

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 217

HOUSE BILL 2023

AN ACT

AMENDING SECTION 44-302, ARIZONA REVISED STATUTES; RELATING TO UNCLAIMED PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 44-302. Presumptions of abandonment

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

7 1. A traveler's check is presumed abandoned fifteen years after
8 issuance.

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

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

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

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

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

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

25 5. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, a demand, savings
26 or time deposit, including a deposit that is automatically renewable, and any
27 interest or dividends are presumed abandoned three years after maturity or
28 the date of the last indication by the owner of interest in the property,
29 whichever occurs first. A CERTIFICATE OF DEPOSIT AND ANY INTEREST ARE
30 PRESUMED ABANDONED THREE YEARS AFTER MATURITY. For the purposes of this
31 paragraph, a deposit that is automatically renewable is deemed matured on its
32 initial date of maturity, unless the owner has consented to a renewal at THE
33 TIME OF THE ACCOUNT OPENING or about the time of the renewal and the consent
34 is in writing or is evidenced by THE ORIGINAL ACCOUNT AGREEMENT OR BY any
35 memorandum or other record on file with the holder.

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

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

1 (a) If a person other than the insured or annuitant is entitled to the
2 owed amount and the person's address is not known to the company or it is not
3 definite and certain from the records of the company who is entitled to the
4 amount, it is presumed that the last known address of the person who is
5 entitled to the amount is the same as the last known address of the insured
6 or annuitant according to the company's records.

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

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

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

17 (ii) The address of each beneficiary.

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

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

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

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

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

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

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

42 11. Property that is held by a court, government or governmental
43 subdivision, agency or instrumentality, except for support as defined in
44 section 25-500 or for spousal maintenance, is presumed abandoned two years
45 after the property becomes distributable. Monies held for the payment of

1 warrants by a state agency that remain unclaimed by the owner at the time of
2 the void date printed on the face of the warrant are presumed abandoned. For
3 the purposes of this paragraph, governmental subdivision does not include a
4 special taxing district as defined in section 48-241.

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

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

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

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

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

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

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

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

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

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

1 C. Property is unclaimed if, for the applicable period prescribed in
2 subsection A of this section, the apparent owner has not communicated in
3 writing with the holder or communicated by other means reflected in a
4 contemporaneous record that is prepared by or on behalf of the holder and
5 that concerns the property or the account or accounts in which the property
6 is held and has not otherwise indicated an interest in the property and if
7 the holder has not communicated in writing with regard to the property that
8 would otherwise be unclaimed. A communication with an owner by a person
9 other than the holder or the holder's representative who has not identified
10 the property in writing to the owner is not an indication of interest in the
11 property by the owner.

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

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

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

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

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

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

APPROVED BY THE GOVERNOR APRIL 10, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2012.

Passed the House January 26, 2012

by the following vote: 55 Ayes,

0 Nays, 4 Not Voting
1 vacant

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate March 27, 2012

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2023

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 5, 2012,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting



Speaker of the House



Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5 day of April, 2012,

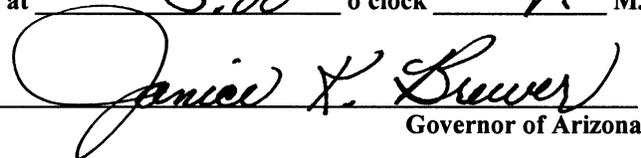
at 1 o'clock P M.


Secretary to the Governor

Approved this 10th day of

April, 2012

at 5:00 o'clock P M.

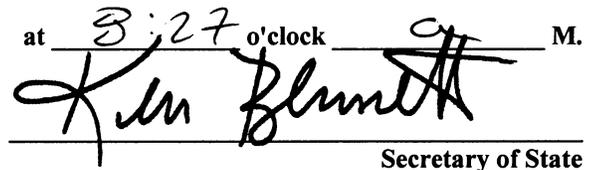

Governor of Arizona

H.B. 2023

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 11th day of April, 2012,

at 3:27 o'clock ca M.


Secretary of State