

Subject Unclaimed property

Authors Mahoney

Analyst Larie Ann Pampuch

Date April 2, 2019

Overview

This bill creates a new unclaimed property administration chapter, a program operated by the Department of Commerce.

Article 1: Unclaimed Property; General

Section	Description
1	<p>[345A.101] Definitions.</p> <p>Provides definitions for administrator, business association, financial organization, game-related digital content, loyalty card, non-freely transferable security, payroll card, stored-value card, and virtual currency, among others.</p>
2	<p>[345A.102] Inapplicability to foreign transaction.</p> <p>Clarifies that this chapter does not apply to property from a foreign transaction held, due, or owing in a foreign country.</p>

Article 2: Unclaimed Property; Presumption of Abandonment

Section	Description
1	<p>[345A.201] When property presumed abandoned.</p> <p>The following types of property are presumed abandoned when they become due and payable and the holder has allowed the applicable time period to elapse.</p>

Property Type	Time Period
Traveler's check	15 years
Money order	7 years
Co-op Property (profit distribution, etc.)	
State or municipal bond	3 years
Debt of a business	
Demand, savings, or time deposit	
Money or credit owed from a retail business transaction	
Life or endowment insurance policy or annuity	

Section Description

Proceeds from a class action held by a court Property where a time period is not otherwise specified	
Life or endowment insurance policy where payment is owed on proof of death, but has not matured	2 or 3 years
Prepayment of funeral expenses	1 or 2 years, or 30 years after the contract was executed
Property from a business that has dissolved Property held by a government, including municipal bond interest Wages, commissions, bonuses, or reimbursement Utility deposit or refund	1 year

- 2 **[345A.202] When tax deferred retirement account presumed abandoned.**
 Abandonment occurs for property in tax-deferred pension accounts three years after certain events occur.
- 3 **[345A.203] When other tax deferred account presumed abandoned.**
 Abandonment occurs for property in other tax-deferred accounts, such as a health savings accounts, three years after certain events occur, and two years if the owner is deceased and certain events occur.
- 4 **[345A.204] When custodial account for minor presumed abandoned.**
 Abandonment occurs for property in an account held on behalf of a minor three years after certain events occur.
- 5 **[345A.205] When contents of safe deposit box presumed abandoned.**
 Abandonment occurs for property in a safe deposit box, and the proceeds of a sale of the property by the holder, five years after the lease ends or the earliest the holder can legally remove and dispose of safe deposit box property without the consent of the owner.
- 6 **[345A.206] When stored-value card presumed abandoned.**
 Abandonment occurs for stored-value cards, other than payroll or gift cards, three years after certain events occur. The amount abandoned is the net card value at the time it is presumed abandoned. If the card does not have an expiration date, the holder must honor the card indefinitely and then request reimbursement from the administrator.
- 7 **[345A.208] When security presumed abandoned.**
 Abandonment occurs for securities the earlier of three years after the date the holder sends a communication that is returned as undelivered, five years after the date of the owner's last indication of interest in the security, or two years after the date of the owner's death.

Section	Description
8	<p>[345A.209] When related property presumed abandoned.</p> <p>After property is presumed abandoned any other property right or interest accrued or accruing from the property and not previously presumed abandoned—is also presumed abandoned.</p>
9	<p>[345A.210] Indication of apparent owner interest in property.</p> <p>Property is presumed abandoned from the later of the date provided by a section of this bill or the latest indication of interest by the owner. Interest is indicated through certain activities.</p>
10	<p>[345A.211] Knowledge of death of insured or annuitant.</p> <p>Defines “death master file” as the United States Social Security Administration Death Master File or another equally comprehensive service. For life or endowment insurance policies or annuity contracts owed on proof of death, but that haven’t matured as of death, the holder has knowledge of the insured’s death under certain circumstances. Requires holders to compare current insurance policies and annuities at least semiannual by using the death master file. Provides directions as to what is considered an exact or partial match under the death master file.</p>
11	<p>[345A.211] Deposit account for proceeds of insurance policy or annuity contract.</p> <p>Clarifies that if proceeds from a life or endowment insurance policy or annuity contract are deposited into a checking account with the insurance company for the policy’s beneficiaries, the life or endowment insurance policy or annuity contract includes the amount deposited.</p>

Article 3: Unclaimed Property; Rules for Taking Custody of Property Presumed Abandoned

Section	Description
1	<p>[345A.301] Address of apparent owner to establish priority.</p> <p>Provides rules for determining an owner’s last known address.</p>
2	<p>[345A.302] Address of apparent owner in this state.</p> <p>Allows the administrator to take custody of property that is presumed abandoned whether located in this state or elsewhere if the last known address of the owner is in this state or the records of the holder do not identify the last known address, but the administrator has determined that it is in this state.</p>

Section	Description
3	<p>[345A.303] If records show multiple addresses of apparent owner.</p> <p>Provides rules for determining which state takes custody of property presumed abandoned when there are multiple addresses for the owner.</p>
4	<p>[345A.304] Holder domiciled in this state.</p> <p>Allows the administrator to take custody of property located in this state, another state, or a foreign country if the holder is located in this state and certain requirements are met.</p>
5	<p>[345A.305] Custody if transaction took place in this state.</p> <p>Allows the administrator to take custody of property located in this state or another state if the transaction that led to the property took place in this state and certain requirements are met.</p>
6	<p>[345A.306] Traveler's check, money order, or similar instrument.</p> <p>Allows the administrator to take custody of amounts payable on a traveler's check, money order, or similar instrument, to the extent allowed under federal law.</p>
7	<p>[345A.307] Burden of proof to establish administrator's right to custody.</p> <p>Gives the administrator the burden of proof to show the amount of the property, that it is presumed abandoned, and that the property is subject to custody of the administrator, if there is a dispute concerning property the administrator has asserted a right to.</p>

Article 4: Unclaimed Property; Report by Holder

Section	Description
1	<p>[345A.401] Report required by holder.</p> <p>Requires a holder of property to report it to the administrator. Requires a holder to submit the report electronically in a form acceptable to the administrator. Allows a holder to contract with a third party to complete the report. Clarifies that, in either case, the holder is responsible for submitting a complete, accurate, and timely report, and delivering property to the administrator.</p>
2	<p>[345A.402] Content of report.</p> <p>Requires the report by a holder of property to contain certain information, including information about the owner. Allows holders to aggregate items valued under \$50. Allows the administrator to waive reporting requirements relating to information about owners for aggregated amounts.</p>

Section	Description
3	[345A.403] When report to be filed. Requires holders of property to file reports with the administrator by November 1, or May 1 for an insurance company. A holder may request an extension to file the report.
4	[345A.404] Retention of records by holder. Requires holders of property to retain records of reports submitted for ten years.
5	[345A.405] Property reportable and payable or deliverable absent owner demand. Clarifies that property is reportable and payable under this chapter even if the owner fails to make a demand or present an instrument or document required to obtain payment.

Article 5: Unclaimed Property; Notice to Apparent Owner of Property Presumed Abandoned

Section	Description
1	[345A.501] Notice to apparent owner by holder. Requires a holder to mail a notice to an owner not more than 180 days nor less than 60 days before the holder must report the property to the administrator if possible and the amount is over \$50. Clarifies that in addition to any other indication of an owner's interest in the property, a signed receipt from certified mail constitutes a recorded communication.
2	[345A.502] Contents of notice by holder Requires the notice from the holder of property to the owner to include certain information.
3	[345A.503] Notice by administrator. Requires the administrator to give notice to an owner that property is being held by the administrator. Requires the administrator to publish certain information every 12 months in a newspaper in each county of this state, and maintain a website or database accessible by the public. Allows the commissioner to publish information in other ways.

Article 6: Unclaimed Property; Taking Custody of Property by Administrator

Section	Description
1	<p>[345A.601] Dormancy charge.</p> <p>Allows a holder of property to deduct a dormancy charge from property required to be paid to the administrator if certain requirements are met. Limits the amount of the deduction.</p>
2	<p>[345A.602] Payment or delivery of property to administrator.</p> <p>Requires a holder of property to pay the administrator the property described in the report upon filing it with the administrator. Provides specific procedures for the payment of different types of property. Indemnifies a holder acting under this section for a claim related to the property after it has been delivered to the administrator.</p>
3	<p>[345A.603] Effect of payment or delivery of property to administrator.</p> <p>Clarifies that the administrator assumes custody and responsibility for property after it has been delivered. A holder of property that pays property to the administrator in good faith and in compliance with sections 345A.501 and 345A.502 is relieved of liability.</p>
4	<p>[345A.604] Recovery of property by holders from administrator.</p> <p>Allows a holder of property to file a claim for reimbursement from the administrator if the holder transferred property in error or paid the owner after transferring the property to the administrator. Requires the holder to submit sufficient evidence for reimbursement.</p>
5	<p>[345A.605] Crediting income or gain to owner's account.</p> <p>Provides that if property other than money is delivered to the administrator, the owner is entitled to receive income or gain realized on the property before the property is sold. If the property was interest-bearing, the administrator must pay interest at a certain rate. Interest begins to accrue when the property is delivered to the administrator and ends the earlier of ten years after its delivery or the date it was paid to the owner.</p>
6	<p>[345A.606] Administrator's options as to custody.</p> <p>Allows the administrator to decline to take custody of property under certain circumstances. Allows a holder of property to pay property to the administrator before the property is presumed abandoned if certain requirements are met. Upon payment to the administrator the property is presumed abandoned.</p>
7	<p>[345A.607] Disposition of property having no substantial value; Immunity from liability.</p> <p>Provides that if the administrator takes custody of property and later determines it has no value or that the cost of disposing the property will exceed its value, the administrator can return the property to the holder or destroy it. Prohibits a legal action against the</p>

Section	Description
	administrator or the state based on steps taken under this section, except for intentional misconduct.
8	[345A.608] Periods of limitation and repose. Clarifies that a period of limitations on an owner's right to receive or recover property does not prevent the property from being presumed abandoned or affect the duty of a holder to file a report and pay the property to the administrator. Limits the administrator's ability to maintain a legal action to enforce the requirements of this act to ten years after the holder identified the property in a report to the administrator or otherwise notified the administrator.

Article 7: Unclaimed Property; Sale of Property by Administrator

Section	Description
1	[345A.701] Public sale of property. Allows the administrator to sell property that has been held by the administrator for at least three years. Requires the administrator to notify the public of the sale and include certain information. Allows the administrator to decline the highest bid at sale if it is insufficient and reoffer the property for sale at a later date.
2	[345A.702] Disposal of securities. Allows the administrator to sell a security if it has been held by the administrator for at least one year or if requested to do so by the owner. Prohibits the administrator for selling a publicly traded security for less than the prevailing price on the exchange.
3	[345A.704] Purchaser owns property after sale. Clarifies that a purchaser of property at a sale conducted by the administrator takes the property free of all claims of the prior holder or owner. Requires the administrator to execute documents necessary to complete the transfer of ownership to the purchaser.

Article 8: Unclaimed Property; Administration of Property

Section	Description
1	[345A.801] Deposit of funds by administrator. Requires the administrator to deposit all funds from this chapter in the general fund except for expenses of disposition of property, expenses incurred in examining records or collecting property; and as otherwise provided in this chapter.

Section	Description
2	[345A.802] Administrator to retain records of property. Requires the administrator to keep certain records regarding owners, addresses, account numbers, company names, and amounts due or paid.

Article 9: Unclaimed Property; Confidentiality and Security of Information

Section	Description
1	[345A.901] Data practices. Classifies data received by the administrator during an examination or from a person making a claim for property as private or nonpublic, with certain exceptions. Requires the administrator to include on its website or in a database the name of each owner of property held by the administrator. Allows the administrator to make other types of public notifications if it will assist in returning property.

Article 10: Unclaimed Property; Hearings, Procedure, and Judicial Review

Section	Description
1	Agreements to locate reported property. Prohibits a person from receiving compensation for locating property if 24 months have not passed since the property was given to the administrator. Limits the compensation a person can receive for locating property to 15 percent of the amount collected.
2	Administrator's duties. Allows the administrator to examine records of a holder that are reasonably necessary to determine whether the holder is complying with this chapter. Allows the administrator to issue a subpoena for records, bring judicial action to enforce the subpoena, and impose penalties under section 345.55 (which includes a misdemeanor, gross misdemeanor, and interest). Allows the administrator to contract with a person to conduct an examination, pursuant to a request for proposal. Allows the administrator to charge an examination fee based on certain costs. Classifies data from an examination or audit as private and nonpublic, with exceptions.
3	Failure of person examined to retain records. Allows the commissioner to determine the value of property through estimation, where the holder has not retained the required records. Clarifies that a payment based on

Section	Description
	estimation for failure to maintain the required records does not relieve a holder from their obligation to report and deliver property.
4	[345A.950] Hearings, procedure, judicial review. Allows a person aggrieved by a decision of the administrator, whether holder or owner, to file a request for a hearing with the administrator. This does not require the administrator to observe the formal rules of pleadings or evidence. Requires the administrator to give notice and commence a hearing and affirm, reverse, or modify the decision. This decision is final and subject to appeal in accordance with chapter 14.
5	Repealer. Repeals section 345.53, subdivision 2.

Article 11: Appropriation

Section	Description
1	Unclaimed property compliance. \$384,000 in fiscal year 2020 and \$384,000 in fiscal year 2021 are appropriated from the general fund to the commissioner of commerce for additional compliance efforts with respect to unclaimed property. The commissioner may issue contracts for these services.