused by the State Treasurer
7 for good cause. The State Treasurer may postpone the reporting date upon
8 written request by any person required to file a report.

9 (e) If the holder of property presumed abandoned under the act knows
10 the whereabouts of the owner and if the owner's claim has not been barred
11 by the statute of limitations, the holder shall, before filing the annual
12 report, communicate with the owner and take necessary steps to prevent
13 abandonment from being presumed. The holder shall exercise due diligence
14 to ascertain the whereabouts of the owner.

15 (f) Verification, if made by a partnership, shall be executed by a
16 partner; if made by a limited liability company, by a member; if made by
17 an unincorporated association or private corporation, by an officer; and
18 if made by a public corporation, by its chief fiscal officer.

19 Sec. 4. Section 69-1311, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 69-1311 (a) Between March 1 and March 10 of each year the State
22 Treasurer shall cause notice to be published once in an English language
23 legal newspaper of general circulation in the county in this state in
24 which is located the last-known address of any person to be named in the
25 notice. If no address is known, then the notice shall be published in a
26 legal newspaper having statewide circulation.

27 (b) The published notice shall be entitled Notice to Owners of
28 Abandoned Property, and shall contain:

29 (1) The names in alphabetical order and counties of last-known
30 addresses, if any, of persons listed in the report and entitled to notice
31 as provided in subsection (a) of this section.

1 (2) A statement that information concerning the amount or
2 description of the property and the name and address of the holder may be
3 obtained by any person possessing an interest in the property by
4 addressing an inquiry to the State Treasurer.

5 (c) The State Treasurer is not required to publish in such notice
6 any item of less than fifty ~~twenty-five~~ dollars unless he or she deems
7 such publication to be in the public interest.

8 (d) Within one hundred twenty days from the receipt of the report
9 required by section 69-1310, the State Treasurer shall mail a notice to
10 each person having an address listed therein who appears to be entitled
11 to property of the value of fifty ~~twenty-five~~ dollars or more presumed
12 abandoned under the Uniform Disposition of Unclaimed Property Act.

13 (e) The mailed notice shall contain:

14 (1) A statement that, according to a report filed with the State
15 Treasurer, property is being held to which the addressee appears
16 entitled.

17 (2) The name and address of the person holding the property and any
18 necessary information regarding changes of name and address of the
19 holder.

20 (3) A statement that, if satisfactory proof of claim is presented by
21 the owner to the State Treasurer, arrangements will be made to transfer
22 the property to the owner as provided by law.

23 (f) This section is not applicable to sums payable on traveler's
24 checks or money orders presumed abandoned under section 69-1302.

25 Sec. 5. Section 69-1317, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 69-1317 (a)(1) Except as otherwise provided in this subdivision, all
28 funds received under the Uniform Disposition of Unclaimed Property Act,
29 including the proceeds from the sale of abandoned property under section
30 69-1316, shall be deposited by the State Treasurer into the Unclaimed
31 Property Escheat Trust Fund ~~in a separate trust fund~~ from which he or she

1 shall make prompt payment of claims allowed pursuant to the act and
2 payment of any auditing expenses associated with the receipt of abandoned
3 property. All funds received under section 69-1307.05 shall be deposited
4 by the State Treasurer into the Unclaimed Property Escheat Trust Fund ~~in~~
5 ~~a separate life insurance corporation demutualization trust fund, which~~
6 ~~is hereby created,~~ from which he or she shall make prompt payment of
7 claims regarding such funds allowed pursuant to the act. Transfers from
8 the Unclaimed Property Escheat Trust Fund ~~separate life insurance~~
9 ~~corporation demutualization trust fund~~ to the General Fund may be made at
10 the direction of the Legislature. Before making the deposit he or she
11 shall record the name and last-known address of each person appearing
12 from the holders' reports to be entitled to the abandoned property, the
13 name and last-known address of each insured person or annuitant, and with
14 respect to each policy or contract listed in the report of a life
15 insurance corporation, its number, the name of the corporation, and the
16 amount due. The record shall be available for public inspection during
17 business hours. The separate life insurance corporation demutualization
18 trust fund terminates on the effective date of this act and the State
19 Treasurer shall transfer any money in the fund on such date to the
20 Unclaimed Property Escheat Trust Fund.

21 The record shall not be subject to public inspection or available
22 for copying, reproduction, or scrutiny by commercial or professional
23 locators of property presumed abandoned who charge any service or
24 finders' fee until twenty-four months after the names from the holders'
25 reports have been published or officially disclosed. Records concerning
26 the social security number, date of birth, and last-known address of an
27 owner shall be treated as confidential and subject to the same
28 confidentiality as tax return information held by the Department of
29 Revenue, except that the Auditor of Public Accounts shall have
30 unrestricted access to such records.

31 A professional finders' fee shall be limited to ten percent of the

1 total dollar amount of the property presumed abandoned. To claim any such
2 fee, the finder shall disclose to the owner the nature, location, and
3 value of the property, provide notice of when such property was reported
4 to the State Treasurer, and provide notice that the property may be
5 claimed by the owner from the State Treasurer free of charge. To claim
6 any such fee if the property has not yet been abandoned, the finder shall
7 disclose to the owner the nature, location, and value of the property,
8 provide notice of when such property will be reported to the State
9 Treasurer, if known, and provide notice that, upon receipt of the
10 property by the State Treasurer, such property may be claimed by the
11 owner from the State Treasurer free of charge.

12 (2) The unclaimed property records of the State Treasurer, the
13 unclaimed property reports of holders, and the information derived by an
14 unclaimed property examination or audit of the records of a person or
15 otherwise obtained by or communicated to the State Treasurer may be
16 withheld from the public. Any record or information that may be withheld
17 under the laws of this state or of the United States when in the
18 possession of such a person may be withheld when revealed or delivered to
19 the State Treasurer. Any record or information that is withheld under any
20 law of another state when in the possession of that other state may be
21 withheld when revealed or delivered by the other state to the State
22 Treasurer.

23 Information withheld from the general public concerning any aspect
24 of unclaimed property shall only be disclosed to an apparent owner of the
25 property or to the escheat, unclaimed, or abandoned property
26 administrators or officials of another state if that other state accords
27 substantially reciprocal privileges to the State Treasurer.

28 ~~(b)(1) On or after October 6, 1992, the State Treasurer shall~~
29 ~~periodically transfer any balance in excess of an amount not to exceed~~
30 ~~five hundred thousand dollars from the separate trust fund to the General~~
31 ~~Fund no less frequently than on or before November 1 and May 1 of each~~

1 ~~year, except that the total amount of all such transfers shall not exceed~~
2 ~~five million dollars.~~

3 (b) ~~(2)~~ On or before November 1 of each year, the State Treasurer
4 shall distribute ~~transfer~~ any balance in excess of one million ~~an amount~~
5 ~~not to exceed five hundred thousand~~ dollars from the Unclaimed Property
6 Escheat Trust Fund ~~separate trust fund~~ to the permanent school fund.

7 (c) Before making any deposit to the credit of the permanent school
8 fund or the General Fund, the State Treasurer may deduct (1) any costs in
9 connection with sale of abandoned property, (2) any costs of mailing and
10 publication in connection with any abandoned property, and (3) reasonable
11 service charges and place such funds in the Unclaimed Property Cash Fund
12 which is hereby created. Transfers from the fund to the General Fund may
13 be made at the direction of the Legislature. Any money in the Unclaimed
14 Property Cash Fund available for investment shall be invested by the
15 state investment officer pursuant to the Nebraska Capital Expansion Act
16 and the Nebraska State Funds Investment Act.

17 Sec. 6. Section 69-1321, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 69-1321 (a) The State Treasurer or his or her designee, after
20 receiving reports of property deemed abandoned pursuant to the Uniform
21 Disposition of Unclaimed Property Act, may decline to receive any
22 property reported which he or she deems to have a value less than the
23 cost of giving notice and holding sale, or he or she may, if he or she
24 deems it desirable because of the small sum involved, postpone taking
25 possession until a sufficient sum accumulates. Unless the holder of the
26 property is notified to the contrary within one hundred twenty days after
27 filing the report required under section 69-1310, the State Treasurer or
28 his or her designee shall be deemed to have elected to receive the
29 custody of the property.

30 (b) A holder may pay or deliver property before the property is
31 presumed abandoned with written consent of the State Treasurer or his or

1 her designee and upon conditions and terms prescribed by the State
2 Treasurer or his or her designee. Property paid or delivered under this
3 subsection shall be held by the State Treasurer and is not presumed
4 abandoned until such time as it otherwise would be presumed abandoned
5 under the act.

6 Sec. 7. Original sections 24-345, 25-2717, 69-1310, 69-1311,
7 69-1317, and 69-1321, Reissue Revised Statutes of Nebraska, are repealed.