

**2001 BILL**

*Revisions  
per Treasurer's  
Office*

1 AN ACT *to repeal* 863.37 (2) (b) and 863.39 (3) (b); *to renumber and amend*  
2 177.10 (5) and 863.37 (2) (a); *to amend* 177.06 (3) (b), 177.12 (1), 177.17 (4) (a)  
3 1., 177.22 (1), 177.22 (4), 177.23 (1), 177.34 (1) to (3), 852.01 (3) and 863.39 (3)  
4 (a); *to repeal and recreate* 177.10 (1) to (3); and *to create* 177.10 (5) (a) and  
5 (b) and 863.39 (3) (bm) of the statutes; **relating to:** abandoned property  
6 reporting requirements; reporting and delivery of abandoned stock, intangible  
7 business interests, and intangible property to the state treasurer; the sale of  
8 abandoned property; and creating a procedure for claiming certain escheated  
9 funds.

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*Analysis by the Legislative Reference Bureau*

***Uniform Unclaimed Property Act***

Under Wisconsin's version of the Uniform Unclaimed Property Act (UUPA), certain types of property are presumed to be abandoned if the owner of the property fails to take steps to evidence ownership within a specified time period (dormancy period). For example, a stock or other intangible ownership interest in a business association is generally presumed to be abandoned if the business association pays out at least five dividends or other sums as a result of the ownership interest during

**BILL**

a five-year period and the dividends or sums are unclaimed by the owner. Current law, however, does not contain a presumption of abandonment applicable to stocks or ownership interests that do not pay dividends or other sums.

With certain limited exceptions, the holder of property that is presumed to be abandoned must report and deliver the property to the state treasurer (treasurer) before November 1 of each year. The report must cover the previous calendar year. Before July 1 of each year, the treasurer must publish a list containing the names of persons appearing to be owners of abandoned property. With certain limited exceptions, the treasurer must sell the property within three years after the date on which the treasurer receives the property. If the property is a security other than a stock (for example, a stock option or an interest in a limited partnership), the treasurer must hold the security for at least one year before selling it, unless it is in the best interest of the state to do otherwise. With certain limited exceptions, the treasurer currently deposits the clear proceeds of the sale of delivered property in the school fund.

Persons claiming an interest in any abandoned or unclaimed property delivered to the treasurer may file a claim with the treasurer to obtain the property. If a claim is allowed, the treasurer generally must deliver the property to the claimant or pay the claimant the amount the treasurer actually received or the net proceeds of the sale of the property, plus certain amounts for dividends or interest accruing to the property.

This bill shortens to three years the dormancy period that applies to a stock or other intangible ownership interest in a business association and changes certain other criteria for determining whether these items of property are presumed to be abandoned. Under this bill, a stock or other ownership interest is presumed abandoned if the owner, for more than three years, fails to claim a dividend, distribution, or other sum payable as a result of the interest and if the business association does not know the location of the owner at the end of this three-year period. The bill also creates a presumption of abandonment applicable to stock and other ownership interests that do not pay dividends or other sums. Thus, under the bill, these ownership interests are presumed abandoned if the owner, for more than three years, fails to communicate with the business association regarding the ownership interest and if the business association does not know the location of the owner at the end of this three-year period. The return of official shareholder notifications or communications by the U.S. postal service as undeliverable is evidence under the bill that the business association does not know the location of the owner. This bill also creates a new presumption of abandonment applicable to a stock or other ownership interest that is enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the ownership interest. Under this bill, these ownership interests are presumed abandoned if more than three years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the U.S. postal service as undeliverable, and if, during this three-year period, the owner has failed to claim a

**BILL**

dividend, distribution, or other sum payable as a result of the ownership interest or communicate with the association regarding the ownership interest.

In addition, this bill changes the requirement that a public sale of abandoned property be held every three years so that the sale must be held every five years (or more frequently, in the discretion of the treasurer). This bill changes the abandoned property reporting requirements so that the required annual report covers the fiscal year (July 1 to June 30) rather than the calendar year (January 1 to December 31). This bill also grants the treasurer discretion to require a person who fails to timely pay or deliver abandoned property to forfeit interest at the annual rate of 18%. Current law requires the person to pay this interest.

***Escheated property***

Under current law, if there are no heirs of a decedent in an intestate estate (an estate in which the decedent did not leave a will), or if a legacy or distributive share in an estate cannot be paid to the distributee or is not claimed by the distributee within 120 days after entry of the final judgment, the property escheats to the state and is paid or delivered to the treasurer. The treasurer must publish notice at least annually in the official state newspaper with such information as the name of the decedent, the time and place of death, the amount paid to the treasurer, and how a person may make a claim against the escheated property. Within ten years after the notice is published, a person may make a claim against the escheated property by filing a petition with the probate court that settled the estate and by sending copies of the petition to DOR and the attorney general. If the person establishes his or her claim in a court hearing, the court certifies the claim to DOA, which audits the claim; issues an order for any death tax due; and issues an order distributing the estate. The treasurer pays the claim.

The bill changes this procedure somewhat. A person filing a petition with the probate court must send a copy of the petition to the treasurer, instead of to DOR; the court is no longer required to certify a claim to DOA, which is no longer required to audit claims; and the court is no longer required to issue an order for any death tax due.

The bill also provides a new, optional procedure for making a claim against escheated property. The new procedure is similar to a procedure under current law for claiming abandoned property by filing a claim with the treasurer, except that under the new procedure the value of the claimed escheated property may not exceed \$5,000. Rather than filing a petition with the probate court, a person claiming escheated property of \$5,000 or less may, within ten years after publication by the treasurer of notice regarding the estate and the escheated property, file a claim with the treasurer, who must consider the claim within 90 days after filing. If the treasurer allows the claim, the treasurer must provide written notice to and obtain the written consent of the attorney general and file written notice of the allowed claim, as well as the written consent of the attorney general, with the probate court that settled the estate. After the necessary filings, the probate court must issue an order requiring the treasurer to pay the claim. If the treasurer does not act on a claim within 90 days after the claim is filed, or if the treasurer disallows a claim, the person

**BILL**

filing the claim may file an action in the probate court that settled the estate to establish the claim.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

INSERT "B"

1 SECTION 1. 177.06 (3) (b) of the statutes, as affected by 2001 Wisconsin Act 16,  
2 is amended to read:

3 177.06 (3) (b) Assess a service charge after ~~December 31~~ June 30 of the calendar  
4 year covered in in which the report concerning that property is required to be filed  
5 under s. 177.17 ~~concerning that property.~~

INSERT "C"

6 SECTION 2. 177.10 (1) to (3) of the statutes, as affected by 2001 Wisconsin Act  
7 16, are repealed and recreated to read:

8 177.10 (1) Except as provided under sub. (5), a stock, shareholding, or other  
9 intangible ownership interest in a business association is presumed abandoned if all  
10 of the following apply:

11 (a) The interest in the association is owned by a person who for more than 3  
12 years has failed to claim a dividend, distribution, or other sum payable as a result  
13 of the interest or, as evidenced by a memorandum or other record on file with the  
14 association prepared by an employee of the association, to communicate with the  
15 association regarding the interest or a dividend, distribution, or other sum payable  
16 as a result of the interest.

17 (b) The association does not know the location of the owner at the end of the  
18 3-year period under par. (a). The return of official shareholder notifications or  
19 communications by the U.S. postal service as undeliverable is evidence that the  
20 association does not know the location of the owner.

See "A" attached

**BILL**

1           **(2)** This section applies to all of the following:

2           (a) The underlying stock, shareholdings, or other intangible ownership  
3 interests of an owner.

4           (b) Any stock, shareholdings, or other intangible ownership interest of an  
5 owner when the business association is in possession of the certificate or other  
6 evidence of ownership.

7           (c) The stock, shareholdings, or other intangible ownership interests of  
8 dividend-paying business associations and business associations that do not pay  
9 dividends, whether or not the interest is represented by a certificate.

*See "A" attached*

10           **(3)** The business association is the holder of any property presumed abandoned  
11 under this section.

12           ~~**SECTION 3.** 177.10 (5) of the statutes, as affected by 2001 Wisconsin Act 16, is  
13 renumbered 177.10 (5) (intro.) and amended to read:~~

14           ~~177.10 (5) (intro.) This chapter section does not apply to any stock or other  
15 intangible ownership interest enrolled in a plan that provides for the automatic  
16 reinvestment of dividends, distributions, or other sums payable as a result of the  
17 interest unless the records available to the administrator of the plan show, with  
18 respect to any intangible ownership interest not enrolled in the reinvestment plan,  
19 that the owner has not within 5 years communicated in any manner specified under  
20 sub. (1). any of the following apply:~~

21           **SECTION 4.** 177.10 (5) (a) and (b) of the statutes are created to read:

22           177.10 (5) (a) The records available to the person administering the plan show,  
23 with respect to any intangible ownership interest owned by the same person but not  
24 enrolled in the plan, that for more than 3 years the owner has failed to claim a

**BILL**

1 dividend, distribution, or other sum payable as a result of the interest as provided  
2 under sub. (1) (a) or communicate with the association as provided under sub. (1) (a).

3 (b) Except as otherwise provided in this paragraph, more than 3 years have  
4 elapsed since the location of the owner became unknown to the association, as  
5 evidenced by the return of official shareholder notifications or communications by  
6 the U.S. postal service as undeliverable, and, during this 3-year period, the owner  
7 has failed to claim a dividend, distribution, or other sum payable as a result of the  
8 interest as provided under sub. (1) (a) or communicate with the association as  
9 provided under sub. (1) (a). The 3-year period from the return of official shareholder  
10 notifications or communications begins at the earlier of the return of the second of  
11 those notifications or communications or the date on which the holder discontinues  
12 mailings to the owner.

13 **SECTION 5.** 177.12 (1) of the statutes is amended to read:

14 177.12 (1) Intangible property and any income or increment derived from it  
15 held in a fiduciary capacity for the benefit of another person is presumed abandoned  
16 unless the owner, within ~~5~~ 3 years after it has become payable or distributable, has  
17 increased or decreased the principal, accepted payment of principal or income,  
18 communicated concerning the property or otherwise indicated an interest as  
19 evidenced by a memorandum or other record on file prepared by the fiduciary.

20 **SECTION 6.** 177.17 (4) (a) 1. of the statutes, as affected by 2001 Wisconsin Act  
21 16, is amended to read:

22 177.17 (4) (a) 1. Before November 1 of each year, each holder shall file a report  
23 covering the ~~previous calendar year~~ 12 months preceding July 1 of that year. On  
24 written request by any person required to file a report, the administrator may extend  
25 the deadline established in this paragraph.

**BILL**

1           SECTION 7. 177.22 (1) of the statutes, as affected by 2001 Wisconsin Act 16, is  
2 amended to read:

3           177.22 (1) Except as provided in subs. (2) and (4), the administrator, ~~within 3~~  
4 ~~years after the receipt of abandoned property,~~ shall sell it abandoned property  
5 delivered to the administrator under s. 177.06 (4) and 177.17 (4) (a) 2. to the highest  
6 bidder at public sale in the city, village or town in this state which, in the judgment  
7 of the administrator, affords the most favorable market for the property. The sale  
8 shall be held whenever the administrator deems appropriate, but at least once every  
9 5 years. The administrator may decline the highest bid and reoffer the property for  
10 sale if, in his or her judgment, the bid is insufficient. If the administrator determines  
11 that the probable cost of sale exceeds the value of the property. it need not be offered  
12 for sale. Any sale held under this section shall be preceded by the publication of one  
13 notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in  
14 the county in which the property is to be sold.

15           SECTION 8. 177.22 (4) of the statutes, as affected by 2001 Wisconsin Act 16, is  
16 amended to read:

17           177.22 (4) Unless the administrator determines that it is in the best interest  
18 of this state to do otherwise, he or she shall hold all securities for at least one year  
19 before selling them. No person has any claim under this chapter against ~~this state,~~  
20 the holder, any transfer agent, registrar or other person acting for or on behalf of a  
21 holder for any appreciation in the value of the property securities occurring after  
22 delivery by the date on which the holder delivers the securities to the administrator  
23 in good faith. No person has any claim under this chapter against this state for any  
24 appreciation in the value of the securities occurring after the date on which the  
25 holder delivers the securities to the administrator. *except as provided*

*out*

*Under § 177.21,*

**BILL**

1           **SECTION 9.** 177.23 (1) of the statutes is amended to read:

2           177.23 (1) Except as provided in sub. (2), the administrator shall deposit in the  
3 school fund all funds received under this chapter, including the clear proceeds from  
4 the sale of abandoned property under s. 177.22. Before making the deposit, the  
5 administrator shall record the name and last-known address of each person  
6 appearing from the holders' reports to be entitled to the property and the name and  
7 last-known address of each insured person or annuitant and beneficiary and, with  
8 respect to each policy or contract listed in the report of an insurance company, its  
9 number, the name of the company and the amount due. The information recorded  
10 by the administrator under this subsection is not available for inspection or copying  
11 under s. 19.35 (1) until 24 12 months after payment or delivery of the property is due  
12 under s. ~~177.19 (1)~~ 177.17 (4) (a) 2.

13           **SECTION 10.** 177.34 (1) to (3) of the statutes are amended to read:

14           177.34 (1) A person who fails to pay or deliver property within the time  
15 prescribed by this chapter ~~shall pay the administrator~~ may be required to forfeit an  
16 amount of interest, calculated at the annual rate of 18%, on the property or value  
17 thereof from the date the property should have been paid or delivered.

18           (2) A person who wilfully fails to file a report or perform any other duty  
19 required under this chapter ~~is subject to a forfeiture of~~ may be required to forfeit not ✓  
20 less than \$100 for each day the report is withheld or the duty is not performed, but  
21 not more than \$5,000.

22           (3) A person who wilfully fails to pay or deliver property to the administrator  
23 as required under this chapter ~~is subject to a forfeiture~~ may be required to forfeit an  
24 amount equal to 25% of the value of the property that should have been paid or  
25 delivered.

**BILL**

1           **SECTION 11.** 852.01 (3) of the statutes is amended to read:

2           852.01 (3) ESCHEAT. If there are no heirs of the decedent under subs. (1) and  
3 (2), the net estate escheats to the state to be added to the capital of the school fund.  
4 Claims on amounts escheated to the state may be made under s. 863.39 (3) within  
5 10 years after the date of publication under s. 177.18 (2m). If a claimant resides  
6 outside the United States or its territories, the court may require the personal  
7 appearance of the claimant before the court.

8           **SECTION 12.** 863.37 (2) (a) of the statutes is renumbered 863.37 (2) and  
9 amended to read:

10           863.37 (2) Whenever payment of a legacy or a distributive share cannot be  
11 made to the person entitled to payment or it appears that the person may not receive  
12 or have the opportunity to obtain payment, the court may, on petition of a person  
13 interested or on its own motion, order that the funds be paid or delivered to the state  
14 treasurer for deposit as provided under s. 177.23. Claims on the funds may be made  
15 under s. 863.39 (3) within 10 years after the date of publication under s. 177.18 (2m).  
16 When a claimant to the funds resides outside the United States or its territories the  
17 court may require the personal appearance of the claimant before the court.

18           **SECTION 13.** 863.37 (2) (b) of the statutes is repealed.

19           **SECTION 14.** 863.39 (3) (a) of the statutes is amended to read:

20           863.39 (3) (a) Within 10 years after the date of publication under s. 177.18 (2m),  
21 any person claiming any amount deposited under sub. (1) or under s. 852.01 (3) or  
22 863.37 (2) may file in the probate court in which the estate was settled a petition  
23 alleging the basis of his or her claim. The court shall order a hearing upon the  
24 petition, and 20 days' notice of the hearing and a copy of the petition shall be given  
25 by the claimant to the ~~department of revenue~~ state treasurer and to the attorney

**BILL**

1 general, who may appear for the state at the hearing. If the claim is established it  
2 shall be allowed without interest, but including any increment which may have  
3 occurred on securities held, ~~and the court shall so certify to the department of~~  
4 ~~administration, which shall audit the claim.~~ The state treasurer shall pay the claim  
5 out of the appropriation under s. 20.585 (1) (j). ~~Before issuing the order distributing~~  
6 ~~the estate, the court shall issue an order determining the death tax due, if any.~~ If real  
7 property has been adjudged to escheat to the state under s. 852.01 (3) the probate  
8 court ~~which~~ that made the adjudication may adjudge at any time before title has been  
9 transferred from the state that the title shall be transferred to the proper owners  
10 under this subsection.

11 **SECTION 15.** 863.39 (3) (b) of the statutes is repealed.

12 **SECTION 16.** 863.39 (3) (bm) of the statutes is created to read:

13 863.39 (3) (bm) 1. Notwithstanding par. (a), any person claiming an amount  
14 deposited under sub. (1) or under s. 852.01 (3) or 863.37 (2) that does not exceed  
15 \$5,000 may, within 10 years after the date of publication under s. 177.18 (2m), file  
16 with the state treasurer a claim on a form prescribed by the state treasurer and  
17 verified by the claimant.

18 2. The state treasurer shall consider each claim within 90 days after it is filed  
19 and may refer any claim to the attorney general for an opinion. For each claim  
20 referred, the attorney general shall advise the state treasurer either to allow it or to  
21 deny it in whole or in part. The state treasurer shall give written notice to the  
22 claimant if the claim is denied in whole or in part. The notice shall be given by  
23 mailing it to the last address, if any, stated in the claim as the address of the claimant  
24 to which notices are to be sent. If no address for notices is stated in the claim, the  
25 notice shall be mailed to the last address, if any, stated in the claim as the address

**BILL**

1 of the claimant. No notice of denial need be given if the claim fails to state either the  
2 last address to which notices are to be sent or the address of the claimant.

3 3. If the state treasurer determines that the claim should be allowed, the state  
4 treasurer shall provide written notice to, and obtain the written consent of, the  
5 attorney general. The state treasurer shall file with the probate court in which the  
6 estate was settled written notice of the allowed claim, as well as the written consent  
7 of the attorney general. The probate court shall issue an order requiring the state  
8 treasurer to pay the claim. The state treasurer shall pay the claim, without interest  
9 but including any increment that may have occurred on securities held, out of the  
10 appropriation account under s. 20.585 (1) (j).

11 4. A person aggrieved by a decision of the state treasurer under this paragraph,  
12 or whose claim has not been acted upon by the state treasurer within 90 days after  
13 its filing under subd. 1., may bring an action to establish the claim in the probate  
14 court in which the estate was settled. The action shall be brought within 90 days  
15 after the decision of the state treasurer or within 180 days after the filing of the claim  
16 if the state treasurer has failed to act on it. If the person establishes the claim in the  
17 action, the court shall award the person costs and reasonable attorney fees against  
18 the state treasurer.

**SECTION 17. Nonstatutory provisions.**

19 (1) REPORT OF ABANDONED PROPERTY. Notwithstanding section 177.17 (4) (a) 1.  
20 of the statutes, as affected by this act, if this subsection takes effect after October 31,  
21 2001, the report due under section 177.17 (4) (a) 1. of the statutes, as affected by this  
22 act, by November 1, 2002, shall cover the period from January 1, 2000 to June 30,  
23 2002. If this subsection takes effect on or before October 31, 2001, the report due  
24

**BILL**

1 under section 177.17 (4) (a) 1. of the statutes, as affected by this act, by November  
2 1, 2001, shall cover the period from January 1, 2000 to June 30, 2001.

3 (END)

"A"

**(Draft Provision Extending Coverage to Non-Dividend Paying Companies/  
Dividend Reinvestment Plans; Substitute For 1981 Uniform Act Provision)**

8  
177.10

**Stock and other intangible interests in business associations, dividends and distributions from ownership interests in business associations**

(1) Any stock, shareholding, or other intangible ownership interest in a business association that is evidenced by records available to the association is considered abandoned if:

(a) the interest in the association is owned by a person who for more than [3] years has failed to:

- (i) ~~claim a dividend, distribution, or other sum payable as a result of the interest: or~~
- (ii) communicate with the association regarding the interest or a dividend, distribution, or other sum payable as the result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association; and

(b) the association does not know the location of the owner at the end of the [3] year period.

(2) The return of official shareholder notifications or communications by the postal service as undeliverable is evidence that the association does not know the location of the owner.

(3) This section applies to:

- (a) the underlying stock, shareholdings, or other intangible interests of an owner;
- (b) any stock, shareholdings, or other intangible ownership interest of an owner when the business association is in possession of the certificate or other evidence of ownership; and
- (c) the stock, shareholdings, or other intangible ownership interests of dividend and nondividend paying business associations whether or not the interest is represented by a certificate.

(4) At the time an interest is considered abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously considered abandoned, is considered abandoned.

(5) (a) This section does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless:

(i) ~~the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not communicated in any manner described in this section within [ ] years; or~~

*new* (ii) <sup>3</sup> [ ] years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner has not within those <sup>3</sup> [3] years communicated in any manner described in this section.

~~new~~ (b) The <sup>3</sup> [ ] year period from the return of official shareholder notifications or communications begins at the earlier of the return of the second of those notifications or communications or the time the holder discontinues mailings to the shareholder.

[ ] = state's particular abandonment period

~~add (b) if no charge to \$177.02~~

"B"

177.015 UNCLAIMED PROPERTY ACT

Miscellaneous  
checked - all  
statute

**177.015 Exemption.** Notwithstanding this chapter, a cooperative organized under ch. 185 may effect the forfeiture to the cooperative of unclaimed funds as provided in ss. 185.03 (10) and 185.75 (1).

History: 1985 a. 30, 332.

**177.02 Property presumed abandoned; general rule.**

(1) Except as otherwise provided in this chapter, all intangible property, including any income or increment derived from it, less any lawful charges, that is held, issued or owing in the ordinary course of a holder's business and that has remained unclaimed by the owner for more than 3 years after it became payable or distributable is presumed abandoned.

(2) Property is payable or distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

History: 1983 a. 408.

**177.03 General rules for taking custody of intangible unclaimed property.** Unless otherwise provided in this chapter or by another section of the statutes, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under ss. 177.02 and 177.05 to 177.165 are satisfied, and one of the following conditions is present:

(1) The last-known address, as shown on the records of the holder, of the apparent owner is in this state.

(2) The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last-known address of the person entitled to the property is in this state.

(3) (a) The records of the holder do not reflect the last-known address of the apparent owner; and

(b) Either of the following is established:

1. The last-known address of the person entitled to the property is in this state.

2. The holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of the last-known address of the apparent owner or other person entitled to the property.

(4) The last-known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of this state.

(5) The last-known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state.

(6) (a) The transaction out of which the property arose occurred in this state;

(b) Either of the following exists:

1. The last-known address of the apparent owner or other person entitled to the property is unknown

2. The last-known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property; and

(c) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

History: 1983 a. 408; 1987 a. 23.

**177.04 Travelers checks and money orders.** (1) Subject to sub. (4), any sum payable on a travelers check that has been outstanding for more than 15 years after its issuance is presumed abandoned unless the owner, within 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an

interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(2) Subject to sub. (4), any sum payable on a money order or similar written instrument, other than a 3rd party bank check, that has been outstanding for more than 7 years after its issuance is presumed abandoned unless the owner, within 7 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(3) A holder may not deduct from the amount of any travelers check, money order or similar written instrument any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the property pursuant to which the issuer may impose a charge and the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel them.

(4) No sum payable on a travelers check, money order or similar written instrument, other than a 3rd party bank check, described in subs. (1) and (2) may be subjected to the custody of this state as unclaimed property unless one of the following exists:

(a) The records of the issuer show that the travelers check, money order or similar written instrument was purchased in this state.

(b) The issuer has its principal place of business in this state and the records of the issuer do not show the state in which the travelers check, money order or similar written instrument was purchased.

(c) The issuer has its principal place of business in this state, the records of the issuer show the state in which the travelers check, money order or similar written instrument was purchased and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

(5) Notwithstanding any other provision of this chapter, sub. (4) applies to sums payable on travelers checks, money orders and similar written instruments presumed abandoned on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

History: 1983 a. 408.

**177.05 Checks, drafts and similar instruments issued or certified by banking and financial organizations.**

(1) Any sum payable on a check, draft or similar instrument, except those subject to s. 177.04, on which a banking or financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than 5 years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within 5 years, has communicated in writing with the banking or financial organization concerning it or has otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization.

(2) A holder may not deduct from the amount of any instrument subject to this section any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge, and the holder regularly imposes those charges and does not regularly reverse or otherwise cancel them.

History: 1983 a. 408.

**177.06 Bank deposits and funds in financial organizations.**

(1) Any demand, savings or matured time deposit with a banking or financial organization, including deposits that are automatically renewable, and any funds paid toward the purchase of a share, a mutual investment certificate or any other interest in a banking or financial organization is presumed abandoned unless the owner has, within 5 years, done one of the following:

(a) In the case of a deposit, increased or decreased the amount of the deposit or presented the passbook or other similar evidence of the deposit for the crediting of interest.

(b) Communicated in writing with the banking or financial organization concerning the property.

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization.

(d) Owned other property to which par. (a), (b) or (c) applies, and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent.

(e) Had another relationship with the banking or financial organization concerning which the owner has either:

1. Communicated in writing with the banking or financial organization.

2. Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

(1m) (a) On and after December 31, 1984, any correspondence in writing from a banking or financial organization to the owner, such as the mailing of a statement, report of interest paid or credited or other written advice relating to a deposit, means that the owner has indicated an interest in the deposit under sub. (1), if the correspondence is not returned to the banking or financial organization for nondelivery and if the banking or financial organization maintains a record of all such returned correspondence. If correspondence is returned, the deposit is presumed abandoned unless the owner has, within 5 years after the return, undertaken at least one of the activities specified in sub. (1) (a) to (e).

(b) This subsection does not apply to a deposit existing on December 31, 1984, until 5 years after that date or until one of the activities specified in sub. (1) (a) to (e) has occurred, whichever is earlier.

(2) For purposes of sub. (1), property includes interest and dividends.

(3) With respect to property described in sub. (1), a holder shall not do any of the following:

(a) Impose a charge during a period of dormancy or inactivity which exceeds the charge regularly imposed by that holder on that class of account, or cease payment of interest during such a period solely because of dormancy or inactivity.

(b) Assess a service charge after December 31 of the 2nd calendar year covered in the report filed under s. 177.17 concerning that property.

(4) Any property described in sub. (1) that is automatically renewable is matured for purposes of sub. (1) upon the expiration of its initial time period, or after one year if the initial period is less than one year, except that in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given or one year from the date of the last consent, whichever is longer. If, at the time provided for delivery in s. 177.19, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

History: 1983 a. 408; 1987 a. 399.

177.07 Funds owing under life insurance policies.

(1) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than 2 years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, ~~but property described in sub. (3) (h) is presumed abandoned if unclaimed for more than 2 years.~~

(2) If a person other than the insured or annuitant is entitled to the funds and no address of the person is known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last-known address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company.

(3) For purposes of this chapter, 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 records of the company is deemed matured and the proceeds due and payable under either of the following circumstances:

(a) The company knows that the insured or annuitant has died.

(b) 1. The insured has attained, or would have attained if he or she were living, the limiting age under the mortality table on which the reserve is based;

2. The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subd. 1.; and

3. Neither the insured nor any other person appearing to have an interest in the policy within the preceding 7 years, according to the records of the company, has assigned, readjusted or paid premiums on the policy, 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 other record on file prepared by an employee of the company.

(4) For purposes of this chapter, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under sub. (1) if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last-known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(6) If the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within 4 months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(7) Commencing December 31, 1986, 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 all of the following information with regard to direct beneficiaries:

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

(b) The address of each beneficiary.

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

History: 1983 a. 408; 1985 a. 135 s. 85.

177.08 Deposits held by utilities. A deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be fur-

3

5

**TODAY**  
**2001 BILL**

stays

**RUN**  
**NOTE**

*re-8*

1 **AN ACT to repeal** 863.37 (2) (b) and 863.39 (3) (b); **to renumber and amend**  
2 177.10 (5) and 863.37 (2) (a); **to amend** 177.06 (3) (b), 177.12 (1), 177.17 (4) (a)  
3 1., 177.22 (1), 177.22 (4), 177.23 (1), 177.34 (1) to (3), 852.01 (3) and 863.39 (3)  
4 (a); **to repeal and recreate** 177.10 (1) to (3); and **to create** 177.10 (5) (a) and  
5 (b) and 863.39 (3) (bm) of the statutes; **relating to:** abandoned property  
6 reporting requirements; reporting and delivery of abandoned stock, intangible  
7 business interests, and other intangible property to the state treasurer; the sale of  
8 abandoned property; and creating a procedure for claiming certain escheated  
9 funds.

*Analysis by the Legislative Reference Bureau*

**Uniform Unclaimed Property Act**

Under Wisconsin's version of the Uniform Unclaimed Property Act (UUPA), certain types of property are presumed to be abandoned if the owner of the property fails to take steps to evidence ownership within a specified time period (dormancy period). For example, a stock or other intangible ownership interest in a business association is generally presumed to be abandoned if the business association pays out at least five dividends or other sums as a result of the ownership interest during

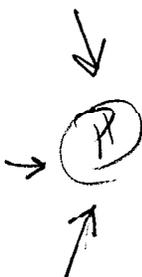
**BILL**

a five-year period and the dividends or sums are unclaimed by the owner. Current law, however, does not contain a presumption of abandonment applicable to stocks or ownership interests that do not pay dividends or other sums.

With certain limited exceptions, the holder of property that is presumed to be abandoned must report and deliver the property to the state treasurer (treasurer) before November 1 of each year. The report must cover the previous calendar year. Before July 1 of each year, the treasurer must publish a list containing the names of persons appearing to be owners of abandoned property. With certain limited exceptions, the treasurer must sell the property within three years after the date on which the treasurer receives the property. If the property is a security other than a stock (for example, a stock option or an interest in a limited partnership), the treasurer must hold the security for at least one year before selling it, unless it is in the best interest of the state to do otherwise. With certain limited exceptions, the treasurer currently deposits the clear proceeds of the sale of delivered property in the school fund.

Persons claiming an interest in any abandoned or unclaimed property delivered to the treasurer may file a claim with the treasurer to obtain the property. If a claim is allowed, the treasurer generally must deliver the property to the claimant or pay the claimant the amount the treasurer actually received or the net proceeds of the sale of the property, plus certain amounts for dividends or interest accruing to the property.

This bill shortens to three years the dormancy period that applies to a stock or other intangible ownership interest in a business association and changes certain other criteria for determining whether these items of property are presumed to be abandoned. Under this bill, a stock or other ownership interest is presumed abandoned if the owner, for more than three years, fails to claim a dividend, distribution, or other sum payable as a result of the interest and if the business association does not know the location of the owner at the end of this three-year period. The bill also creates a presumption of abandonment applicable to stock and other ownership interests that do not pay dividends or other sums. Thus, under the bill, these ownership interests are presumed abandoned if the owner, for more than three years, fails to communicate with the business association regarding the ownership interest and if the business association does not know the location of the owner at the end of this three-year period. The return of official shareholder notifications or communications by the U.S. postal service as undeliverable is evidence under the bill that the business association does not know the location of the owner. This bill also creates a new presumption of abandonment applicable to a stock or other ownership interest that is enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the ownership interest. Under this bill, these ownership interests are presumed abandoned if more than three years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the U.S. postal service as undeliverable, and if, during this three-year period, the owner has failed to claim a



**BILL**

*The default dormancy period for ~~all~~ intangible property from ~~five~~ years to ~~the~~ years, changes the dormancy period generally applicable to life insurance proceeds from ~~five~~ years to ~~the~~ years, and changes*

dividend, distribution, or other sum payable as a result of the ownership interest or communicate with the association regarding the ownership interest.

In addition, this bill changes the requirement that a public sale of abandoned property be held every three years so that the sale must be held every five years (or more frequently, in the discretion of the treasurer). This bill changes the abandoned property reporting requirements so that the required annual report covers the fiscal year (July 1 to June 30) rather than the calendar year (January 1 to December 31). This bill also grants the treasurer discretion to require a person who fails to timely pay or deliver abandoned property to forfeit interest at the annual rate of 18%. Current law requires the person to pay this interest. also

***Escheated property***

Under current law, if there are no heirs of a decedent in an intestate estate (an estate in which the decedent did not leave a will), or if a legacy or distributive share in an estate cannot be paid to the distributee or is not claimed by the distributee within 120 days after entry of the final judgment, the property escheats to the state and is paid or delivered to the treasurer. The treasurer must publish notice at least annually in the official state newspaper with such information as the name of the decedent, the time and place of death, the amount paid to the treasurer, and how a person may make a claim against the escheated property. Within ten years after the notice is published, a person may make a claim against the escheated property by filing a petition with the probate court that settled the estate and by sending copies of the petition to DOR and the attorney general. If the person establishes his or her claim in a court hearing, the court certifies the claim to DOA, which audits the claim; issues an order for any death tax due; and issues an order distributing the estate. The treasurer pays the claim.

The bill changes this procedure somewhat. A person filing a petition with the probate court must send a copy of the petition to the treasurer, instead of to DOR; the court is no longer required to certify a claim to DOA, which is no longer required to audit claims; and the court is no longer required to issue an order for any death tax due.

The bill also provides a new, optional procedure for making a claim against escheated property. The new procedure is similar to a procedure under current law for claiming abandoned property by filing a claim with the treasurer, except that under the new procedure the value of the claimed escheated property may not exceed \$5,000. Rather than filing a petition with the probate court, a person claiming escheated property of \$5,000 or less may, within ten years after publication by the treasurer of notice regarding the estate and the escheated property, file a claim with the treasurer, who must consider the claim within 90 days after filing. If the treasurer allows the claim, the treasurer must provide written notice to and obtain the written consent of the attorney general and file written notice of the allowed claim, as well as the written consent of the attorney general, with the probate court that settled the estate. After the necessary filings, the probate court must issue an order requiring the treasurer to pay the claim. If the treasurer does not act on a claim within 90 days after the claim is filed, or if the treasurer disallows a claim, the person

**BILL**

filing the claim may file an action in the probate court that settled the estate to establish the claim.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

✓  
IOS 98  
4-1

1 **SECTION 1.** 177.06 (3) (b) of the statutes, as affected by 2001 Wisconsin Act 16,  
2 is amended to read:

3 177.06 (3) (b) Assess a service charge after ~~December 31~~ June 30 of the calendar  
4 year ~~covered in~~ in which the report concerning that property is required to be filed  
5 under s. 177.17 ~~concerning that property.~~

DWS 98  
4-5

6 **SECTION 2.** 177.10 (1) to (3) of the statutes, as affected by 2001 Wisconsin Act  
7 16, are repealed and recreated to read:

*that is evidenced by records available to the association*

8 177.10 (1) Except as provided under sub. (5), a stock, shareholding, or other  
9 intangible ownership interest in a business association is presumed abandoned if all  
10 of the following apply:

11 (a) The interest in the association is owned by a person who for more than 3  
12 years has failed to claim a dividend, distribution, or other sum payable as a result  
13 of the interest or, as evidenced by a memorandum or other record on file with the  
14 association prepared by an employee of the association, to communicate with the  
15 association regarding the interest or a dividend, distribution, or other sum payable  
16 as a result of the interest.

17 (b) The association does not know the location of the owner at the end of the  
18 3-year period under par. (a). The return of official shareholder notifications or  
19 communications by the U.S. postal service as undeliverable is evidence that the  
20 association does not know the location of the owner.

**BILL**

1 (2) This section applies to all of the following:

2 (a) The underlying stock, shareholdings, or other intangible ownership  
3 interests of an owner.

4 (b) Any stock, shareholdings, or other intangible ownership interest of an  
5 owner when the business association is in possession of the certificate or other  
6 evidence of ownership.

7 (c) The stock, shareholdings, or other intangible ownership interests of  
8 dividend-paying business associations and business associations that do not pay  
9 dividends, whether or not the interest is represented by a certificate.

10 (3) The business association is the holder of any property presumed abandoned  
11 under this section.

FIX COMPONENT

X

12 **SECTION 3.** 177.10 (5) of the statutes, as affected by 2001 Wisconsin Act 16, is  
13 ~~renumbered 177.10 (5) (intro) and~~ amended to read:

14 177.10 (5) ~~This chapter section~~ does not apply to any stock or other  
15 intangible ownership interest enrolled in a plan that provides for the automatic  
16 reinvestment of dividends, distributions, or other sums payable as a result of the  
17 interest unless ~~the records available to the administrator of the plan show, with~~  
18 ~~respect to any intangible ownership interest not enrolled in the reinvestment plan,~~  
19 ~~that the owner has not within 5 years communicated in any manner specified under~~  
20 ~~sub. (1) any of the following apply.~~ **NOT**

21 **SECTION 4.** 177.10 (5) (a) and (b) of the statutes are created to read:

22 177.10 (5) (a) The records available to the person administering the plan show,  
23 with respect to any intangible ownership interest owned by the same person but not  
24 enrolled in the plan, that for more than 3 years the owner has failed to claim a

**BILL**

subsection

1 dividend, distribution, or other sum payable as a result of the interest as provided  
2 under sub. (1) (a) or communicate with the association as provided under sub. (1) (a).

3 ~~wp~~ ~~10/27~~ Except as otherwise provided in this ~~paragraph~~, more than 3 years have  
4 elapsed since the location of the owner became unknown to the association, as  
5 evidenced by the return of official shareholder notifications or communications by  
6 the U.S. postal service as undeliverable, and, during this 3-year period, the owner  
7 has failed to claim a dividend, distribution, or other sum payable as a result of the  
8 interest as provided under sub. (1) (a) or communicate with the association as  
9 provided under sub. (1) (a). The 3-year period from the return of official shareholder  
10 notifications or communications begins at the earlier of the return of the (second) of  
11 those notifications or communications or the date on which the holder discontinues  
12 mailings to the owner. [plain text period]

2nd

**SECTION 5.** 177.12 (1) of the statutes is amended to read:

14 177.12 (1) Intangible property and any income or increment derived from it  
15 held in a fiduciary capacity for the benefit of another person is presumed abandoned  
16 unless the owner, within 5 3 years after it has become payable or distributable, has  
17 increased or decreased the principal, accepted payment of principal or income,  
18 communicated concerning the property or otherwise indicated an interest as  
19 evidenced by a memorandum or other record on file prepared by the fiduciary.

**SECTION 6.** 177.17 (4) (a) 1. of the statutes, as affected by 2001 Wisconsin Act  
21 16, is amended to read:

22 177.17 (4) (a) 1. Before November 1 of each year, each holder shall file a report  
23 covering the ~~previous calendar year~~ 12 months preceding July 1 of that year. On  
24 written request by any person required to file a report, the administrator may extend  
25 the deadline established in this paragraph.

## BILL

1 SECTION 7. 177.22 (1) of the statutes, as affected by 2001 Wisconsin Act 16, is  
2 amended to read:

3 177.22 (1) Except as provided in subs. (2) and (4), the administrator, ~~within 3~~  
4 ~~years after the receipt of abandoned property,~~ shall sell it abandoned property  
5 delivered to the administrator under s. 177.06 (4) and 177.17 (4) (a) 2. to the highest  
6 bidder at public sale in the city, village or town in this state which, in the judgment  
7 of the administrator, affords the most favorable market for the property. The sale  
8 shall be held whenever the administrator deems appropriate, but at least once every  
9 5 years. The administrator may decline the highest bid and reoffer the property for  
10 sale if, in his or her judgment, the bid is insufficient. If the administrator determines  
11 that the probable cost of sale exceeds the value of the property, it need not be offered  
12 for sale. Any sale held under this section shall be preceded by the publication of one  
13 notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in  
14 the county in which the property is to be sold.

15 SECTION 8. 177.22 (4) of the statutes, as affected by 2001 Wisconsin Act 16, is  
16 amended to read:

17 177.22 (4) Unless the administrator determines that it is in the best interest  
18 of this state to do otherwise, he or she shall hold all securities for at least one year  
19 before selling them. No person has any claim under this chapter against this state,  
20 the holder, any transfer agent, registrar or other person acting for or on behalf of a  
21 holder for any appreciation in the value of the property securities occurring after  
22 delivery by the date on which the holder delivers the securities to the administrator  
23 ~~in good faith.~~ No person has any claim under this chapter against this state for any  
24 appreciation in the value of the securities occurring after the date on which the  
25 holder delivers the securities to the administrator.

Except as provided under s. 177.21

## BILL

1           **SECTION 9.** 177.23 (1) of the statutes is amended to read:

2           177.23 (1) Except as provided in sub. (2), the administrator shall deposit in the  
3 school fund all funds received under this chapter, including the clear proceeds from  
4 the sale of abandoned property under s. 177.22. Before making the deposit, the  
5 administrator shall record the name and last-known address of each person  
6 appearing from the holders' reports to be entitled to the property and the name and  
7 last-known address of each insured person or annuitant and beneficiary and, with  
8 respect to each policy or contract listed in the report of an insurance company, its  
9 number, the name of the company and the amount due. The information recorded  
10 by the administrator under this subsection is not available for inspection or copying  
11 under s. 19.35 (1) until ~~24~~ 12 months after payment or delivery of the property is due  
12 under s. ~~177.19 (1)~~ 177.17 (4) (a) 2.

13           **SECTION 10.** 177.34 (1) to (3) of the statutes are amended to read:

14           177.34 (1) A person who fails to pay or deliver property within the time  
15 prescribed by this chapter shall ~~pay the administrator~~ may be required to forfeit an  
16 amount of interest, calculated at the annual rate of 18%, on the property or value  
17 thereof from the date the property should have been paid or delivered.

18           (2) A person who wilfully fails to file a report or perform any other duty  
19 required under this chapter ~~is subject to a forfeiture of~~ may be required to forfeit not  
20 less than \$100 for each day the report is withheld or the duty is not performed, but  
21 not more than \$5,000.

22           (3) A person who wilfully fails to pay or deliver property to the administrator  
23 as required under this chapter ~~is subject to a forfeiture~~ may be required to forfeit an  
24 amount equal to 25% of the value of the property that should have been paid or  
25 delivered.

by the  
administrator

STRIKE

**BILL**

1           **SECTION 11.** 852.01 (3) of the statutes is amended to read:

2           852.01 (3) ESCHEAT. If there are no heirs of the decedent under subs. (1) and  
3 (2), the net estate escheats to the state to be added to the capital of the school fund.  
4 Claims on amounts escheated to the state may be made under s. 863.39 (3) within  
5 10 years after the date of publication under s. 177.18 (2m). If a claimant resides  
6 outside the United States or its territories, the court may require the personal  
7 appearance of the claimant before the court.

8           **SECTION 12.** 863.37 (2) (a) of the statutes is renumbered 863.37 (2) and  
9 amended to read:

10           863.37 (2) Whenever payment of a legacy or a distributive share cannot be  
11 made to the person entitled to payment or it appears that the person may not receive  
12 or have the opportunity to obtain payment, the court may, on petition of a person  
13 interested or on its own motion, order that the funds be paid or delivered to the state  
14 treasurer for deposit as provided under s. 177.23. Claims on the funds may be made  
15 under s. 863.39 (3) within 10 years after the date of publication under s. 177.18 (2m).  
16 When a claimant to the funds resides outside the United States or its territories the  
17 court may require the personal appearance of the claimant before the court.

18           **SECTION 13.** 863.37 (2) (b) of the statutes is repealed.

19           **SECTION 14.** 863.39 (3) (a) of the statutes is amended to read:

20           863.39 (3) (a) Within 10 years after the date of publication under s. 177.18 (2m),  
21 any person claiming any amount deposited under sub. (1) or under s. 852.01 (3) or  
22 863.37 (2) may file in the probate court in which the estate was settled a petition  
23 alleging the basis of his or her claim. The court shall order a hearing upon the  
24 petition, and 20 days' notice of the hearing and a copy of the petition shall be given  
25 by the claimant to the ~~department of revenue~~ state treasurer and to the attorney

**BILL**

1 general, who may appear for the state at the hearing. If the claim is established it  
2 shall be allowed without interest, but including any increment which may have  
3 occurred on securities held, ~~and the court shall so certify to the department of~~  
4 ~~administration, which shall audit the claim.~~ The state treasurer shall pay the claim  
5 out of the appropriation under s. 20.585 (1) (j). ~~Before issuing the order distributing~~  
6 ~~the estate, the court shall issue an order determining the death tax due, if any.~~ If real  
7 property has been adjudged to escheat to the state under s. 852.01 (3) the probate  
8 court ~~which that~~ made the adjudication may adjudge at any time before title has been  
9 transferred from the state that the title shall be transferred to the proper owners  
10 under this subsection.

11 **SECTION 15.** 863.39 (3) (b) of the statutes is repealed.

12 **SECTION 16.** 863.39 (3) (bm) of the statutes is created to read:

13 863.39 (3) (bm) 1. Notwithstanding par. (a), any person claiming an amount  
14 deposited under sub. (1) or under s. 852.01 (3) or 863.37 (2) that does not exceed  
15 \$5,000 may, within 10 years after the date of publication under s. 177.18 (2m), file  
16 with the state treasurer a claim on a form prescribed by the state treasurer and  
17 verified by the claimant.

18 2. The state treasurer shall consider each claim within 90 days after it is filed  
19 and may refer any claim to the attorney general for an opinion. For each claim  
20 referred, the attorney general shall advise the state treasurer either to allow it or to  
21 deny it in whole or in part. The state treasurer shall give written notice to the  
22 claimant if the claim is denied in whole or in part. The notice shall be given by  
23 mailing it to the last address, if any, stated in the claim as the address of the claimant  
24 to which notices are to be sent. If no address for notices is stated in the claim, the  
25 notice shall be mailed to the last address, if any, stated in the claim as the address

**BILL**

1 of the claimant. No notice of denial need be given if the claim fails to state either the  
2 last address to which notices are to be sent or the address of the claimant.

3 3. If the state treasurer determines that the claim should be allowed, the state  
4 treasurer shall provide written notice to, and obtain the written consent of, the  
5 attorney general. The state treasurer shall file with the probate court in which the  
6 estate was settled written notice of the allowed claim, as well as the written consent  
7 of the attorney general. The probate court shall issue an order requiring the state  
8 treasurer to pay the claim. The state treasurer shall pay the claim, without interest  
9 but including any increment that may have occurred on securities held, out of the  
10 appropriation account under s. 20.585 (1) (j).

11 4. A person aggrieved by a decision of the state treasurer under this paragraph,  
12 or whose claim has not been acted upon by the state treasurer within 90 days after  
13 its filing under subd. 1., may bring an action to establish the claim in the probate  
14 court in which the estate was settled. The action shall be brought within 90 days  
15 after the decision of the state treasurer or within 180 days after the filing of the claim  
16 if the state treasurer has failed to act on it. If the person establishes the claim in the  
17 action, the court shall award the person costs and reasonable attorney fees against  
18 the state treasurer.

19 **SECTION 17. Nonstatutory provisions.**

20 (1) REPORT OF ABANDONED PROPERTY. Notwithstanding section 177.17 (4) (a) 1.  
21 of the statutes, as affected by this act, if this subsection takes effect after October 31,  
22 2001, the report due under section 177.17 (4) (a) 1. of the statutes, as affected by this  
23 act, by November 1, 2002, shall cover the period from January 1, 2000 to June 30,  
24 2002. If this subsection takes effect on or before October 31, 2001, the report due

**BILL**

1 under section 177.17 (4) (a) 1. of the statutes, as affected by this act, by November  
2 1, 2001, shall cover the period from January 1, 2000 to June 30, 2001.

3

(END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3506/3ins  
RJM:.....

INSERT 4-1

X  
SECTION 1. 177.02 (1) of the statutes is amended to read:

177.02 (1) Except as otherwise provided in this chapter, all intangible property, including any income or increment derived from it, less any lawful charges, that is held, issued or owing in the ordinary course of a holder's business and that has remained unclaimed by the owner for more than ~~5~~ 3 years after it became payable or distributable is presumed abandoned. ✓

History: 1983 a. 408.

INSERT 4-5

X . . . X  
SECTION 2. 177.07 (1) and (3) (b) 3. of the statutes are amended to read:

177.07 (1) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than ~~5~~ 3 years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, ~~but property described in sub. (3) (b) is presumed abandoned if unclaimed for more than 2 years.~~

History: 1983 a. 408; 1985 a. 135 s. 85.

(3) (b) 3. Neither the insured nor any other person appearing to have an interest in the policy within the preceding ~~2~~ 5 years, according to the records of the company, has assigned, readjusted or paid premiums on the policy, 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 other record on file prepared by an employee of the company.

History: 1983 a. 408; 1985 a. 135 s. 85.

**SECTION 3.** 177.10 (title) of the statutes is amended to read:

**177.10 (title) Stock and other intangible interest in business associations; dividends and distributions from ownership interests in business associations.**

History: 1983 a. 408.

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3506/3dn  
RJM.....

gjs

It was unclear how the revised instructions for proposed s. 177.10 differed from the original instructions. As compared with the original instructions, this draft ~~amends the title to s. 177.10, stats.~~ adds language regarding the records available to the business association in proposed s. 177.10 (1) (intro.) and replaces the exception from the exemption currently in s. 177.10 (5) with a new exception ~~based on the time period during which the location of the owner is unknown to the association.~~ In particular, do you intend to treat sub. (5) in this way, or do you intend to preserve the current exception and add the new one?

Please note that I have clarified the administrator's authority to impose forfeitures under s. 177.34, stats.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

IP

This draft does not amend the title to s. 177.10; stats.; as requested; because the requested title does not appear to accurately reflect the content of proposed s. 177.10.

**Emery, Lynn**

---

**To:** Celentani, Mary

**Subject:** Draft review: LRB-3506/3 Topic: Unclaimed property changes

**State of Wisconsin  
Legislative Reference Bureau**

**100 North Hamilton Street  
5th Floor  
P.O. Box 2037  
Madison, WI 53701-2037**

**The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Robert J. Marchant, Legislative Attorney, at (608) 261-4454, at [robert.marchant@legis.state.wi.us](mailto:robert.marchant@legis.state.wi.us), or at 100 North Hamilton, 5th Floor.**

**If you would like to jacket the draft for introduction, please click on the appropriate button (to the left). If you have any questions about jacketing, please call our program assistants at (608) 266-3561. Please allow one day for jacketing.**

**If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the draft before it is introduced by contacting our program assistants at [LRB.Legal@legis.state.wi.us](mailto:LRB.Legal@legis.state.wi.us) or at (608) 266-3561. If you have previously requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on this version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.**

**Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.**

9/17/2001

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3506/3dn  
RJM:cjs:jf

September 17, 2001

It was unclear how the revised instructions for proposed s. 177.10 differed from the original instructions. As compared with the original instructions, this draft adds language regarding the records available to the business association in proposed s. 177.10 (1) (intro.) and replaces the exception from the exemption currently in s. 177.10 (5) with a new exception. In particular, do you intend to treat sub. (5) in this way, or do you intend to preserve the current exception and add the new one?

This draft does not amend the title to s. 177.10, stats., as requested, because the requested title does not appear to accurately reflect the content of proposed s. 177.10.

Please note that I have clarified the administrator's authority to impose forfeitures under s. 177.34, stats.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

# Revisions to "13" from Treasurer

## COMMENTS RE UNCLAIMED PROPERTY BILL

✓ 1. On Section 3, amending the life insurance section, Lynden and I think it would be casier if you just changed the dormancy periods to 3 throughout the current provision. This would eliminate redrafting the life insurance provision in a way that might leave some holes or create some ambiguities.

✓ 2. Section 4, redraft as follows:

177.10 (1) Except as provided under sub. (5), a stock, shareholding, or other intangible ownership interest in a business association that is evidenced by records available to the association is presumed abandoned if both of the following apply:

- (a) The interest in the association is owned by a person who for more than 3 years has failed
  - (i.) To claim a dividend, distribution, or other sum payable as a result of the interest or,
  - (ii.) As evidenced by a memorandum or other record on file with the association prepared by an employee of the association, to communicate with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest.
- (b) The association does not know the location of the owner at the end of the 3-year period under par. (a). The return of official shareholder notifications or communications by the U.S. postal service as undeliverable is evidence that that the association does not now the location of the owner.

(2) This section applies to all of the following:

- (a) The underlying stock, shareholdings, or other intangible ownership interest of an owner.
- (b) Any stock, shareholdings, or other intangible ownership interest of an owner when the business association is in possession of the certificate or other evidence of ownership.
- (c) The stock shareholdings, or other intangible ownership interests of dividend-paying business associations and business associations that do not pay dividends, whether or not the interest is represented by a certificate.

(3) The business association is the holder of any property presumed abandoned under this section.

Section 5. 177.10 (5) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

177.10 (5) This section does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless more than 3 year years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the U.S. postal service as undeliverable. The 3 year period from the return of official sharcholder notifications or communications begins at the earlier of the return of the 2<sup>nd</sup> of those notifications or communications or the date on which the holder discontinues mailings to the owner.

(a) In the case of a deposit, increased or decreased the amount of the deposit or presented the passbook or other similar evidence of the deposit for the crediting of interest.

(b) Communicated in writing with the banking or financial organization concerning the property.

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization.

(d) Owned other property to which par. (a), (b) or (c) applies, and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent.

(e) Had another relationship with the banking or financial organization concerning which the owner has either:

1. Communicated in writing with the banking or financial organization.

2. Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

(1m) (a) On and after December 31, 1984, any correspondence in writing from a banking or financial organization to the owner, such as the mailing of a statement, report of interest paid or credited or other written advice relating to a deposit, means that the owner has indicated an interest in the deposit under sub. (1). If the correspondence is not returned to the banking or financial organization for nondelivery and if the banking or financial organization maintains a record of all such returned correspondence. If correspondence is returned, the deposit is presumed abandoned unless the owner has, within 5 years after the return, undertaken at least one of the activities specified in sub. (1) (a) to (e).

(b) This subsection does not apply to a deposit existing on December 31, 1984, until 5 years after that date or until one of the activities specified in sub. (1) (a) to (e) has occurred, whichever is earlier.

(2) For purposes of sub. (1), property includes interest and dividends.

(3) With respect to property described in sub. (1), a holder shall not do any of the following:

(a) Impose a charge during a period of dormancy or inactivity which exceeds the charge regularly imposed by that holder on that class of account, or cease payment of interest during such a period solely because of dormancy or inactivity.

(b) Assess a service charge after December 31 of the 2nd calendar year covered in the report filed under s. 177.17 concerning that property.

(4) Any property described in sub. (1) that is automatically renewable is matured for purposes of sub. (1) upon the expiration of its initial time period, or after one year if the initial period is less than one year, except that in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given or one year from the date of the last consent, whichever is longer. If, at the time provided for delivery in s. 177.19, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

History: 1983 a. 408; 1987 a. 399.

**177.07 Funds owing under life insurance policies.**

(1) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than 5 years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in sub. (3) (b) is presumed abandoned if unclaimed for more than 2 years.

(2) If a person other than the insured or annuitant is entitled to the funds and no address of the person is known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last-known address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company.

(3) For purposes of this chapter, 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 records of the company is deemed matured and the proceeds due and payable under either of the following circumstances:

(a) The company knows that the insured or annuitant has died.

(b) 1. The insured has attained, or would have attained if he or she were living, the limiting age under the mortality table on which the reserve is based;

2. The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subd. 1.; and

3. Neither the insured nor any other person appearing to have an interest in the policy within the preceding 2 years, according to the records of the company, has assigned, readjusted or paid premiums on the policy, 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 other record on file prepared by an employee of the company.

(4) For purposes of this chapter, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under sub. (1) if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last-known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(6) If the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within 4 months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(7) Commencing December 31, 1986, 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 all of the following information with regard to direct beneficiaries:

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

(b) The address of each beneficiary.

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

History: 1983 a. 408; 1985 a. 135 s. 85.

**177.08 Deposits held by utilities.** A deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be fur-

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**2001 BILL**

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**AN ACT to repeal** 863.37 (2) (b) and 863.39 (3) (b); **to renumber and amend** 863.37 (2) (a); **to amend** 177.02 (1), 177.06 (3) (b), 177.07 (1) and (3) (b) 3., 177.10 (5), 177.12 (1), 177.17 (4) (a) 1., 177.22 (1), 177.22 (4), 177.23 (1), 177.34 (1) to (3), 852.01 (3) and 863.39 (3) (a); **to repeal and recreate** 177.10 (1) to (3); and **to create** 863.39 (3) (bm) of the statutes; **relating to:** abandoned property reporting requirements; reporting and delivery of abandoned stock, intangible business interests, and other intangible property to the state treasurer; the sale of abandoned property; and creating a procedure for claiming certain escheated funds.

*Analysis by the Legislative Reference Bureau*

**Uniform Unclaimed Property Act**

Under Wisconsin's version of the Uniform Unclaimed Property Act (UUPA), certain types of property are presumed to be abandoned if the owner of the property fails to take steps to evidence ownership within a specified time period (dormancy period). For example, a stock or other intangible ownership interest in a business association is generally presumed to be abandoned if the business association pays out at least five dividends or other sums as a result of the ownership interest during

**BILL**

a five-year period and the dividends or sums are unclaimed by the owner. Current law, however, does not contain a presumption of abandonment applicable to stocks or ownership interests that do not pay dividends or other sums.

With certain limited exceptions, the holder of property that is presumed to be abandoned must report and deliver the property to the state treasurer (treasurer) before November 1 of each year. The report must cover the previous calendar year. Before July 1 of each year, the treasurer must publish a list containing the names of persons appearing to be owners of abandoned property. With certain limited exceptions, the treasurer must sell the property within three years after the date on which the treasurer receives the property. If the property is a security other than a stock (for example, a stock option or an interest in a limited partnership), the treasurer must hold the security for at least one year before selling it, unless it is in the best interest of the state to do otherwise. With certain limited exceptions, the treasurer currently deposits the clear proceeds of the sale of delivered property in the school fund.

Persons claiming an interest in any abandoned or unclaimed property delivered to the treasurer may file a claim with the treasurer to obtain the property. If a claim is allowed, the treasurer generally must deliver the property to the claimant or pay the claimant the amount the treasurer actually received or the net proceeds of the sale of the property, plus certain amounts for dividends or interest accruing to the property.

This bill shortens to three years the dormancy period that applies to a stock or other intangible ownership interest in a business association and changes certain other criteria for determining whether these items of property are presumed to be abandoned. Under this bill, a stock or other ownership interest is presumed abandoned if the owner, for more than three years, fails to claim a dividend, distribution, or other sum payable as a result of the interest and if the business association does not know the location of the owner at the end of this three-year period. The bill also creates a presumption of abandonment applicable to stock and other ownership interests that do not pay dividends or other sums. Thus, under the bill, these ownership interests are presumed abandoned if the owner, for more than three years, fails to communicate with the business association regarding the ownership interest and if the business association does not know the location of the owner at the end of this three-year period. The return of official shareholder notifications or communications by the U.S. postal service as undeliverable is evidence under the bill that the business association does not know the location of the owner.

This bill also creates a new presumption of abandonment applicable to a stock or other ownership interest that is enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the ownership interest. Under this bill, these ownership interests are presumed abandoned if more than three years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the U.S. postal service as undeliverable, ~~and if, during this three-year period, the owner has failed to claim a~~

only if the same owner has certain

BILL

Currently, these ownership interests are presumed abandoned only if the same owner has certain other ownership interests. In the same business association that are also presumed abandoned under the five-year dormancy period.

~~Dividend, distribution, or other sum payable as a result of the ownership interest or communicate with the association regarding the ownership interest.~~

In addition, this bill changes the default dormancy period for intangible property from five years to three years, changes the dormancy period generally applicable to life insurance proceeds from five years to three years, and changes the requirement that a public sale of abandoned property be held every three years so that the sale must be held every five years (or more frequently, in the discretion of the treasurer). This bill also changes the abandoned property reporting requirements so that the required annual report covers the fiscal year (July 1 to June 30) rather than the calendar year (January 1 to December 31). This bill also grants the treasurer discretion to require a person who fails to timely pay or deliver abandoned property to forfeit interest at the annual rate of 18%. Current law requires the person to pay this interest.

**Escheated property**

Under current law, if there are no heirs of a decedent in an intestate estate (an estate in which the decedent did not leave a will), or if a legacy or distributive share in an estate cannot be paid to the distributee or is not claimed by the distributee within 120 days after entry of the final judgment, the property escheats to the state and is paid or delivered to the treasurer. The treasurer must publish notice at least annually in the official state newspaper with such information as the name of the decedent, the time and place of death, the amount paid to the treasurer, and how a person may make a claim against the escheated property. Within ten years after the notice is published, a person may make a claim against the escheated property by filing a petition with the probate court that settled the estate and by sending copies of the petition to DOR and the attorney general. If the person establishes his or her claim in a court hearing, the court certifies the claim to DOA, which audits the claim; issues an order for any death tax due; and issues an order distributing the estate. The treasurer pays the claim.

The bill changes this procedure somewhat. A person filing a petition with the probate court must send a copy of the petition to the treasurer, instead of to DOR; the court is no longer required to certify a claim to DOA, which is no longer required to audit claims; and the court is no longer required to issue an order for any death tax due.

The bill also provides a new, optional procedure for making a claim against escheated property. The new procedure is similar to a procedure under current law for claiming abandoned property by filing a claim with the treasurer, except that under the new procedure the value of the claimed escheated property may not exceed \$5,000. Rather than filing a petition with the probate court, a person claiming escheated property of \$5,000 or less may, within ten years after publication by the treasurer of notice regarding the estate and the escheated property, file a claim with the treasurer, who must consider the claim within 90 days after filing. If the treasurer allows the claim, the treasurer must provide written notice to and obtain the written consent of the attorney general and file written notice of the allowed claim, as well as the written consent of the attorney general, with the probate court that settled the estate. After the necessary filings, the probate court must issue an

**BILL**

order requiring the treasurer to pay the claim. If the treasurer does not act on a claim within 90 days after the claim is filed, or if the treasurer disallows a claim, the person filing the claim may file an action in the probate court that settled the estate to establish the claim.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

✕

1 SECTION 1. 177.02 (1) of the statutes is amended to read:

2 177.02 (1) Except as otherwise provided in this chapter, all intangible property,  
3 including any income or increment derived from it, less any lawful charges, that is  
4 held, issued or owing in the ordinary course of a holder's business and that has  
5 remained unclaimed by the owner for more than 5 3 years after it became payable  
6 or distributable is presumed abandoned.

7 SECTION 2. 177.06 (3) (b) of the statutes, as affected by 2001 Wisconsin Act 16,  
8 is amended to read:

9 177.06 (3) (b) Assess a service charge after ~~December 31~~ June 30 of the calendar  
10 year covered in in which the report concerning that property is required to be filed  
11 under s. 177.17 concerning that property.

Proof  
w/  
2001 Wis  
Act 16  
§2883

✕

12 SECTION 3. 177.07 (1) and (3) (b) 3. of the statutes are amended to read:

13 177.07 (1) Funds held or owing under any life or endowment insurance policy  
14 or annuity contract that has matured or terminated are presumed abandoned if  
15 unclaimed for more than 5 3 years after the funds became due and payable as  
16 established from the records of the insurance company holding or owing the funds,  
17 ~~but property described in sub. (3) (b) is presumed abandoned if unclaimed for more~~  
18 ~~than 2 years.~~

BILL

1 (3) (b) 3. Neither the insured nor any other person appearing to have an  
2 interest in the policy within the preceding 2 <sup>3</sup> years, according to the records of the  
3 company, has assigned, readjusted or paid premiums on the policy, subjected the  
4 policy to a loan, corresponded in writing with the company concerning the policy or  
5 otherwise indicated an interest as evidenced by a memorandum or other record on  
6 file prepared by an employee of the company.

7 (intro.) SECTION 4. 177.10 (1) ~~to (3)~~ of the statutes, as affected by 2001 Wisconsin Act  
8 16, ~~was~~ repealed and recreated to read:

9 (intro.) 177.10 (1) Except as provided under sub. (5), a stock, shareholding, or other  
10 intangible ownership interest in a business association that is evidenced by records  
11 available to the association is presumed abandoned if all of the following apply:

12 ¶ SEC #. ~~RC~~; 177.10(1)(a) and (b)

13 (a) The interest in the association is owned by a person who for more than 3  
14 years has failed to <sup>do any of the following: (P) 1.</sup> claim a dividend, distribution, or other sum payable as a result  
15 of the interest <sup>(B)</sup> or, <sup>(P) 2.</sup> as evidenced by a memorandum or other record on file with the  
16 association prepared by an employee of the association, <sup>(P) 3.</sup> communicate with the  
17 association regarding the interest or a dividend, distribution, or other sum payable  
18 as a result of the interest <sup>(P) 4.</sup>

18 (b) The association does not know the location of the owner at the end of the  
19 3-year period under par. (a). The return of official shareholder notifications or  
20 communications by the U.S. postal service as undeliverable is evidence that the  
21 association does not know the location of the owner.

22 ¶ SEC #. RC; 177.10 (2) and (3); as affected by 2001 Wisconsin Act 16.

23 (2) This section applies to all of the following:

24 (a) The underlying stock, shareholdings, or other intangible ownership  
interests of an owner.

**BILL**

1 (b) Any stock, shareholdings, or other intangible ownership interest of an  
2 owner when the business association is in possession of the certificate or other  
3 evidence of ownership.

4 (c) The stock, shareholdings, or other intangible ownership interests of  
5 dividend-paying business associations and business associations that do not pay  
6 dividends, whether or not the interest is represented by a certificate.

7 (3) The business association is the holder of any property presumed abandoned  
8 under this section.

9 **SECTION 5.** 177.10 (5) of the statutes, as affected by 2001 Wisconsin Act 16, is  
10 amended to read:

11 177.10 (5) This ~~chapter~~ section does not apply to any stock or other intangible  
12 ownership interest enrolled in a plan that provides for the automatic reinvestment  
13 of dividends, distributions, or other sums payable as a result of the interest unless  
14 ~~the records available to the administrator of the plan show, with respect to any~~  
15 ~~intangible ownership interest not enrolled in the reinvestment plan, that the owner~~  
16 ~~has not within 5 years communicated in any manner specified under sub. (1),~~ ~~except~~  
17 ~~as otherwise provided in this subsection,~~ more than 3 years have elapsed since the  
18 location of the owner became unknown to the association, as evidenced by the return  
19 of official shareholder notifications or communications by the U.S. postal service as  
20 undeliverable, and, during this 3-year period, the owner has failed to claim a  
21 dividend, distribution, or other sum payable as a result of the interest as provided  
22 under sub. (1)(a) or communicate with the association as provided under sub. (1)(a).  
23 The 3-year period from the return of official shareholder notifications or  
24 communications begins at the earlier of the return of the 2nd of those notifications

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**BILL**

1 or communications or the date on which the holder discontinues mailings to the  
2 owner.

3 **SECTION 6.** 177.12 (1) of the statutes is amended to read:

4 177.12 (1) Intangible property and any income or increment derived from it  
5 held in a fiduciary capacity for the benefit of another person is presumed abandoned  
6 unless the owner, within ~~5~~ 3 years after it has become payable or distributable, has  
7 increased or decreased the principal, accepted payment of principal or income,  
8 communicated concerning the property or otherwise indicated an interest as  
9 evidenced by a memorandum or other record on file prepared by the fiduciary.

10 **SECTION 7.** 177.17 (4) (a) 1. of the <sup>x</sup> statutes, as affected by 2001 Wisconsin Act  
11 16, is amended to read:

12 177.17 (4) (a) 1. Before November 1 of each year, each holder shall file a report  
13 covering the ~~previous calendar year~~ 12 months preceding July 1 of that year. On  
14 written request by any person required to file a report, the administrator may extend  
15 the deadline established in this paragraph.

16 **SECTION 8.** 177.22 (1) of the statutes, as affected by 2001 Wisconsin Act 16, is  
17 amended to read:

18 177.22 (1) Except as provided in subs. (2) and (4), the administrator, ~~within 3~~  
19 ~~years after the receipt of abandoned property,~~ shall sell it abandoned property  
20 delivered to the administrator under s. 177.06 (4) and 177.17 (4) (a) 2. to the highest  
21 bidder at public sale in the city, village or town in this state which, in the judgment  
22 of the administrator, affords the most favorable market for the property. The sale  
23 shall be held whenever the administrator deems appropriate, but at least once every  
24 5 years. The administrator may decline the highest bid and reoffer the property for  
25 sale if, in his or her judgment, the bid is insufficient. If the administrator determines

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Wis Act  
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§ 2889

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Wis Act  
16  
§ 2898

**BILL**

1 that the probable cost of sale exceeds the value of the property, it need not be offered  
2 for sale. Any sale held under this section shall be preceded by the publication of one  
3 notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in  
4 the county in which the property is to be sold.

5 **SECTION 9.** 177.22 (4) of the statutes, as affected by 2001 Wisconsin Act 16, is  
6 amended to read:

7 177.22 (4) Unless the administrator determines that it is in the best interest  
8 of this state to do otherwise, he or she shall hold all securities for at least one year  
9 before selling them. No person has any claim under this chapter against this state,  
10 the holder, any transfer agent, registrar or other person acting for or on behalf of a  
11 holder for any appreciation in the value of the property securities occurring after  
12 delivery by the date on which the holder delivers the securities to the administrator.  
13 Except as provided under s. 177.21, no person has any claim under this chapter  
14 against this state for any appreciation in the value of the securities occurring after  
15 the date on which the holder delivers the securities to the administrator.

*proof w/  
2001  
Wis Act  
16  
§ 2900*

16 **SECTION 10.** 177.23 (1) of the statutes <sup>X</sup> is amended to read: <sup>as affected by 2001 Wisconsin Act 16,</sup>

17 177.23 (1) Except as provided in sub. (2), the administrator shall deposit in the  
18 school fund all funds received under this chapter, including the clear proceeds from  
19 the sale of abandoned property under s. 177.22. Before making the deposit, the  
20 administrator shall record the name and last-known address of each person  
21 appearing from the holders' reports to be entitled to the property and the name and  
22 last-known address of each insured person or annuitant and beneficiary and, with  
23 respect to each policy or contract listed in the report of an insurance company, its  
24 number, the name of the company and the amount due. The information recorded  
25 by the administrator under this subsection is not available for inspection or copying

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Wis Act  
16  
§ 2901*

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1 under s. 19.35 (1) until 24 12 months after payment or delivery of the property is due

2 under ~~s. 177.19 (1)~~ 177.17 (4) (a) 2~~6~~

plain plain

3 SECTION 11. 177.34 (1) to (3) of the statutes are amended to read:

4 177.34 (1) A person who fails to pay or deliver property within the time  
5 prescribed by this chapter ~~shall pay the administrator~~ may be required by the  
6 administrator to forfeit an amount of interest, calculated at the annual rate of 18%,  
7 on the property or value thereof from the date the property should have been paid  
8 or delivered.

9 (2) A person who wilfully fails to file a report or perform any other duty  
10 required under this chapter ~~is subject to a forfeiture of~~ may be required by the  
11 administrator to forfeit not less than \$100 for each day the report is withheld or the  
12 duty is not performed, but not more than \$5,000.

13 (3) A person who wilfully fails to pay or deliver property to the administrator  
14 as required under this chapter ~~is subject to a forfeiture~~ may be required by the  
15 administrator to forfeit an amount equal to 25% of the value of the property that  
16 should have been paid or delivered.

17 SECTION 12. 852.01 (3) of the statutes is amended to read:

18 852.01 (3) ESCHEAT. If there are no heirs of the decedent under subs. (1) and  
19 (2), the net estate escheats to the state to be added to the capital of the school fund.  
20 Claims on amounts escheated to the state may be made under s. 863.39 (3) within  
21 10 years after the date of publication under s. 177.18 (2m). If a claimant resides  
22 outside the United States or its territories, the court may require the personal  
23 appearance of the claimant before the court.

24 SECTION 13. 863.37 (2) (a) of the statutes is renumbered 863.37 (2) and  
25 amended to read:

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1           863.37 (2) Whenever payment of a legacy or a distributive share cannot be  
2 made to the person entitled to payment or it appears that the person may not receive  
3 or have the opportunity to obtain payment, the court may, on petition of a person  
4 interested or on its own motion, order that the funds be paid or delivered to the state  
5 treasurer for deposit as provided under s. 177.23. Claims on the funds may be made  
6 under s. 863.39 (3) within 10 years after the date of publication under s. 177.18 (2m).  
7 When a claimant to the funds resides outside the United States or its territories the  
8 court may require the personal appearance of the claimant before the court.

9           SECTION 14. 863.37 (2) (b) of the statutes is repealed.

10          SECTION 15. 863.39 (3) (a) of the statutes is amended to read:

11           863.39 (3) (a) Within 10 years after the date of publication under s. 177.18 (2m),  
12 any person claiming any amount deposited under sub. (1) or under s. 852.01 (3) or  
13 863.37 (2) may file in the probate court in which the estate was settled a petition  
14 alleging the basis of his or her claim. The court shall order a hearing upon the  
15 petition, and 20 days' notice of the hearing and a copy of the petition shall be given  
16 by the claimant to the ~~department of revenue~~ state treasurer and to the attorney  
17 general, who may appear for the state at the hearing. If the claim is established it  
18 shall be allowed without interest, but including any increment which may have  
19 occurred on securities held, ~~and the court shall so certify to the department of~~  
20 ~~administration, which shall audit the claim.~~ The state treasurer shall pay the claim  
21 out of the appropriation under s. 20.585 (1) (j). ~~Before issuing the order distributing~~  
22 ~~the estate, the court shall issue an order determining the death tax due, if any.~~ If real  
23 property has been adjudged to escheat to the state under s. 852.01 (3) the probate  
24 court ~~which~~ that made the adjudication may adjudge at any time before title has been

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1 transferred from the state that the title shall be transferred to the proper owners  
2 under this subsection.

3 **SECTION 16.** 863.39 (3) (b) of the statutes is repealed.

4 **SECTION 17.** 863.39 (3) (bm) of the statutes is created to read:

5 863.39 (3) (bm) 1. Notwithstanding par. (a), any person claiming an amount  
6 deposited under sub. (1) or under s. 852.01 (3) or 863.37 (2) that does not exceed  
7 \$5,000 may, within 10 years after the date of publication under s. 177.18 (2m), file  
8 with the state treasurer a claim on a form prescribed by the state treasurer and  
9 verified by the claimant.

10 2. The state treasurer shall consider each claim within 90 days after it is filed  
11 and may refer any claim to the attorney general for an opinion. For each claim  
12 referred, the attorney general shall advise the state treasurer either to allow it or to  
13 deny it in whole or in part. The state treasurer shall give written notice to the  
14 claimant if the claim is denied in whole or in part. The notice shall be given by  
15 mailing it to the last address, if any, stated in the claim as the address of the claimant  
16 to which notices are to be sent. If no address for notices is stated in the claim, the  
17 notice shall be mailed to the last address, if any, stated in the claim as the address  
18 of the claimant. No notice of denial need be given if the claim fails to state either the  
19 last address to which notices are to be sent or the address of the claimant.

20 3. If the state treasurer determines that the claim should be allowed, the state  
21 treasurer shall provide written notice to, and obtain the written consent of, the  
22 attorney general. The state treasurer shall file with the probate court in which the  
23 estate was settled written notice of the allowed claim, as well as the written consent  
24 of the attorney general. The probate court shall issue an order requiring the state  
25 treasurer to pay the claim. The state treasurer shall pay the claim, without interest

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1 but including any increment that may have occurred on securities held, out of the  
2 appropriation account under s. 20.585 (1) (j).

3 4. A person aggrieved by a decision of the state treasurer under this paragraph,  
4 or whose claim has not been acted upon by the state treasurer within 90 days after  
5 its filing under subd. 1., may bring an action to establish the claim in the probate  
6 court in which the estate was settled. The action shall be brought within 90 days  
7 after the decision of the state treasurer or within 180 days after the filing of the claim  
8 if the state treasurer has failed to act on it. If the person establishes the claim in the  
9 action, the court shall award the person costs and reasonable attorney fees against  
10 the state treasurer.

**SECTION 18. Nonstatutory provisions.**

11 (1) REPORT OF ABANDONED PROPERTY. Notwithstanding section 177.17 (4) (a) 1.  
12 of the statutes, as affected by this act, if this subsection takes effect after October 31,  
13 2001, the report due under section 177.17 (4) (a) 1. of the statutes, as affected by this  
14 act, by November 1, 2002, shall cover the period from January 1, 2000 to June 30,  
15 2002. If this subsection takes effect on or before October 31, 2001, the report due  
16 under section 177.17 (4) (a) 1. of the statutes, as affected by this act, by November  
17 1, 2001, shall cover the period from January 1, 2000 to June 30, 2001.

18  
19 (END)

**Basford, Sarah**

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**From:** Celentani, Mary  
**Sent:** Monday, October 08, 2001 9:24 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB-3506/4 Topic: Unclaimed property changes

It has been requested by <Celentani, Mary> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-3506/4 Topic: Unclaimed property changes