

As Reported by the House State Government Committee

128th General Assembly

Regular Session

2009-2010

Sub. H. B. No. 126

Representative Williams, S.

**Cosponsors: Representatives Letson, Domenick, Murray, Hagan, Foley,
Harwood, Mallory, Brown, Stewart**

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A B I L L

To amend sections 169.01, 169.02, 169.03, 169.06, 1
169.08, 169.13, 169.14, and 169.16 of the Revised 2
Code to require the director of commerce to 3
provide the office of budget and management with 4
the proper data file to withhold from an unclaimed 5
funds payment for any legal amount in an agreement 6
to compensate a registered finder and to pay that 7
amount directly to the finder and to make other 8
changes in the Unclaimed Funds Law. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 169.01, 169.02, 169.03, 169.06, 10
169.08, 169.13, 169.14, and 169.16 of the Revised Code be amended 11
to read as follows: 12

Sec. 169.01. As used in this chapter, unless the context 13
otherwise requires: 14

(A) "Financial organization" means any bank, trust company, 15
savings bank, safe deposit company, mutual savings bank without 16
mutual stock, savings and loan association, credit union, or 17
investment company. 18

(B)(1) ~~"Unclaimed funds"~~ "Property presumed abandoned" means 19
any moneys, rights to moneys, or intangible property, described in 20
section 169.02 of the Revised Code and reported to the director of 21
commerce as required by section 169.03 of the Revised Code, when, 22
as shown by the records of the holder, the owner has not, within 23
the times provided in section 169.02 of the Revised Code, done any 24
of the following: 25

(a) Increased, decreased, or adjusted the amount of such 26
~~funds~~ property; 27

(b) Assigned, paid premiums, or encumbered such ~~funds~~ 28
property; 29

(c) Presented an appropriate record for the crediting of such 30
~~funds~~ property or received payment of such ~~funds~~ property by 31
check, draft, or otherwise; 32

(d) Corresponded with the holder concerning such ~~funds~~ 33
property; 34

(e) Otherwise indicated an interest in or knowledge of such 35
~~funds~~ property; 36

(f) Transacted business with the holder. 37

(2) "Unclaimed funds" means property presumed abandoned. 38

(3) "Property presumed abandoned" does not include any of the 39
following: 40

(a) Money received or collected under section 9.39 of the 41
Revised Code; 42

(b) Any payment or credit due to a business association from 43
a business association representing sums payable to suppliers, or 44
payment for services rendered, in the course of business, 45
including, but not limited to, checks or memoranda, overpayments, 46
unidentified remittances, nonrefunded overcharges, discounts, 47
refunds, and rebates; 48

(c) Any payment or credit received by a business association 49
from a business association for tangible goods sold, or services 50
performed, in the course of business, including, but not limited 51
to, checks or memoranda, overpayments, unidentified remittances, 52
nonrefunded overcharges, discounts, refunds, and rebates; 53

(d) Any credit due a retail customer that is represented by a 54
gift certificate, gift card, merchandise credit, or merchandise 55
credit card, redeemable only for merchandise. 56

For purposes of divisions (B)(2)(b) and (c) of this section, 57
"business association" means any corporation, joint venture, 58
business trust, limited liability company, partnership, 59
association, or other business entity composed of one or more 60
individuals, whether or not the entity is for profit. 61

(C) "Owner" means any person, or the person's legal 62
representative, entitled to receive or having a legal or equitable 63
interest in or claim against moneys, rights to moneys, or other 64
intangible property, subject to this chapter. 65

(D)(1) "Holder" means any person that has possession, 66
custody, or control of moneys, rights to moneys, or other 67
intangible property, or that is indebted to another, if any of the 68
following applies: 69

(a) Such person resides in this state; 70

(b) Such person is formed under the laws of this state; 71

(c) Such person is formed under the laws of the United States 72
and has an office or principal place of business in this state; 73

(d) The records of such person indicate that the last known 74
address of the owner of such moneys, rights to moneys, or other 75
intangible property is in this state; 76

(e) The records of such person do not indicate the last known 77
address of the owner of the moneys, rights to moneys, or other 78

intangible property and the entity originating or issuing the 79
moneys, rights to moneys, or other intangible property is this 80
state or any political subdivision of this state, or is 81
incorporated, organized, created, or otherwise located in this 82
state. Division (D)(1)(e) of this section applies to all moneys, 83
rights to moneys, or other intangible property that is in the 84
possession, custody, or control of such person on or after July 85
22, 1994, whether the moneys, rights to moneys, or other 86
intangible property becomes ~~unclaimed funds~~ property presumed
abandoned prior to or on or after that date. 88

(2) "Holder" does not mean any hospital granted tax-exempt 89
status under section 501(c)(3) of the Internal Revenue Code or any 90
hospital owned or operated by the state or by any political 91
subdivision. Any entity in order to be exempt from the definition 92
of "holder" pursuant to this division shall make a reasonable, 93
good-faith effort to contact the owner of the ~~unclaimed funds~~
property presumed abandoned. 95

(E) "Person" includes a natural person; corporation, whether 96
for profit or not for profit; copartnership; unincorporated 97
association or organization; public authority; estate; trust; two 98
or more persons having a joint or common interest; eleemosynary 99
organization; fraternal or cooperative association; other legal or 100
community entity; the United States government, including any 101
district, territory, possession, officer, agency, department, 102
authority, instrumentality, board, bureau, or court; or any state 103
or political subdivision thereof, including any officer, agency, 104
board, bureau, commission, division, department, authority, court, 105
or instrumentality. 106

(F) "Mortgage funds" means the mortgage insurance fund 107
created by section 122.561 of the Revised Code, and the housing 108
guarantee development fund created by division ~~(D)~~(A) of section 109
~~128.11~~ 175.11 of the Revised Code. 110

(G) "Lawful claims" means any vested right a holder of 111
~~unclaimed funds~~ property presumed abandoned has against the owner 112
of such ~~unclaimed funds~~ property. 113

(H) "Public utility" means any entity defined as such by 114
division (A) of section 745.01 or by section 4905.02 of the 115
Revised Code. 116

(I) "Deposit" means to place money in the custody of a 117
financial organization for the purpose of establishing an 118
income-bearing account by purchase or otherwise. 119

(J) "Income-bearing account" means a time or savings account, 120
whether or not evidenced by a certificate of deposit, or an 121
investment account through which investments are made solely in 122
obligations of the United States or its agencies or 123
instrumentalities or guaranteed as to principal and interest by 124
the United States or its agencies or instrumentalities, debt 125
securities rated as investment grade by at least two nationally 126
recognized rating services, debt securities which the director of 127
commerce has determined to have been issued for the safety and 128
welfare of the residents of this state, and equity interests in 129
mutual funds that invest solely in some or all of the above-listed 130
securities and involve no general liability, without regard to 131
whether income earned on such accounts, securities, or interests 132
is paid periodically or at the end of a term. 133

(K) "Director of commerce" may be read as the "division of 134
unclaimed funds" or the "superintendent of unclaimed funds." 135

Sec. 169.02. Subject to division (B) of section 169.01 of the 136
Revised Code, the following constitute ~~unclaimed funds~~ property 137
presumed abandoned: 138

(A) Except as provided in division (R) of this section, any 139
demand, savings, or matured time deposit account, or matured 140

certificate of deposit, together with any interest or dividend on 141
it, less any lawful claims, that is held or owed by a holder which 142
is a financial organization, unclaimed for a period of five years; 143

(B) Any funds paid toward the purchase of withdrawable shares 144
or other interest in a financial organization, and any interest or 145
dividends on them, less any lawful claims, that is held or owed by 146
a holder which is a financial organization, unclaimed for a period 147
of five years; 148

(C) Except as provided in division (A) of section 3903.45 of 149
the Revised Code, moneys held or owed by a holder, including a 150
fraternal association, providing life insurance, including annuity 151
or endowment coverage, unclaimed for three years after becoming 152
payable as established from the records of such holder under any 153
life or endowment insurance policy or annuity contract that has 154
matured or terminated. An insurance policy, the proceeds of which 155
are payable on the death of the insured, not matured by proof of 156
death of the insured is deemed matured and the proceeds payable if 157
such policy was in force when the insured attained the limiting 158
age under the mortality table on which the reserve is based. 159

Moneys otherwise payable according to the records of such 160
holder are deemed payable although the policy or contract has not 161
been surrendered as required. 162

(D) Any deposit made to secure payment or any sum paid in 163
advance for utility services of a public utility and any amount 164
refundable from rates or charges collected by a public utility for 165
utility services held or owed by a holder, less any lawful claims, 166
that has remained unclaimed for one year after the termination of 167
the services for which the deposit or advance payment was made or 168
one year from the date the refund was payable, whichever is 169
earlier; 170

(E) Except as provided in division (R) of this section, any 171

certificates, securities as defined in section 1707.01 of the Revised Code, nonwithdrawable shares, other instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, and instruments representing an ownership interest, unclaimed for five years. Any underlying share or other intangible instrument representing an ownership interest in a business association, in which the issuer has recorded on its books the issuance of the share but has been unable to deliver the certificate to the shareholder, constitutes ~~unclaimed funds~~ property presumed abandoned if such underlying share is unclaimed for five years. In addition, an underlying share constitutes ~~unclaimed funds~~ property presumed abandoned if a dividend, distribution, or other sum payable as a result of the underlying share has remained unclaimed by the owner for five years.

This division shall not prejudice the rights of fiscal agents or fiduciaries for payment to return the items described in this division to their principals, according to the terms of an agency or fiduciary agreement, but such a return shall constitute the principal as the holder of the items and shall not interrupt the period for computing the time for which the items have remained unclaimed.

In the case of any such funds accruing and held or owed by a corporation under division (E) of section 1701.24 of the Revised Code, such corporation shall comply with this chapter, subject to the limitation contained in section 1701.34 of the Revised Code. The period of time for which such funds have gone unclaimed specified in section 1701.34 of the Revised Code shall be computed, with respect to dividends or distributions, commencing as of the dates when such dividends or distributions would have

been payable to the shareholder had such shareholder surrendered 204
the certificates for cancellation and exchange by the date 205
specified in the order relating to them. 206

Capital credits of a cooperative which after January 1, 1972, 207
have been allocated to members and which by agreement are 208
expressly required to be paid if claimed after death of the owner 209
are deemed payable, for the purpose of this chapter, fifteen years 210
after either the termination of service by the cooperative to the 211
owner or upon the nonactivity as provided in division (B) of 212
section 169.01 of the Revised Code, whichever occurs later, 213
provided that this provision does not apply if the payment is not 214
mandatory. 215

(F) Any sum payable on certified checks or other written 216
instruments certified or issued and representing funds held or 217
owed by a holder, less any lawful claims, that are unclaimed for 218
five years from the date payable or from the date of issuance if 219
payable on demand; except that the unclaimed period for money 220
orders that are not third party bank checks is seven years, and 221
the unclaimed period for traveler's checks is fifteen years, from 222
the date payable or from the date of issuance if payable on 223
demand. 224

As used in this division, "written instruments" include, but 225
are not limited to, certified checks, cashier's checks, bills of 226
exchange, letters of credit, drafts, money orders, and traveler's 227
checks. 228

If there is no address of record for the owner or other 229
person entitled to the funds, such address is presumed to be the 230
address where the instrument was certified or issued. 231

(G) Except as provided in division (R) of this section, all 232
moneys, rights to moneys, or other intangible property, arising 233
out of the business of engaging in the purchase or sale of 234

securities, or otherwise dealing in intangibles, less any lawful 235
claims, that are held or owed by a holder and are unclaimed for 236
five years from the date of transaction. 237

(H) Except as provided in division (A) of section 3903.45 of 238
the Revised Code, all moneys, rights to moneys, and other 239
intangible property distributable in the course of dissolution or 240
liquidation of a holder that are unclaimed for one year after the 241
date set by the holder for distribution; 242

(I) All moneys, rights to moneys, or other intangible 243
property removed from a safe-deposit box or other safekeeping 244
repository located in this state or removed from a safe-deposit 245
box or other safekeeping repository of a holder, on which the 246
lease or rental period has expired, or any amount arising from the 247
sale of such property, less any lawful claims, that are unclaimed 248
for three years from the date on which the lease or rental period 249
expired; 250

(J) Subject to division (M)(2) of this section, all moneys, 251
rights to moneys, or other intangible property, and any income or 252
increment on them, held or owed by a holder which is a fiduciary 253
for the benefit of another, or a fiduciary or custodian of a 254
qualified retirement plan or individual retirement arrangement 255
under section 401 or 408 of the Internal Revenue Code, unclaimed 256
for three years after the final date for distribution; 257

(K) All moneys, rights to moneys, or other intangible 258
property held or owed in this state or held for or owed to an 259
owner whose last known address is within this state, by the United 260
States government or any state, as those terms are described in 261
division (E) of section 169.01 of the Revised Code, unclaimed by 262
the owner for three years, excluding any property in the control 263
of any court in a proceeding in which a final adjudication has not 264
been made; 265

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| (L) Amounts payable pursuant to the terms of any policy of insurance, other than life insurance, or any refund available under such a policy, held or owed by any holder, unclaimed for three years from the date payable or distributable; | 266 267 268 269 |
| (M)(1) Subject to division (M)(2) of this section, any funds constituting rents or lease payments due, any deposit made to secure payment of rents or leases, or any sum paid in advance for rents, leases, possible damage to property, unused services, performance requirements, or any other purpose, held or owed by a holder unclaimed for one year; | 270 271 272 273 274 275 |
| (2) Any escrow funds, security deposits, or other moneys that are received by a licensed broker in a fiduciary capacity and that, pursuant to division (A)(26) of section 4735.18 of the Revised Code, are required to be deposited into and maintained in a special or trust, noninterest-bearing bank account separate and distinct from any personal or other account of the licensed broker, held or owed by the licensed broker unclaimed for two years. | 276 277 278 279 280 281 282 283 |
| (N) Any sum greater than fifty dollars payable as wages, any sum payable as salaries or commissions, any sum payable for services rendered, funds owed or held as royalties, oil and mineral proceeds, funds held for or owed to suppliers, and moneys owed under pension and profit-sharing plans, held or owed by any holder unclaimed for one year from date payable or distributable, and all other credits held or owed, or to be refunded to a retail customer, by any holder unclaimed for three years from date payable or distributable; | 284 285 286 287 288 289 290 291 292 |
| (O) Amounts held in respect of or represented by lay-aways sold after January 1, 1972, less any lawful claims, when such lay-aways are unclaimed for three years after the sale of them; | 293 294 295 |
| (P) All moneys, rights to moneys, and other intangible | 296 |

property not otherwise constituted as ~~unclaimed funds~~ property 297
presumed abandoned by this section, including any income or 298
increment on them, less any lawful claims, which are held or owed 299
by any holder, other than a holder which holds a permit issued 300
pursuant to Chapter 3769. of the Revised Code, and which have 301
remained unclaimed for three years after becoming payable or 302
distributable; 303

(Q) All moneys that arise out of a sale held pursuant to 304
section 5322.03 of the Revised Code, that are held by a holder for 305
delivery on demand to the appropriate person pursuant to division 306
(I) of that section, and that are unclaimed for two years after 307
the date of the sale. 308

(R)(1) Any funds that are subject to an agreement between the 309
holder and owner providing for automatic reinvestment and that 310
constitute dividends, distributions, or other sums held or owed by 311
a holder in connection with a security as defined in section 312
1707.01 of the Revised Code, an ownership interest in an 313
investment company registered under the "Investment Company Act of 314
1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or a certificate 315
of deposit, unclaimed for a period of five years. 316

(2) The five-year period under division (R)(1) of this 317
section commences from the date a second shareholder notification 318
or communication mailing to the owner of the funds is returned to 319
the holder as undeliverable by the United States postal service or 320
other carrier. The notification or communication mailing by the 321
holder shall be no less frequent than quarterly. 322

All moneys in a personal allowance account, as defined by 323
rules adopted by the director of job and family services, up to 324
and including the maximum resource limitation, of a medicaid 325
patient who has died after receiving care in a long-term care 326
facility, and for whom there is no identifiable heir or sponsor, 327
are not subject to this chapter. 328

Sec. 169.03. (A)(1) Every holder of ~~unclaimed funds~~ property 329
presumed abandoned and, when requested, every person that could be 330
the holder of ~~unclaimed funds~~ property presumed abandoned, under 331
this chapter shall report to the director of commerce with respect 332
to the ~~unclaimed funds~~ property presumed abandoned as provided in 333
this section. The report shall be verified. 334

(2) With respect to items of ~~unclaimed funds~~ property 335
presumed abandoned each having a value of fifty dollars or more, 336
the report required under division (A)(1) of this section shall 337
include the following: 338

(a) The full name, if known, and last known address, if any, 339
of each person appearing from the records of the holder to be the 340
owner of ~~unclaimed funds~~ property presumed abandoned under this 341
chapter; 342

(b) In the case of ~~unclaimed funds~~ property presumed 343
abandoned reported by holders providing life insurance coverage, 344
the full name of the insured or annuitant and beneficiary, if any, 345
and their last known addresses according to the holder's records; 346

(c) The nature and identifying number, if any, or description 347
of the ~~funds~~ property and the amount appearing from the records to 348
be due; 349

(d) The date when the ~~funds~~ property became payable, 350
demandable, or returnable and the date of the last transaction 351
with the owner with respect to the ~~funds~~ property; 352

(e) Subject to division (I) of this section, the social 353
security number of the owner of the ~~unclaimed funds~~ property 354
presumed abandoned, if it is available; 355

(f) If the item of ~~unclaimed funds~~ property presumed 356
abandoned has a value of one thousand dollars or more and the 357
holder has verified that the last known address as shown by the 358

records of the holder is not accurate as provided in division (D) 359
of this section, a statement that efforts were undertaken by the 360
holder to verify that the address is not accurate. Any verifying 361
documentation shall be maintained by the holder for five years 362
from the date of the report and shall be available upon request to 363
the director or the director's designee. 364

(g) Other information that the director prescribes as 365
necessary for the administration of this chapter. 366

(3) With respect to items of ~~unclaimed funds~~ property 367
presumed abandoned each having a value of less than fifty dollars, 368
the report required under division (A)(1) of this section shall 369
include the following: 370

(a) Each category of items of ~~unclaimed funds~~ property 371
presumed abandoned as described in section 169.02 of the Revised 372
Code; 373

(b) The number of items of ~~unclaimed funds~~ property presumed 374
abandoned within each category; 375

(c) The aggregated value of the items of ~~unclaimed funds~~ 376
property presumed abandoned within each category. 377

(B) If the holder of ~~unclaimed funds~~ property presumed 378
abandoned is a successor to other organizations that previously 379
held the funds for the owner, or if the holder has changed its 380
name while holding the ~~funds~~ property, it shall file with the 381
report all prior known names and addresses and date and state of 382
incorporation or formation of each holder of the ~~funds~~ property. 383

(C) The report shall be filed before the first day of 384
November of each year as of the preceding thirtieth day of June, 385
but the report of holders providing life insurance coverage shall 386
be filed before the first day of May of each year as of the 387
preceding thirty-first day of December. The director may postpone, 388
for good cause shown, the reporting date upon written request by 389

any holder required to file a report. 390

(D) The holder of ~~unclaimed funds~~ property presumed abandoned 391
under this chapter shall send notice to each owner of each item of 392
~~unclaimed funds~~ property presumed abandoned having a value of 393
fifty dollars or more at the last known address of the owner as 394
shown by the records of the holder before filing the annual 395
report. In case of holders providing life insurance coverage, this 396
notice shall also be mailed to each beneficiary at the last known 397
address of the beneficiary as shown by the records of the holder, 398
except that the notice to beneficiaries shall not be mailed if 399
that address is the same as that of the insured and the surname of 400
the beneficiary is the same as that of the insured. The holder 401
shall not report an item of ~~unclaimed funds~~ property presumed 402
abandoned earlier than the thirtieth day after the mailing of 403
notice required by this division. 404

The notice required by this division shall set forth the 405
nature and identifying number, if any, or description of the ~~funds~~ 406
property and the amount appearing on the records of the holder to 407
be due the owner or beneficiary, and shall inform the owner or 408
beneficiary that the ~~funds~~ property will, thirty days after the 409
mailing of the notice, be reported as ~~unclaimed funds~~ property 410
presumed abandoned under this chapter. A self-addressed, stamped 411
envelope shall be included with the notice, with instructions that 412
the owner or beneficiary may use the envelope to inform the holder 413
of the owner's or beneficiary's continued interest in the ~~funds~~ 414
property, and, if so informed before the date for making the 415
report to the director, the holder shall not report the ~~funds~~ 416
property to the director. The notice shall be mailed by first 417
class mail if the item of ~~unclaimed funds~~ property presumed 418
abandoned has a value of fifty dollars or more but less than one 419
thousand dollars and by certified mail, return receipt requested, 420
if the item of ~~unclaimed funds~~ property presumed abandoned has a 421

value of one thousand dollars or more, unless the holder has 422
verified that the last known address of the owner or beneficiary 423
as shown by the records of the holder is not accurate. For 424
purposes of this section, a holder has verified that the last 425
known address of the owner or beneficiary is not accurate by 426
documenting at least two of the following: 427

(1) The owner or beneficiary failed to respond to a first 428
class mail notice sent to the last known address of the owner or 429
beneficiary. 430

(2) A first class mail notice sent by the holder to the last 431
known address of the owner or beneficiary was returned as 432
undeliverable. 433

(3) An electronic or manual search of available public 434
records failed to confirm that the last known address of the owner 435
or beneficiary is accurate. The holder shall maintain 436
documentation of its search efforts. If a search of public records 437
or databases identifies a more recent address for the owner or 438
beneficiary than the address in the holder's records, the holder 439
shall send notice to the owner or beneficiary at that more recent 440
address in accordance with this section. 441

A holder that sends a notice by certified mail, return 442
receipt requested, may charge the item of ~~unclaimed funds~~ property 443
presumed abandoned up to twenty dollars for providing that notice. 444

If there is no address of record for the owner or 445
beneficiary, the holder is relieved of any responsibility of 446
sending notice, attempting to notify, or notifying the owner or 447
beneficiary. The mailing of notice pursuant to this section shall 448
discharge the holder from any further responsibility to give 449
notice. 450

(E) Verification of the report and of the mailing of notice, 451
where required, shall be executed by an officer of the reporting 452

holder. 453

(F)(1) The director may, at reasonable times and upon 454
reasonable notice, examine or cause to be examined, by auditors of 455
supervisory departments or divisions of the state, the records of 456
any holder to determine compliance with this chapter. 457

(2) Holders shall retain records, designated by the director 458
as applicable to ~~unclaimed funds~~ property presumed abandoned, for 459
five years beyond the relevant time period provided in section 460
169.02 of the Revised Code, or until completion of an audit 461
conducted pursuant to division (F) of this section, whichever 462
occurs first. An audit conducted pursuant to division (F) of this 463
section shall not require a holder to make records available for a 464
period of time exceeding the records retention period set forth in 465
division (F) of this section, except for records pertaining to 466
instruments evidencing ownership, or rights to them or funds paid 467
toward the purchase of them, or any dividend, capital credit, 468
profit, distribution, interest, or payment on principal or other 469
sum, held or owed by a holder, including ~~funds~~ property deposited 470
with a fiscal agent or fiduciary for payment of them, or 471
pertaining to debt of a publicly traded corporation. Any holder 472
that is audited pursuant to division (F) of this section shall 473
only be required to make available those records that are relevant 474
to an ~~unclaimed funds~~ audit of that holder as prescribed by the 475
director. 476

(3) The director may enter into contracts, pursuant to 477
procedures prescribed by the director, with persons for the sole 478
purpose of examining the records of holders, determining 479
compliance with this chapter, and collecting, taking possession 480
of, and remitting to the department's division of unclaimed funds, 481
in a timely manner, the amounts found and defined as unclaimed. 482
The director shall not enter into such a contract with a person 483
unless the person does all of the following: 484

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| (a) Agrees to maintain the confidentiality of the records examined, as required under division (F)(4) of this section; | 485 486 |
| (b) Agrees to conduct the audit in accordance with rules adopted under section 169.09 of the Revised Code; | 487 488 |
| (c) Obtains a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the director and in the penal sum determined by the director. The bond shall be for the benefit of any holder of unclaimed funds <u>property presumed abandoned</u> that is audited by the principal and is injured by the principal's failure to comply with division (F)(3)(a) or (b) of this section. | 489 490 491 492 493 494 495 |
| (4) Records audited pursuant to division (F) of this section are confidential, and shall not be disclosed except as required by section 169.06 of the Revised Code or as the director considers necessary in the proper administration of this chapter. | 496 497 498 499 |
| (5) If a person with whom the director has entered into a contract pursuant to division (F)(3) of this section intends to conduct, in conjunction with an unclaimed funds audit under this section, an unclaimed funds audit for the purpose of administering another state's unclaimed or abandoned property laws, the person, prior to commencing the audit, shall provide written notice to the director of the person's intent to conduct such an audit, along with documentation evidencing the person's express authorization from the other state to conduct the audit on behalf of that state. | 500 501 502 503 504 505 506 507 508 |
| (6) Prior to the commencement of an audit conducted pursuant to division (F) of this section, the director shall notify the holder of unclaimed funds <u>property presumed abandoned</u> of the director's intent to audit the holder's records. If the audit will be conducted in conjunction with an audit for one or more other states, the director shall provide the holder with the name or names of those states. | 509 510 511 512 513 514 515 |

(7) Any holder of ~~unclaimed funds~~ property presumed abandoned 516
may appeal the findings of an audit conducted pursuant to division 517
(F) of this section to the director. Pursuant to the authority 518
granted by section 169.09 of the Revised Code, the director shall 519
adopt rules establishing procedures for considering such an 520
appeal. 521

(G) All holders shall make sufficient investigation of their 522
records to ensure that the funds reported to the director are 523
unclaimed as set forth in division (B) of section 169.01 and 524
section 169.02 of the Revised Code. 525

(H) The expiration of any period of limitations on or after 526
March 1, 1968, within which a person entitled to any moneys, 527
rights to moneys, or intangible property could have commenced an 528
action or proceeding to obtain these items shall not prevent these 529
items from becoming ~~unclaimed funds~~ property presumed abandoned or 530
relieve the holder of them of any duty to report and give notice 531
as provided in this section and deliver them in the manner 532
provided in section 169.05 of the Revised Code, provided that the 533
holder may comply with this section and section 169.05 of the 534
Revised Code with respect to any moneys, rights to moneys, or 535
intangible property as to which the applicable statute of 536
limitations has run prior to March 1, 1968, and in that event the 537
holder shall be entitled to the protective provisions of section 538
169.07 of the Revised Code. 539

(I) No social security number contained in a report made 540
pursuant to this section shall be used by the department of 541
commerce for any purpose other than to enable the division of 542
unclaimed funds to carry out the purposes of this chapter and for 543
child support purposes in response to a request made by the office 544
of child support in the department of job and family services made 545
pursuant to section 3123.88 of the Revised Code. 546

Sec. 169.06. (A) Before the first day of November of each 547
year immediately following the calendar year in which the filing 548
of reports is required by section 169.03 of the Revised Code, the 549
director of commerce shall cause notice to be published once in an 550
English language newspaper of general circulation in the county in 551
this state in which is located the last known address of any 552
person to be named in the notice required by this section. If no 553
address is listed, the notice shall be published in the county in 554
which the holder of the ~~unclaimed funds~~ property presumed 555
abandoned has its principal place of business within this state; 556
or if the holder has no principal place of business within this 557
state, or if the owner's address is outside this state, 558
publication shall be made ~~as the director determines most~~ 559
effective on the department's internet web site for a period of 560
time the director may reasonably select. ~~If the address is outside~~ 561
~~this state, notice shall be published in a newspaper of general~~ 562
~~circulation in the county or parish of any state in the United~~ 563
~~States in which such last known address is located. If the last~~ 564
~~known address is in a foreign country, publication shall be made~~ 565
~~as the director determines most effective.~~ 566

If the name of the owner is not available, the director may 567
publish notice by class, identifying number, or as the director 568
determines most effective. 569

(B) The published notice shall be entitled "Notice of Names 570
of Persons Appearing to be Owners of ~~Unclaimed Funds~~ Property 571
Presumed Abandoned," and shall contain: 572

(1) The names in alphabetical order and last known addresses, 573
if any, of each person appearing from the records of the holder to 574
be the owner of ~~unclaimed funds~~ property presumed abandoned of a 575
value of fifty dollars or more and entitled to notice as specified 576
in division (A) of this section; 577

(2) A statement that information concerning the amount of the funds and any necessary information concerning the presentment of a claim therefor may be obtained by any persons possessing a property interest in the ~~unclaimed funds~~ property presumed abandoned by addressing an inquiry to the director.

(C) With respect to items of ~~unclaimed funds~~ property presumed abandoned each having a value of ~~ten~~ fifty dollars or more, the director shall have available in ~~his~~ the director's office during business hours an alphabetical list of owners and where a holder is a person providing life insurance coverage, beneficiaries, and their last known addresses, if any, whose funds are being held by the state pursuant to this chapter.

(D) The director may give any additional notice ~~he~~ the director deems necessary to inform the owner of the whereabouts of ~~his~~ the owner's funds.

Sec. 169.08. (A) Any person claiming a property interest in ~~unclaimed funds~~ property presumed abandoned delivered or reported to the state under Chapter 169. of the Revised Code, including the office of child support in the department of job and family services, pursuant to section 3123.88 of the Revised Code, may file a claim thereto on the form prescribed by the director of commerce.

(B) The director shall consider matters relevant to any claim filed under division (A) of this section and shall hold a formal hearing if requested or considered necessary and receive evidence concerning such claim. A finding and decision in writing on each claim filed shall be prepared, stating the substance of any evidence received or heard and the reasons for allowance or disallowance of the claim. The evidence and decision shall be a public record. No statute of limitations shall bar the allowance of a claim.

(C) For the purpose of conducting any hearing, the director
may require the attendance of such witnesses and the production of
such books, records, and papers as the director desires, and the
director may take the depositions of witnesses residing within or
without this state in the same manner as is prescribed by law for
the taking of depositions in civil actions in the court of common
pleas, and for that purpose the director may issue a subpoena for
any witness or a subpoena duces tecum to compel the production of
any books, records, or papers, directed to the sheriff of the
county where such witness resides or is found, which shall be
served and returned. The fees of the sheriff shall be the same as
that allowed in the court of common pleas in criminal cases.
Witnesses shall be paid the fees and mileage provided for under
section 119.094 of the Revised Code. Fees and mileage shall be
paid from the unclaimed funds trust fund.

(D) ~~Interest is not payable to claimants of unclaimed funds
held by the state~~ If a claim is allowed, the director shall pay
over or deliver to the claimant the property presumed abandoned in
the amount the director actually received, or the net proceeds if
the securities or other intangible property delivered to the
director have been sold, together with any interest if required to
be paid pursuant to this section. With respect to any claim paid
on or after the effective date of this amendment, the director
shall pay simple interest on such claim at a rate to be determined
by the director, who shall adopt administrative rules governing
the payment of interest on property delivered to the director. Any
returns on investment or interest earned beyond what the director
shall pay as interest to the owner pursuant to this section shall
be retained by the director to fund the cost of the administration
of this chapter. Claims shall be paid from the trust fund. If the
amount available in the trust fund is not sufficient to pay
pending claims, or other amounts disbursable from the trust fund,
the treasurer of state shall certify such fact to the director,

who shall then withdraw such amount of funds from the mortgage 642
accounts as the director determines necessary to reestablish the 643
trust fund to a level required to pay anticipated claims but not 644
more than ten per cent of the net unclaimed funds reported to 645
date. 646

The director may withdraw the funds paid to the director by 647
the holders and deposited by the director with the treasurer of 648
state or in a financial institution as agent for such funds. 649
Whenever these funds are inadequate to meet the requirements for 650
the trust fund, the director shall provide for a withdrawal of 651
funds, within a reasonable time, in such amount as is necessary to 652
meet the requirements, from financial institutions in which such 653
funds were retained or placed by a holder and from other holders 654
who have retained funds, in an equitable manner as prescribed by 655
the director. In the event that the amount to be withdrawn from 656
any one such holder is less than five hundred dollars, the amount 657
to be withdrawn shall be at the discretion of the director. Such 658
funds may be reimbursed in the amounts withdrawn when the trust 659
fund has a surplus over the amount required to pay anticipated 660
claims. Whenever the trust fund has a surplus over the amount 661
required to pay anticipated claims, the director may transfer such 662
surplus to the mortgage accounts. 663

(E) If a claim which is allowed under this section relates to 664
funds which have been retained by the reporting holder, and if the 665
funds, on deposit with the treasurer of state pursuant to this 666
chapter, are insufficient to pay claims, the director may notify 667
such holder in writing of the payment of the claim and such holder 668
shall immediately reimburse the state in the amount of such claim. 669
The reimbursement shall be credited to the unclaimed funds trust 670
fund. 671

(F) Any person, including the office of child support, 672
adversely affected by a decision of the director may appeal such 673

decision in the manner provided in Chapter 119. of the Revised Code. 674
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In the event the claimant prevails, the claimant shall be reimbursed for reasonable attorney's fees and costs. 676
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(G) Notwithstanding anything to the contrary in this chapter, any holder who has paid moneys to or entered into an agreement with the director pursuant to section 169.05 of the Revised Code on certified checks, cashiers' checks, bills of exchange, letters of credit, drafts, money orders, or travelers' checks, may make payment to any person entitled thereto, including the office of child support, and upon surrender of the document, except in the case of travelers' checks, and proof of such payment, the director shall reimburse the holder for such payment without interest. 678
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Sec. 169.13. (A)(1) All agreements to pay a fee, compensation, commission, or other remuneration to locate, deliver, recover, or assist in the recovery of unclaimed funds reported under section 169.03 of the Revised Code, entered into within two years immediately after the date a report is filed under division (C) of section 169.03 of the Revised Code, are invalid. 687
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(2) A person interested in entering into an agreement to locate, deliver, recover, or assist in the recovery of unclaimed funds for remuneration shall not initiate any contact with an owner during the two-year period immediately after the date a report is filed under division (C) of section 169.03 of the Revised Code. Failure to comply with this requirement is grounds for the invalidation of any such agreement between the person and the owner. 694
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(B) An agreement entered into any time after such two-year period is valid only if all of the following conditions are met: 702
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(1) The aggregate fee, compensation, commission, or other remuneration agreed upon is not in excess of ten per cent of the amount recovered and paid to the owner by the director of budget and management; 704
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(2) The agreement is in writing, signed by the owner, and notarized and discloses all of the following items: 708
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(a) The name, address, and telephone number of the owner, as shown by the records of the person or entity in possession of the unclaimed funds or contents of a safe deposit box; 710
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(b) The name, address, and telephone number of the owner if the owner's name, address, or telephone number are different from the name, address, or telephone number of the owner as shown by the records of the person or entity in possession of the unclaimed funds or contents of a safe deposit box; 713
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(c) The nature and value of the unclaimed funds or contents of a safe deposit box; 718
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(d) The amount the owner will receive after the fee or compensation has been subtracted; 720
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(e) The name and address of the person or entity in possession of the unclaimed funds or contents of a safe deposit box; 722
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(f) That the ~~auditor of state~~ director of commerce will ~~pay~~ the direct the director of budget and management to pay from the unclaimed funds any legal amount specified in the agreement to compensate a person registered under section 169.16 of the Revised Code for services performed pursuant to the agreement, will pay the amount directly to the registrant, less any fee established pursuant to division (D) of section 169.14 of the Revised Code, and will pay any remaining unclaimed funds directly to the owner, or the director of commerce shall deliver the contents of a safe deposit box directly to the owner; 725
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(g) That the person agreeing to locate, deliver, recover, or 735
assist in the recovery of the unclaimed funds or contents of a 736
safe deposit box is not an employee or agent of the director of 737
commerce; 738

(h) That the director of commerce is not a party to the 739
agreement; 740

(i) That the person agreeing to locate, deliver, recover, or 741
assist in the recovery of the unclaimed funds or contents of a 742
safe deposit box holds a valid certificate of registration issued 743
by the director under section 169.16 of the Revised Code; 744

(j) The number designated on that certificate of registration 745
and the date the certificate of registration expires. 746

(3) No agreement described in division (B)(2) of this section 747
shall include a power of attorney for the payment of the unclaimed 748
funds or delivery of the contents of a safe deposit box to any 749
person other than the owner of the unclaimed funds or contents of 750
a safe deposit box. 751

(4) If the agreement involves recovery of the contents of a 752
safe deposit box, the agreement stipulates that the person 753
receiving any fee, compensation, commission, or other remuneration 754
for engaging in any activity for the purpose of locating, 755
delivering, recovering, or assisting in the recovery of unclaimed 756
funds or other items stored in a safe deposit box on behalf of any 757
other person shall do all of the following: 758

(a) Make arrangements to have an appraiser and the director 759
of commerce view the contents of the safe deposit box together, at 760
a time mutually agreeable to the appraiser and director; 761

(b) State that the value of the property in the safe deposit 762
box is the amount established by the appraiser who viewed the safe 763
deposit box contents; 764

(c) Base the fee, compensation, commission, or other remuneration for locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on the appraised value established by the appraiser who viewed the safe deposit box contents.

(C) No person shall receive a fee, compensation, commission, or other remuneration, or engage in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or contents of a safe deposit box, under an agreement that is invalid under this section.

(D) A person who receives any fee, compensation, commission, or other remuneration for engaging in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on behalf of any other person cannot function as an appraiser of the contents of the safe deposit box for purposes of division (B)(4) of this section.

(E) The director of commerce shall not recognize or make any delivery and the ~~auditor of state~~ director of budget and management shall not make any payment pursuant to any power of attorney between an owner of the unclaimed funds or contents of a safe deposit box and the person with whom the owner entered into an agreement pursuant to division (B)(2) of this section to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box if that power of attorney is entered into on or after ~~the effective date of this amendment~~ March 23, 2007, and that power of attorney specifically provides for the payment of unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner of the unclaimed funds or contents of a safe deposit box. Nothing in this section shall be construed as prohibiting the payment of unclaimed funds or delivery of the contents of a safe deposit box

to the legal representative of the owner of the unclaimed funds or 797
contents of the safe deposit box. Notwithstanding the definition 798
of "owner" specified in division (C) of section 169.01 of the 799
Revised Code, for purposes of the payment of unclaimed funds or 800
delivery of the contents of the safe deposit box, a person with 801
whom an owner entered into an agreement under division (B)(2) of 802
this section is not a legal representative. 803

Sec. 169.14. (A) Each person that files a claim with the 804
director of commerce, pursuant to an agreement entered into under 805
division (B) of section 169.13 of the Revised Code, shall include 806
with that claim a copy of the agreement and the number designated 807
on the certificate of registration that is issued to the person 808
under section 169.16 of the Revised Code. 809

(B) The division of unclaimed funds shall not process any 810
claim described in division (A) of this section that does not 811
include the required certificate of registration number. 812

(C) The director of budget and management shall pay from the 813
unclaimed funds any legal amount specified in an agreement entered 814
into under division (B) of section 169.13 of the Revised Code to 815
compensate a person registered under section 169.16 of the Revised 816
Code for services performed pursuant to the agreement, shall pay 817
the amount directly to the registrant, less any fee established 818
pursuant to division (D) of this section, and shall pay any 819
remaining unclaimed funds directly to the owner. 820

(D) The director of commerce may establish a reasonable fee 821
for the processing and delivery of any payment made to a 822
registrant pursuant to an agreement under division (B) of section 823
169.13 of the Revised Code. 824

Sec. 169.16. (A) No person, on behalf of any other person, 825
shall engage in any activity for the purpose of locating, 826

delivering, recovering, or assisting in the recovery of ~~unclaimed~~ 827
~~funds~~ property presumed abandoned or contents of a safe deposit 828
box, and receive a fee, compensation, commission, or other 829
remuneration for such activity, without first having obtained a 830
certificate of registration from the director of commerce in 831
accordance with this section. 832

(B) An application for a certificate of registration shall be 833
in writing and in the form prescribed by the director. The 834
application shall be accompanied by a recent full-face color 835
photograph of the applicant and notarized character reference 836
letters from two reputable character witnesses. The application 837
shall, at a minimum, provide all of the following: 838

(1) The applicant's full name, home address, and work 839
address; 840

(2) The name, address, and telephone number of the two 841
character witnesses who have provided the character reference 842
letters; 843

(3) A statement that the applicant has not, during the 844
ten-year period immediately preceding the submission of the 845
application, violated division (A) of this section on or after the 846
effective date of this section, or division (C) of section 169.13 847
of the Revised Code, or been convicted of, or pleaded guilty to, 848
any felony or any offense involving moral turpitude, including 849
theft, attempted theft, falsification, tampering with records, 850
securing writings by deception, fraud, forgery, and perjury; 851

(4) The notarized signature of the applicant immediately 852
following an acknowledgment that any false or perjured statement 853
subjects the applicant to criminal liability under section 2921.13 854
of the Revised Code. 855

(C) Upon the filing of the application with the division of 856
unclaimed funds, the division may investigate the applicant to 857

verify the information provided in the application and to 858
determine the applicant's eligibility for a certificate of 859
registration under this section. The superintendent of unclaimed 860
funds shall request the superintendent of the bureau of criminal 861
identification and investigation, or a vendor approved by the 862
bureau, to conduct a criminal records check based on the 863
applicant's fingerprints in accordance with division (A)(11) of 864
section 109.572 of the Revised Code. Notwithstanding division (K) 865
of section 121.08 of the Revised Code, the superintendent of 866
unclaimed funds shall request that criminal record information 867
from the federal bureau of investigation be obtained as part of 868
the criminal records check. Any fee required under division (C)(3) 869
of section 109.572 of the Revised Code shall be paid by the 870
applicant. False information on an application is grounds for the 871
denial or revocation of the applicant's certificate of 872
registration. 873

(D) The director shall issue a certificate of registration to 874
an applicant if the director finds that the following conditions 875
are met: 876

(1) The applicant has not, during the ten-year period 877
immediately preceding the submission of the application, violated 878
division (A) of this section on or after the effective date of 879
this section, or division (C) of section 169.13 of the Revised 880
Code, or been convicted of, or pleaded guilty to, any felony or 881
any offense involving moral turpitude, including theft, attempted 882
theft, falsification, tampering with records, securing writings by 883
deception, fraud, forgery, and perjury. 884

(2) The applicant's character and general fitness command the 885
confidence of the public and warrant the belief that the 886
applicant's business will be conducted honestly and fairly. 887

(E) The certificate of registration issued pursuant to 888
division (D) of this section may be renewed annually if the 889

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| director finds that the following conditions are met: | 890 |
| (1) The applicant submits a renewal application form prescribed by the director. | 891 892 |
| (2) The applicant meets the conditions set forth in division (D) of this section. | 893 894 |
| (3) The applicant's certificate of registration is not subject to an order of revocation by the director. | 895 896 |
| Section 2. That existing sections 169.01, 169.02, 169.03, 169.06, 169.08, 169.13, 169.14, and 169.16 of the Revised Code are hereby repealed. | 897 898 899 |
| Section 3. Section 169.13 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 699 and Am. Sub. S.B. 223 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act. | 900 901 902 903 904 905 906 907 908 |