House Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 119

HOUSE BILL 2111

AN ACT

AMENDING SECTION 44-302, ARIZONA REVISED STATUTES; RELATING TO PRESUMPTIONS OF ABANDONMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 44-302, Arizona Revised Statutes, is amended to read:

44-302. Presumptions of abandonment

A. Property is presumed abandoned if it is unclaimed by the apparent owner according to the following schedule:

1. A traveler's check is presumed abandoned ~~three~~ FIFTEEN years after issuance.

2. A money order or similar written instrument, other than a third party bank check, is presumed abandoned three years after issuance.

3. Any stock or other equity interest in a business association or financial organization, including a security entitlement under title 47, chapter 8, is presumed abandoned two years after any of the following, whichever occurs first:

(a) The date of the most recent dividend, stock split or other distribution that is unclaimed by the apparent owner.

(b) The date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable.

(c) The date the holder discontinued mailings, notifications or communications to the apparent owner.

4. The principal on debt, other than a bearer bond or an original issue discount bond, of a business association or financial organization is presumed abandoned two years after the maturity date and the interest on the debt is presumed abandoned two years after the payment date.

5. A demand, savings or time deposit, including a deposit that is automatically renewable, and any interest or dividends are presumed abandoned three years after maturity or the date of the last indication by the owner of interest in the property, whichever occurs first. For the purposes of this paragraph, a deposit that is automatically renewable is deemed matured on its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by any memorandum or other record on file with the holder.

6. Credits owed to a customer as a result of a retail business transaction are presumed abandoned three years after the obligation accrued.

7. An amount owed by an insurance company on a life or endowment insurance policy or an annuity that has matured or terminated is presumed abandoned three years after the obligation to pay arose or, in the case of a policy or annuity that is payable on proof of death, the amount is presumed abandoned one year after the insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based. For the purposes of this paragraph, all of the following conditions apply:

(a) If a person other than the insured or annuitant is entitled to the owed amount and the person's address is not known to the company or it is not definite and certain from the records of the company who is entitled to the

amount, it is presumed that the last known address of the person who is entitled to the amount is the same as the last known address of the insured or annuitant according to the company's records.

(b) Notwithstanding any law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(c) Every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state shall request the following information:

(i) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class.

(ii) The address of each beneficiary.

(iii) The relationship of each beneficiary to the insured.

8. A life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the company's records is deemed matured and the proceeds are deemed due and payable and are presumed abandoned after one year if all of the following conditions apply:

(a) The insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based.

(b) The policy was in force at the time the insured attained or would have attained the limiting age specified in subdivision (a) of this paragraph.

(c) Neither the insured nor any other person who appears to have an interest in the policy within the last year according to the company's records has assigned, readjusted or paid premiums on the policy or subjected the policy to a loan, corresponded in writing with the company concerning the policy or otherwise indicated an interest as evidenced by a memorandum or any other record on file with and prepared by an employee of the company.

9. Property that is distributable by a business association or financial organization in a course of dissolution is presumed abandoned one year after the property becomes distributable.

10. Property that is received by a court as proceeds of a class action and that is not distributed pursuant to the judgment is presumed abandoned one year after the distribution date.

11. Property that is held by a court, government or governmental subdivision, agency or instrumentality, except for support as defined in section 25-500 or for spousal maintenance, is presumed abandoned two years after the property becomes distributable. Monies held for the payment of warrants by a state agency that remain unclaimed by the owner at the time of the void date printed on the face of the warrant are presumed abandoned. For

the purposes of this paragraph, governmental subdivision does not include a special taxing district as defined in section 48-241.

12. Wages or other compensation for personal services is presumed abandoned one year after the compensation becomes payable.

13. Property in any individual retirement account, defined benefit plan or other account or plan that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned two years after any of the following, whichever occurs first:

(a) The date of the distribution or attempted distribution of the property.

(b) The date of the required distribution as stated in the plan or trust agreement that governs the plan.

(c) If determinable by the holder, the date specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty.

14. Any amount that is payable on a check, draft or similar instrument on which a financial organization or business association is directly liable, including a cashier's check and a certified check, and that has been outstanding for more than three years after the check, draft or similar instrument was payable or after issuance if payable on demand is presumed abandoned unless within three years the owner has communicated in writing with the financial organization or business association concerning the check, draft or similar instrument or otherwise indicated an interest as evidenced by a memorandum or any other record on file and prepared by an employee of the financial organization or business association.

15. All other property is presumed abandoned three years after the owner's rights to demand the property or after the obligation to pay or distribute the property arises, whichever occurs first.

16. Excess proceeds deposited with the county treasurer pursuant to section 33-812 are presumed abandoned if the monies remain with the treasurer for at least two years from the date of deposit and there is no pending application for distribution.

17. Any dividend, profit, distribution, interest, redemption, payment on principal or other sum held or owing by a business association for or to its shareholder, certificate holder, member, bondholder or other security holder who has not claimed it, or corresponded in writing with the business association concerning it, is presumed abandoned two years after the date prescribed for payment or delivery.

B. At the time that an interest is presumed abandoned under subsection A of this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

C. Property is unclaimed if, for the applicable period prescribed in subsection A of this section, the apparent owner has not communicated in writing with the holder or communicated by other means reflected in a

contemporaneous record that is prepared by or on behalf of the holder and that concerns the property or the account or accounts in which the property is held and has not otherwise indicated an interest in the property and if the holder has not communicated in writing with regard to the property that would otherwise be unclaimed. A communication with an owner by a person other than the holder or the holder's representative who has not identified the property in writing to the owner is not an indication of interest in the property by the owner.

D. An indication of an owner's interest in property includes:

1. The presentment of any check or other instrument of payment of any dividend or other distribution that is made with respect to any account, underlying stock or other interest in a business association or financial organization. If the distribution is made by electronic or similar means an indication of an owner's interest includes evidence that the distribution has been received.

2. Activity directed by the owner in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account.

3. The making of a deposit to or withdrawal from a bank account.

4. The payment of a premium with respect to a property interest in an insurance policy. The application of an automatic premium loan provision or any other nonforfeiture provision in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or if the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

E. Property is payable or distributable notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.

Passed the House February 16, 2010

by the following vote: 58 Ayes,

0 Nays, 1 Not Voting

1 vacancy

Speaker of the House

Pro Tempore

Cheryl Lande

Chief Clerk of the House

Passed the Senate April 19, 2010

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 2010

at 4:40 o'clock P. M.

Secretary to the Governor

Approved this 23rd day of

April

at 4:29 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 26th day of April, 2010

at 12:30 o'clock P M.

Secretary of State

H.B. 2111