

2001 DRAFTING REQUEST

Bill

Received: **07/12/2001**

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **State Treasurer**

By/Representing: **mary celentani**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters: **kahlepj**

Subject: **Fin. Inst. - miscellaneous
Probate - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Mary.Celentani@ost.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Unclaimed property changes

Instructions:

See Attached. Incorporate LRB-0658 (with changes) and LRB-2025 and additional changes to unclaimed property statute.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 07/12/2001	csicilia 07/24/2001		_____			S&L
	kahlepj 07/12/2001			_____			

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/1	rmarchan 09/07/2001	csicilia 09/12/2001	haugeca 07/25/2001	_____	lrb_docadmin 07/25/2001		S&L
/2	rmarchan 09/17/2001	csicilia 09/17/2001	pgreensl 09/12/2001	_____	lrb_docadmin 09/12/2001		S&L
/3	rmarchan 09/25/2001	csicilia 10/03/2001	jfrantze 09/17/2001	_____	lrb_docadmin 09/17/2001		S&L
/4			haugeca 10/04/2001	_____	lrb_docadmin 10/04/2001	lrb_docadmin 10/08/2001	
				_____	lrb_docadmin		
				_____	10/08/2001		

FE Sent For:

LA Intro

<END>

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/3			jfrantze 09/17/2001	_____	lrb_docadmin 09/17/2001		

FE Sent For:

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1/4 cjs 10/3
01

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		<i>1/2</i> <i>gjs</i> <i>9/11</i> <i>01</i>					

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Handwritten note:
PAS - e-mail to Mary
(in global address book)

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1?	rmarchan	1 cjs 7/24 01	CH 7-24	CH 7-24 PB			

FE Sent For:

<END>

TRAVELER

① Incorporate
from Dec 58

But change from 7 yr to 5 yr should be to 3 yr
See 177.12, for eye

~~Change~~ + Change 177.17(4)(a) so report covers
July 1 to July 1 (12 mos. next preceding
July 1 of that year)
+ Incorporate 177.35 (2)

Incorporate LRB-2025

- 177.12(1) change from 5 yrs to 3 yrs

~~177.12(1) to be met~~

AM 177.34 (1) from "shall pay" to "may be required to forfeit"
+ change (2) to (3) to standard "may be required to forfeit..."

See many CS notes for more
changes

Drafted -
Need Add'l
Changes

Not Drafted

①

177.10

§ 177.12 (3 years)
see Iowa

②

177.17 (4)(a)
date language

177.23 (1)

12 months

§ 177.22 (1)

"The sale must be held
whenever the administrator
deems ^{appropriate} ~~necessary~~ but
at least once every
5 years

177.35 (2)

12 months

~~§ 177.24 (3)~~

~~within 1 year~~

§ 177.34 (1)

see ~~the notes~~ notes

8-31-01 or

earlier if possible

Amok

DOA:.....Geisler - Unclaimed property

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

- 1 AN ACT ^{for cut}; relating to: abandoned property reporting, notice, payment, and
- 2 delivery requirements; abandoned stock ^{or} and intangible business interests; and
- 3 creating a procedure for claiming certain escheated funds.

the sale of abandoned property;

and intangible property

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT
 COMMERCE

Sub-sub
Uniform Unclaimed
Property Act

(Treasurer)

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 presumed to be abandoned if the business association pays out at least seven dividends or other sums as a result of the ownership interest during a seven-year period and the dividends or sums are unclaimed by the owner.

With certain limited exceptions, the holder of property that is presumed to be abandoned must report the property to the state treasurer before May 1 of each even-numbered year. By September 20 following the report, the ~~holder~~ treasurer must publish a list containing the names of persons appearing to be owners of abandoned property. By December 1, the holder must pay or deliver the reported property to the ~~holder~~ treasurer, unless the owner has claimed the property or the presumption of abandonment is erroneous. The UUPA permits a person to enter into

currently

INVEST ANALYSIS A

an abandoned property recovery contract, under which the person agrees to provide an owner of property, for a fee, with services toward the recovery of abandoned property. However, an abandoned property recovery contract is not enforceable if it is entered into within two years after the date by which the abandoned property is required to be delivered to the ~~state~~ treasurer.

This bill changes the time-line for reporting and delivering to the ~~state~~ treasurer property that is presumed to be abandoned. Under this bill, with certain limited exceptions, the holder of property that is presumed to be abandoned must report and deliver the property to the ~~state~~ treasurer before November 1 of each year. The ~~state~~ treasurer must publish a notice containing the names of apparent owners of abandoned property by July 1 of each year.

This bill also shortens to ~~five~~ ^{three} years the dormancy period that applies to a stock or other intangible ownership interest in a business association. In addition, under the bill, an abandoned property recovery contract is not enforceable if it is entered into within one year, rather than two years, after the date by which the abandoned property is required to be delivered to the ~~state~~ treasurer.

TWSEET ANALYSIS C

are certain other items of intangible property

STET

TWSEET ANALYSIS B

this bill makes other changes to the UNIPA

COURTS AND PROCEDURE OTHER COURTS AND PROCEDURE

Sub-sub 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 ~~state~~ treasurer. The treasurer must publish notice 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. The treasurer must publish a notice regarding escheated property at least annually (current law specifies no time requirement); 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 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:

SECTION 1. 177.06 (3) (b) of the statutes is amended to read: June 30

177.06 (3) (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.

SECTION 2. 177.06 (4) of the statutes is amended to read:

177.06 (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~~ 177.17 (4) (a), 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.

1 **SECTION 3.** 177.10 (1) (intro.) of the statutes is amended to read:

2 177.10 (1) (intro.) Except as provided in subs. (2) and (5), any stock or other
3 intangible ownership interest in a business association, the existence of which is
4 evidenced by records available to the association, is presumed abandoned and, with
5 respect to the interest, the association is the holder, if a dividend, distribution or
6 other sum payable as a result of the interest has remained unclaimed by the owner
7 for ~~7~~ ³ years and the owner has not done either of the following within ~~7~~ ³ years:

8 **SECTION 4.** 177.10 (2) and (3) of the statutes are amended to read:

9 177.10 (2) At the expiration of a ~~7-year~~ ^{3-year} ~~5-year~~ period following the failure of
10 the owner to claim a dividend, distribution or other sum payable to the owner as a
11 result of the interest, the interest is not presumed abandoned unless there have been
12 at least ~~7~~ ³ dividends, distributions or other sums paid during the period, none of
13 which has been claimed by the owner. If ~~7~~ ³ dividends, distributions or other sums
14 are paid during the ~~7-year~~ ^{3-year} ~~5-year~~ period, the period leading to a presumption of
15 abandonment commences on the date on which payment of the first such unclaimed
16 dividend, distribution or other sum became due and payable. If ~~7~~ ³ dividends,
17 distributions or other sums are not paid during the presumptive period, the period
18 continues to run until there have been ~~7~~ ³ dividends, distributions or other sums that
19 have not been claimed by the owner.

20 (3) The running of the ~~7-year~~ ^{3-year} ~~5-year~~ period of abandonment ceases
21 immediately upon the occurrence of a communication specified under sub. (1). If any
22 future dividend, distribution or other sum payable to the owner as a result of the
23 interest is subsequently not claimed by the owner, a new period of abandonment
24 commences and relates back to the time a subsequent dividend, distribution or other
25 sum became due and payable.

SECTION 5. 177.10 (5) of the statutes is amended to read:

177.10 (5) This chapter 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 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 within ³~~7~~ years communicated in any manner specified under sub. (1).

SECTION 6. 177.17 (title) of the statutes is amended to read:

177.17 (title) **Report Reporting, payment and delivery of abandoned property.**

SECTION 7. 177.17 (4) of the statutes is renumbered 177.17 (4) (a) and amended to read:

177.17 (4) (a) Before ~~May~~ November 1 of each ~~even-numbered~~ year, each holder shall file a report covering the ^{12 months preceding July 1 of that year} ~~2 previous calendar years~~ ~~year~~. Except as provided in s. 177.06 (4), upon filing the report, the holder shall pay or deliver to the administrator all abandoned property required to be reported. On written request by any person required to file a report, the administrator may ~~postpone the reporting date~~ extend the deadline established in this paragraph.

SECTION 8. 177.18 (title) of the statutes is amended to read:

177.18 (title) **Notice and publication of lists of abandoned or escheated property.**

SECTION 9. 177.18 (1) of the statutes is amended to read:

177.18 (1) ~~The~~ Before July 1 of each year, the administrator shall publish a notice entitled "Notice of names of persons appearing to be owners of abandoned property" ~~not later than the September 20 following the report required under s.~~

Handwritten notes: "INS 899" and "5-7" in a circle, with an arrow pointing to the number 7 in the text.

1 177.17. Except as provided in sub. (1m), the notice shall include the name of each
2 person identified in a report filed under s. 177.17 since the publication of the previous
3 notice. The administrator shall publish the notice as a class 1 notice under ch. 985,
4 in a newspaper of general circulation in the county in which is located the
5 last-known address of the person to be named in the notice. If no address is listed
6 or the address is outside this state, the notice shall be published in the county in
7 which the holder of the property has its principal place of business within this state.

8 **SECTION 10.** 177.18 (2) (intro.) of the statutes is amended to read:

9 177.18 (2) (intro.) ~~The published~~ A notice under sub. (1) shall contain all of the
10 following:

11 **SECTION 11.** 177.18 (2) (c) of the statutes is repealed.

12 **SECTION 12.** 177.18 (2) (d) of the statutes is renumbered 177.18 (2m) and
13 amended to read:

14 177.18 (2m) For money or other property received under s. 852.01 (3), 863.37
15 (2) ² or 863.39 (1), ~~the~~ a notice shall be published at least annually in the official state
16 newspaper and shall include the name of the decedent, the time and place of the
17 decedent's death, the amount paid to the administrator, the name of the decedent's
18 personal representative, the county in which the estate is probated ² and a statement
19 that the money will be paid to the heirs or legatees without interest, on proof of
20 ownership, if claimed within 10 years from the date of publication as provided in s.
21 863.39 (3).

22 **SECTION 13.** 177.19 (title), (1) and (2) of the statutes are repealed.

23 **SECTION 14.** 177.19 (4) of the statutes is renumbered 177.17 (4) (b) and
24 amended to read:

1 177.17 (4) (b) The holder of an interest under s. 177.10 shall deliver to the
 2 administrator, upon filing the report required under this section, a duplicate
 3 certificate or other evidence of ownership if the holder does not issue certificates of
 4 ownership. Upon delivery of a duplicate certificate to the administrator, the holder
 5 and any transfer agent, registrar or other person acting for or on behalf of a holder
 6 in executing or delivering the duplicate certificate are relieved of all liability, as
 7 provided under s. 177.20, to any person, including any person acquiring the original
 8 certificate or the duplicate of the certificate issued to the administrator, for any loss
 9 or damage caused by the issuance and delivery of the duplicate certificate to the
 10 administrator.

✓
 INSERT
 7-10
 →

11 **SECTION 15.** 177.23 (1) of the statutes is amended to read:

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

23 **SECTION 16.** 177.24 (2) of the statutes is amended to read:

24 177.24 (2) The administrator shall consider each claim within 90 days after it
 25 is filed and may refer any claim to the attorney general for an opinion. For each claim

1 referred, the attorney general shall advise the administrator either to allow it or to
 2 deny it in whole or in part. The administrator shall give written notice to the
 3 claimant if the claim is denied in whole or in part. The notice ~~may~~ shall be given by
 4 mailing it to the last address, if any, stated in the claim as the address to which
 5 notices are to be sent. If no address for notices is stated in the claim, the notice ~~may~~
 6 shall be mailed to the last address, if any, ~~of the claimant as stated in the claim as~~
~~the address of the claimant.~~ No notice of denial need be given if the claim fails to state
 either the last address to which notices are to be sent or the address of the claimant.

9 **SECTION 17.** 177.35 (2) of the statutes is amended to read:

10 177.35 (2) An agreement entered into under this section is not enforceable if
 11 the agreement is entered into within 24 12 months after payment or delivery of the
 12 property is due under s. ~~177.19 (1)~~ 177.17 (4) (a).

13 **SECTION 18.** 852.01 (3) of the statutes is amended to read:

14 852.01 (3) ESCHEAT. If there are no heirs of the decedent under subs. (1) and
 15 (2), the net estate escheats to the state to be added to the capital of the school fund.
 16 Claims on amounts escheated to the state may be made under s. 863.39 (3) within
 17 10 years after the date of publication under s. 177.18 (2m). If a claimant resides
 18 outside the United States or its territories, the court may require the personal
 19 appearance of the claimant before the court.

20 **SECTION 19.** 863.37 (2) (a) of the statutes is renumbered 863.37 (2) and
 21 amended to read:

22 863.37 (2) Whenever payment of a legacy or a distributive share cannot be
 23 made to the person entitled to payment or it appears that the person may not receive
 24 or have the opportunity to obtain payment, the court may, on petition of a person
 25 interested or on its own motion, order that the funds be paid or delivered to the state

Handwritten notes in the left margin:
 - A circle containing "JUSGA 8-87" with an arrow pointing to line 6.
 - A vertical note "INSIST 8-87" with an arrow pointing to line 9.
 - A circled "8" next to line 6.

1 treasurer for deposit as provided under s. 177.23. Claims on the funds may be made
2 under s. 863.39 (3) within 10 years after the date of publication under s. 177.18 (2m).
3 When a claimant to the funds resides outside the United States or its territories the
4 court may require the personal appearance of the claimant before the court.

5 SECTION 20. 863.37 (2) (b) of the statutes is repealed. ✓

6 SECTION 21. 863.39 (3) (a) of the statutes is amended to read: ✓

7 863.39 (3) (a) Within 10 years after the date of publication under s. 177.18 (2m),
8 any person claiming any amount deposited under sub. (1) or under s. 852.01 (3) or
9 863.37 (2) may file in the probate court in which the estate was settled a petition
10 alleging the basis of his or her claim. The court shall order a hearing upon the
11 petition, and 20 days' notice of the hearing and a copy of the petition shall be given
12 by the claimant to the ~~department of revenue~~ state treasurer and to the attorney
13 general, who may appear for the state at the hearing. If the claim is established it
14 shall be allowed without interest, but including any increment which may have
15 occurred on securities held, ~~and the court shall so certify to the department of~~
16 ~~administration, which shall audit the claim.~~ The state treasurer shall pay the claim
17 out of the appropriation under s. 20.585 (1) (j). ~~Before issuing the order distributing~~
18 ~~the estate, the court shall issue an order determining the death tax due, if any.~~ If real
19 property has been adjudged to escheat to the state under s. 852.01 (3) the probate
20 court ~~which~~ that made the adjudication may adjudge at any time before title has been
21 transferred from the state that the title shall be transferred to the proper owners
22 under this subsection.

****NOTE: Why do you not want the department of revenue to receive a copy of the
petition, and why do you not want the court to issue an order determining the death tax,
if any?

23 SECTION 22. 863.39 (3) (b) of the statutes is repealed. ✓

1 **SECTION 23.** 863.39 (3) (bm) of the statutes is created to read:

2 863.39 (3) (bm) 1. Notwithstanding par. (a), any person claiming an amount
3 deposited under sub. (1) or under s. 852.01 (3) or 863.37 (2) that does not exceed
4 \$5,000 may, within 10 years after the date of publication under s. 177.18 (2m), file
5 with the state treasurer a claim on a form prescribed by the state treasurer and
6 verified by the claimant.

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

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

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

****NOTE: In subd. 3., why do you not want the court to issue an order determining the death tax, if any?

9 ~~SECTION 9.13~~ Nonstatutory provisions; treasurer

10 ~~(1)~~ REPORT OF ABANDONED PROPERTY. Notwithstanding section 177.17 (4) (a) of
 11 the statutes, as affected by this act, if this subsection takes effect after October 31,
 12 2001, the report due under section 177.17 (4) (a) of the statutes, as affected by this
 13 act, by November 1, 2002, shall cover the ~~2 preceding calendar years~~

14 ~~(2) SERVICE CHARGES CONCERNING ABANDONED PROPERTY. Notwithstanding~~
 15 ~~section 177.06 (3) (b) of the statutes, as affected by this act, if this subsection takes~~
 16 ~~effect after October 31, 2001, a holder may assess a service charge on or before~~
 17 ~~December 31 of the 2nd calendar year covered in the report~~ required by November
 18 1, 2002, under section 177.17 (4) (a) of the statutes, as affected by this act, with
 19 respect to any property that is described in section 177.06 (1) of the statutes and that
 20 is required to be listed in the reports

21 ~~SECTION 9.13~~ Initial applicability; treasurer

period from January 1, 2000 to June 30, 2002. If this subsection takes effect on or before October 31, 2001, the report due under section 177.17(4) (a) of the statutes, as affected by this act, by November 1, 2001, shall cover the period from January 1, 2000 to June 30, 2001

IWS
12-3

1 ~~(X)~~ AGREEMENTS TO LOCATE PROPERTY. The treatment of section 177.35 (2) of the
2 statutes first applies to agreements entered into on the effective date of this
3 subsection.

****NOTE: The above initial applicability provision is intended to avoid a claim that
the changes to s. 177.35 (2), stats., unconstitutionally impair existing contracts.

4 (END)

DOA:.....Geisler - Sale of unclaimed property

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

INSERT

1 AN ACT ...; relating to: the sale of unclaimed property.

Analysis by the Legislative Reference Bureau
COMMERCE AND ECONOMIC DEVELOPMENT
COMMERCE

INSERT ANALYSIS A

Currently, under this state's version of the Uniform Unclaimed Property Act (UUPA), all abandoned or unclaimed property must be delivered to the state treasurer. ^{now} 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. Except for amounts sufficient to cover possible claims and the treasurer's administrative expenses, 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. However, if the claim is for any property other than a stock and if the treasurer sold the property within three years after the date on which the treasurer received the property, the treasurer must pay the claimant the value of the

property at the time the claim was filed or the net proceeds of the sale, whichever is greater. This alternate method of valuation also applies if the claim is for a stock that the treasurer sold within three years after the date of receipt, as long as the claim is filed within that three-year period. (P) (end ms)

(No P) This bill establishes a single procedure that applies to the sale of all securities delivered to the treasurer under IUIPA. Under this bill, the treasurer must hold all securities for at least one year before selling them, unless it is in the best interest of the state to do otherwise. In addition, this bill deletes the alternate method of valuation that applies to property, including stocks, sold within three years after the date on which the treasurer received the property. Thus, under this bill, the treasurer's liability for any claim is generally limited to delivery of the applicable abandoned or unclaimed property or payment of 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. (P) (end ms)

For further information see the state 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:

SECTION 1. 177.22 (1) of the statutes is amended to read:

177.22 (1) Except as provided in subs. (2) and (3) (4), the administrator, ^{strike} within ^{strike comma} ~~3 years after the receipt of abandoned property~~ ^{abandoned property delivered to the administrator under s. 177.06(4)} shall sell ^{strike} it to the highest bidder at ^{and} ^{177.17} ^{(4)(a)} public sale in the city, village or town in this state which, in the judgment of the ^{strike comma} administrator, affords the most favorable market for the property. ^{strike} The sale shall be held whenever the administrator deems appropriate, but at least once every 5 years.

The administrator may decline the highest bid and reoffer the property for sale if, in his or her judgment, the bid is insufficient. If the administrator determines that the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section shall be preceded by the publication of one notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

SECTION 2. 177.22 (3) of the statutes is repealed.

SECTION 3. 177.22 (4) of the statutes is amended to read:

INSECT ANALYSIS B

INSECT 7-10

1 177.22 (4) Unless the administrator determines that it is in the best interest
 2 of this state to do otherwise, he or she shall hold all securities presumed abandoned
 3 under s. 177.10, and delivered to the administrator, for at least 3 years one year
 4 before selling them. ~~If the administrator sells any securities delivered under s.~~
 5 ~~177.10 before the expiration of the 3 year period, any person making a claim under~~
 6 ~~this chapter before the end of the 3 year period is entitled either to the proceeds of~~
 7 ~~the sale of the securities or to the market value of the securities at the time the claim~~
 8 ~~is made, whichever amount is greater, less any deduction for fees under s. 177.23 (2).~~
 9 A person making a claim under this chapter after the expiration of the 3 year period
 10 is entitled to receive either the securities delivered to the administrator by the
 11 holder, if the administrator still has them, or to the proceeds from their sale, less any
 12 amounts deducted under s. 177.23 (2). No person has any claim under this chapter
 13 against this state, the holder, any transfer agent, registrar or other person acting for
 14 or on behalf of a holder for any appreciation in the value of the property occurring
 15 after delivery by the holder to the administrator. <end ins>

FIX COMPONENT

16 SECTION 4. 177.24 (3) of the statutes is ~~renumbered 177.24 (3)(a) and~~ amended
 17 to read:

INSERT
8-8A

18 177.24 (3) ~~(a) If~~ ^{plain text} ~~except as provided in par. (b) a~~ claim is allowed, the
 19 administrator shall deliver the property to the claimant or pay the claimant the
 20 amount the administrator actually received or the net proceeds of the sale of the
 21 property, together with any additional amount required under s. 177.21. ~~If the claim~~
 22 ~~is for property presumed abandoned under s. 177.10 which was sold by the~~
 23 ~~administrator within 3 years after the date of delivery, the amount payable for that~~
 24 ~~claim is the value of the property at the time the claim was made or the net proceeds~~
 25 ~~of sale, whichever is greater. If the property claimed was interest bearing to the~~

owner on the date of surrender by the holder, the administrator shall pay interest at a rate of 6% per year or any lesser rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the administrator and ceases on the earlier of the expiration of 10 years after delivery or the date on which payment is made to the owner. No interest on interest-bearing property is payable for any period before December 31, 1984. *LEW ms*

****NOTE: This is reconciled s. 177.24 (3) (a). This SECTION has been affected by drafts with the following LRB numbers: LRB-0530 and LRB-2025. This treatment incorporates the renumbering and amendment of s. 177.24 (3) from LRB-0530 into LRB-2025.

SECTION 9353. Initial applicability; treasurer.

Insert 12-3 UNCLAIMED PROPERTY CLAIMS; SECURITIES. The treatment of section 177.22 (4) *S* of the statutes (as it relates to the amount that a person may claim for property subject to that subsection) and the renumbering and amendment of section 177.24 (3) of the statutes (as it relates to the amount payable for a claim for property presumed abandoned under section 177.10 of the statutes) first applies to claims filed under section 177.24 of the statutes on the effective date of this subsection. *LEW ms*

****NOTE: This is reconciled SECTION 9353 (1). This SECTION has been affected by drafts with the following LRB numbers: LRB-0530 and LRB-2025. This treatment reflects the correct aspect of s. 177.24 (3) to which the provision should refer as a result of the treatment incorporated from LRB-0530.

(END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3506/lins
RJM:.....

INSERT ANALYSIS C

no 9

so that the sale must be held

forfeit

~~NO CHANGE~~ This bill changes the requirement that a public sale of abandoned property be held every three years ~~to~~ every five years (or more frequently, in the discretion of the ~~state~~ treasurer). This bill also grants the ~~state~~ treasurer discretion to require a person who fails to timely pay or deliver abandoned property to ~~pay~~ interest at the annual rate of 18%. Current law requires the person to pay this interest.

INSERT 5-7

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

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

History: 1983 a. 408.

INSERT 8-8 B

SECTION 2. 177.34 (1) to (3) of the statutes are amended to read:

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

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

(3) A person who wilfully fails to pay or deliver property to the administrator as required under this chapter is ~~subject to a forfeiture~~ may be required to forfeit an

amount equal to 25% of the value of the property that should have been paid or delivered.

History: 1983 a. 408.

FAX TRANSMITTAL

**State of Wisconsin
Office of the State Treasurer
1 South Pinckney Street
PO Box 2114
Madison, WI 53707-2114
Fax: (608) 261-6799**

To: ROB MARCHANT LEG REFERENCE BUREAU	September 7, 2001
	Fax No. 4-6948
From: MARY E. CELENTANI Administrator Unclaimed Property Division	No. of pages (including cover sheet) 3
	Sender's phone number: (608) 267-7977

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

Stock and other intangible 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 [] 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 [] 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

(ii) ³[] 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 [] years communicated in any manner described in this section.

new

(b) The ³[] 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.

new

[] = state's particular abandonment period

Marchant, Robert

From: Celentani, Mary
Sent: Friday, September 07, 2001 9:28 AM
To: Marchant, Robert
Subject: LRB-3506/1

Rob: one additional change has been recommended to me.

Under Section 18, sec. 177.22(4): No person has any claim under this chapter against this stae, the holder, any transfer agent, registrar or other person acting for or on behalf of a holder for any appreciation in the value of the proeprty occurring after delivery by the holder.to the administrator PROVIDED THE SECURITIES WERE REPORTED IN GOOD FAITH AS SPECIFIED IN sec. 177.20.

Rob, this is not exact language, just a general idea of the thought to be relayed. Can you work with this? Thanks.

Mary E. Celentani
Administrator, Unclaimed Property Division
Mary.Celentani@OST.state.wi.us
(608) 267-2208 (ph)
(608) 261-6799 (fx)

*NOTE
changes to suggested
language*

9-18-01 (noon)

2001 BILL

Rem NR
DN 8/3

Reger

abandoned property reporting requirements;

1 AN ACT *to repeal* 177.18 (2) (c), 177.19 (title), (1) and (2), 177.22 (3), 863.37 (2)
 2 (b) and 863.39 (3) (b); *to renumber and amend* 177.17 (4), 177.18 (2) (d),
 3 177.19 (4) and 863.37 (2) (a); *to amend* 177.06 (3) (b), 177.06 (4), 177.10 (1)
 4 (intro.), 177.10 (2) and (3), 177.10 (5), 177.12 (1), 177.17 (title), 177.18 (title),
 5 177.18 (1), 177.18 (2) (intro.), 177.22 (1), 177.22 (4), 177.23 (1), 177.24 (2),
 6 177.24 (3), 177.34 (1) to (3), 177.35 (2), 852.01 (3) and 863.39 (3) (a); and *to*
 7 *create* 863.39 (3) (bm) of the statutes; *relating to:* ~~abandoned property~~ ^{of}
 8 ~~reporting, notice, payment, and delivery requirements;~~ ^{abandoned stock,}
 9 ^{intangible business interests, and intangible property;} the sale of abandoned
 10 property; and creating a procedure for claiming certain escheated funds.

to the state treasurer

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

BILL

generally

Current law, however, does not contain a presumption of abandonment applicable to stocks or ownership interests that do not pay dividends or other sums.

association is presumed to be abandoned if the business association pays out at least ~~seven~~ ^{five} dividends or other sums as a result of the ownership interest during a ~~seven~~ ^{five}-year period and the dividends or sums are unclaimed by the owner.

With certain limited exceptions, the holder of property that is presumed to be abandoned must report the property to the state treasurer (treasurer) before ~~May 1~~ ^{November 1} of each ~~even numbered~~ ^{year}. By ~~September 30~~ ^{November 1} following the report, the treasurer must publish a list containing the names of persons appearing to be owners of abandoned property. ~~By December 1, the holder must pay or deliver the reported property to the treasurer, unless the owner has claimed the property or the presumption of abandonment is erroneous.~~ ^{and deliver} 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. ~~Except for amounts sufficient to cover possible claims and the treasurer's administrative expenses,~~ ^{The report must cover the previous calendar year.} the treasurer currently deposits the clear proceeds of the sale of delivered property in the school fund. ^{With certain limited exceptions}

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. ~~However, if the claim is for any property other than a stock and if the treasurer sold the property within three years after the date on which the treasurer received the property, the treasurer must pay the claimant the value of the property at the time the claim was filed or the net proceeds of the sale, whichever is greater. This alternate method of valuation also applies if the claim is for a stock that the treasurer sold within three years after the date of receipt, as long as the claim is filed within that three-year period.~~

The UUPA currently permits a person to enter into an abandoned property recovery contract, under which the person agrees to provide an owner of property, for a fee, with services toward the recovery of abandoned property. However, an abandoned property recovery contract is not enforceable if it is entered into within two years after the date by which the abandoned property is required to be delivered to the treasurer.

This bill changes the time-line for reporting and delivering to the treasurer property that is presumed to be abandoned. Under this bill, with certain limited exceptions, the holder of property that is presumed to be abandoned must report and deliver the property to the treasurer before November 1 of each year. The treasurer must publish a notice containing the names of apparent owners of abandoned property by July 1 of each year.

~~This bill also shortens to three years the permanency period that applies to a stock or other interest owned or held in a business association and certain other forms of abandoned property.~~ This bill establishes a single procedure that applies to the sale of all securities delivered to the treasurer under UUPA. Under this bill, the

five
and deliver
The report must cover the previous calendar year.
With certain limited exceptions

November 1
Before July 1 of each year

Disposer
K...
[Handwritten scribbles]

BILL

This bill changes the abandoned property reporting requirements so that the report covers the fiscal year (July 1 to June 30) rather than the calendar year (January 1 to December 31).

required annual

~~treasurer must hold all securities for at least one year before selling them, unless it is in the best interest of the state to do otherwise. In addition, this bill deletes the alternate method of valuation that applies to property, including stocks, sold within three years after the date on which the treasurer received the property. Thus, under this bill, the treasurer's liability for any claim is generally limited to delivery of the applicable abandoned or unclaimed property or payment of 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.~~

INSERT ANALYSIS

~~In addition, this bill makes other changes to the UUPA. Under the bill, an abandoned property recovery contract is not enforceable if it is entered into within one year, rather than two years, after the date by which the abandoned property is required to be delivered to the treasurer. 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 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.~~

at least annually

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 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. ~~The treasurer must publish a notice regarding escheated property at least annually (current law specifies no time requirement);~~ 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

BILL

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 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:

SECTION 1. 177.06 (3) (b) of the statutes is amended to read:

177.06 (3) (b) Assess a service charge after ~~December 31~~ June 30 of the ~~2nd~~ ^{calendar year covered in in which} the report concerning that property is required to be filed under s. 177.17 concerning that property.

, as affected by 2001 Wisconsin Act 16,

~~as affected by 2001 Wisconsin Act 16,~~

SECTION 2. 177.06 (4) of the statutes is amended to read:

177.06 (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 ~~177.17~~ (4) (a), a penalty or forfeiture in the payment of interest would result from the

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lyph

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BILL

1 delivery of the property, the time for delivery is extended until the time when no
2 penalty or forfeiture would result.

as amended by 2001 Wisconsin Act 16

3 SECTION 3. 177.10 (1) (intro.) of the statutes is amended to read:

4 177.10 (1) (intro.) Except as provided in subs. (2) and (5), any stock or other
5 intangible ownership interest in a business association, the existence of which is
6 evidenced by records available to the association, is presumed abandoned and, with
7 respect to the interest, the association is the holder, if a dividend, distribution or
8 other sum payable as a result of the interest has remained unclaimed by the owner
9 for ~~7~~⁵ years and the owner has not done either of the following within ~~7~~⁵ years:

10 SECTION 4. 177.10 (2) and (3) of the statutes are amended to read:

11 177.10 (2) At the expiration of a ~~7-year~~^{5-year} 3-year period following the failure of
12 the owner to claim a dividend, distribution or other sum payable to the owner as a
13 result of the interest, the interest is not presumed abandoned unless there have been
14 at least ~~7~~⁵ dividends, distributions or other sums paid during the period, none of
15 which has been claimed by the owner. If ~~7~~⁵ dividends, distributions or other sums
16 are paid during the ~~7-year~~^{5-year} 3-year period, the period leading to a presumption of
17 abandonment commences on the date on which payment of the first such unclaimed
18 dividend, distribution or other sum became due and payable. If ~~7~~⁵ dividends,
19 distributions or other sums are not paid during the presumptive period, the period
20 continues to run until there have been ~~7~~⁵ dividends, distributions or other sums that
21 have not been claimed by the owner.

22 (3) The running of the ~~7-year~~^{5-year} 3-year period of abandonment ceases
23 immediately upon the occurrence of a communication specified under sub. (1). If any
24 future dividend, distribution or other sum payable to the owner as a result of the
25 interest is subsequently not claimed by the owner, a new period of abandonment

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1 commences and relates back to the time a subsequent dividend, distribution or other
2 sum became due and payable.

3 **SECTION 5.** 177.10 (5) of the statutes is amended to read:

4 177.10 (5) This chapter does not apply to any stock or other intangible
5 ownership interest enrolled in a plan that provides for the automatic reinvestment
6 of dividends, distributions or other sums payable as a result of the interest unless
7 the records available to the administrator of the plan show, with respect to any
8 intangible ownership interest not enrolled in the reinvestment plan, that the owner
9 has not within 7 3 years communicated in any manner specified under sub. (1).

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

11 177.12 (1) Intangible property and any income or increment derived from it
12 held in a fiduciary capacity for the benefit of another person is presumed abandoned
13 unless the owner, within 5 3 years after it has become payable or distributable, has
14 increased or decreased the principal, accepted payment of principal or income,
15 communicated concerning the property or otherwise indicated an interest as
16 evidenced by a memorandum or other record on file prepared by the fiduciary.

17 **SECTION 7.** 177.17 (title) of the statutes is amended to read:

18 177.17 (title) **Report Reporting, payment and delivery of abandoned**
19 **property.**

20 (a) 1. **SECTION 8.** 177.17 (4) of the statutes is ~~renumbered 177.17 (4) (a) and~~ amended
21 to read:

22 177.17 (4) (a) 1. Before ^{plain} ~~the~~ November 1 of each ^{year} ~~overlooked~~ year, each
23 holder shall file a report covering the ~~the~~ previous calendar ~~the~~ 12 months preceding
24 July 1 of that year. ~~Except as provided in s. 177.06 (4), upon filing the report, the~~
25 ~~holder shall pay or deliver to the administrator all abandoned property required to~~

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Fix
COMPONENT

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1 ~~be reported.~~ On written request by any person required to file a report, the
 2 administrator may ~~postpone the reporting date~~ extend the deadline established in
 3 this paragraph. ~~(plain text)~~

4 **SECTION 9.** 177.18 (title) of the statutes is amended to read:

5 **177.18 (title) Notice and publication of lists of abandoned or escheated**
 6 **property.**

7 **SECTION 10.** 177.18 (1) of the statutes is amended to read:

8 177.18 (1) ~~The~~ Before July 1 of each year, the administrator shall publish a
 9 notice entitled "Notice of names of persons appearing to be owners of abandoned
 10 property" not later than the ~~September 20 following the report required under s.~~
 11 ~~177.17.~~ Except as provided in sub. (1m), the notice shall include the name of each
 12 person identified in a report filed under s. 177.17 since the publication of the previous
 13 notice. The administrator shall publish the notice as a class 1 notice under ch. 985,
 14 in a newspaper of general circulation in the county in which is located the
 15 last-known address of the person to be named in the notice. If no address is listed
 16 or the address is outside this state, the notice shall be published in the county in
 17 which the holder of the property has its principal place of business within this state.

18 **SECTION 11.** 177.18 (2) (intro.) of the statutes is amended to read:

19 177.18 (2) (intro.) ~~The published~~ A notice under sub. (1) shall contain all of the
 20 following:

21 **SECTION 12.** ~~177.18 (2) (c)~~ of the statutes is repealed.

22 **SECTION 13.** 177.18 (2) (d) of the statutes is renumbered 177.18 (2m) and
 23 amended to read:

24 177.18 (2m) For money or other property received under s. 852.01 (3), 863.37
 25 (2), or 863.39 (1), ~~the~~ a notice shall be published at least annually in the official state

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1 newspaper and shall include the name of the decedent, the time and place of the
 2 decedent's death, the amount paid to the administrator, the name of the decedent's
 3 personal representative, the county in which the estate is probated, and a statement
 4 that the money will be paid to the heirs or legatees without interest, on proof of
 5 ownership, if claimed within 10 years from the date of publication as provided in s.
 6 863.39 (3).

7 **SECTION 14.** 177.19 (title), (1) and (2) of the statutes are repealed.

8 **SECTION 15.** 177.19 (4) of the statutes is renumbered 177.17 (4) (b) and
 9 amended to read:

10 177.17 (4) (b) The holder of an interest under s. 177.10 shall deliver to the
 11 administrator, upon filing the report required under this section, a duplicate
 12 certificate or other evidence of ownership if the holder does not issue certificates of
 13 ownership. Upon delivery of a duplicate certificate to the administrator, the holder
 14 and any transfer agent, registrar or other person acting for or on behalf of a holder
 15 in executing or delivering the duplicate certificate are relieved of all liability, as
 16 provided under s. 177.20, to any person, including any person acquiring the original
 17 certificate or the duplicate of the certificate issued to the administrator, for any loss
 18 or damage caused by the issuance and delivery of the duplicate certificate to the
 19 administrator.

20 **SECTION 16.** 177.22 (1) of the statutes is amended to read:

21 177.22 (1) Except as provided in subs. (2) and ~~(3)~~ ^{plain} (4), the administrator, within
 22 3 years after the receipt of abandoned property, shall sell it abandoned property
 23 delivered to the administrator under s. 177.06 (4) and 177.17 (4) ^{(a)2.} to the highest
 24 bidder at public sale in the city, village or town in this state which, in the judgment
 25 of the administrator, affords the most favorable market for the property. The sale

as affected by
2001 Wisconsin
Act 16,

(a)2.

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1 shall be held whenever the administrator deems appropriate, but at least once every
2 5 years. The administrator may decline the highest bid and reoffer the property for
3 sale if, in his or her judgment, the bid is insufficient. If the administrator determines
4 that the probable cost of sale exceeds the value of the property, it need not be offered
5 for sale. Any sale held under this section shall be preceded by the publication of one
6 notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in
7 the county in which the property is to be sold.

8 ~~SECTION 17. 177.22 (3) of the statutes is repealed.~~

9 SECTION 18. 177.22 (4) of the statutes is amended to read:

as affected by
2001 Wisconsin Act
16,

10 177.22 (4) Unless the administrator determines that it is in the best interest
11 of this state to do otherwise, he or she shall hold all securities ~~(presumed abandoned)~~
12 ~~under s. 177.10, and delivered to the administrator,~~ for at least ~~3 years~~ one year ← plain text

13 before selling them. ~~If the administrator sells any securities delivered under s.~~
14 ~~177.10 before the expiration of the 3-year period, any person making a claim under~~
15 ~~this chapter before the end of the 3-year period is entitled either to the proceeds of~~
16 ~~the sale of the securities or to the market value of the securities at the time the claim~~
17 ~~is made, whichever amount is greater, less any deduction for fees under s. 177.23 (2).~~
18 ~~A person making a claim under this chapter after the expiration of the 3-year period~~
19 ~~is entitled to receive either the securities delivered to the administrator by the~~
20 ~~holder, if the administrator still has them, or to the proceeds from their sale, less any~~
21 ~~amounts deducted under s. 177.23 (2).~~

22 ~~against the holder, any transfer agent, registrar or other person acting for~~
23 ~~or on behalf of a holder for any appreciation in the value of the property occurring~~
24 ~~after delivery by the holder to the administrator.~~
25 No person has any claim under this chapter
against ~~this state,~~ this state, the holder, any transfer agent, registrar or other person acting for
or on behalf of a holder for any appreciation in the value of the securities occurring
after the date on which delivers the securities to the administrator. ← strike

SECTION 19. 177.23 (1) of the statutes is amended to read:

strike

~~No person has any claim under this chapter against this state for any appreciation in the value of the securities occurring after the date on which the holder delivers the securities to the administrator~~
No person has any claim under this chapter against this state for any appreciation in the value of the securities occurring after the date on which the holder delivers the securities to the administrator

BILL

SECTION 19

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

12 **SECTION 20.** 177.24 (2) of the statutes is amended to read:

13 177.24 (2) The administrator shall consider each claim within 90 days after it
 14 is filed and may refer any claim to the attorney general for an opinion. For each claim
 15 referred, the attorney general shall advise the administrator either to allow it or to
 16 deny it in whole or in part. The administrator shall give written notice to the
 17 claimant if the claim is denied in whole or in part. The notice ~~may~~ shall be given by
 18 mailing it to the last address, if any, stated in the claim as the address to which
 19 notices are to be sent. ~~If no address for notices is stated in the claim, the notice may~~
 20 shall be mailed to the last address, if any, ~~of the claimant as stated in the claim as~~
 21 the address of the claimant. No notice of denial need be given if the claim fails to state
 22 either the last address to which notices are to be sent or the address of the claimant.

23 **SECTION 21.** 177.24 (3) of the statutes is amended to read:

24 177.24 (3) If a claim is allowed, the administrator shall deliver the property to
 25 the claimant or pay the claimant the amount the administrator actually received or

BILL

1 the net proceeds of the sale of the property, together with any additional amount
2 required under s. 177.21. If the claim is for property presumed abandoned under s.
3 177.10 which was sold by the administrator within 3 years after the date of delivery,
4 the amount payable for that claim is the value of the property at the time the claim
5 was made or the net proceeds of sale, whichever is greater. If the property claimed
6 was interest bearing to the owner on the date of surrender by the holder, the
7 administrator shall pay interest at a rate of 6% per year or any lesser rate the
8 property earned while in the possession of the holder. Interest begins to accrue when
9 the property is delivered to the administrator and ceases on the earlier of the
10 expiration of 10 years after delivery or the date on which payment is made to the
11 owner. No interest on interest-bearing property is payable for any period before
12 December 31, 1984.

13 SECTION 22. 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 23. 177.35 (2) of the statutes is amended to read:~~

2 ~~177.35 (2) An agreement entered into under this section is not enforceable if~~
3 ~~the agreement is entered into within 24 12 months after payment or delivery of the~~
4 ~~property is due under s. 177.19 (1) 177.17 (4) (a).~~

5 SECTION 24. 852.01 (3) of the statutes is amended to read:

6 852.01 (3) ESCHEAT. If there are no heirs of the decedent under subs. (1) and
7 (2), the net estate escheats to the state to be added to the capital of the school fund.
8 Claims on amounts escheated to the state may be made under s. 863.39 (3) within
9 10 years after the date of publication under s. 177.18 (2m). If a claimant resides
10 outside the United States or its territories, the court may require the personal
11 appearance of the claimant before the court.

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

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

22 SECTION 26. 863.37 (2) (b) of the statutes is repealed.

23 SECTION 27. 863.39 (3) (a) of the statutes is amended to read:

24 863.39 (3) (a) Within 10 years after the date of publication under s. 177.18 (2m),
25 any person claiming any amount deposited under sub. (1) or under s. 852.01 (3) or

BILL

1 863.37 (2) may file in the probate court in which the estate was settled a petition
2 alleging the basis of his or her claim. The court shall order a hearing upon the
3 petition, and 20 days' notice of the hearing and a copy of the petition shall be given
4 by the claimant to the ~~department of revenue~~ state treasurer and to the attorney
5 general, who may appear for the state at the hearing. If the claim is established it
6 shall be allowed without interest, but including any increment which may have
7 occurred on securities held, ~~and the court shall so certify to the department of~~
8 ~~administration, which shall audit the claim.~~ The state treasurer shall pay the claim
9 out of the appropriation under s. 20.585 (1) (j). ~~Before issuing the order distributing~~
10 ~~the estate, the court shall issue an order determining the death tax due, if any.~~ If real
11 property has been adjudged to escheat to the state under s. 852.01 (3) the probate
12 court ~~which~~ that made the adjudication may adjudge at any time before title has been
13 transferred from the state that the title shall be transferred to the proper owners
14 under this subsection.

15 **SECTION 28.** 863.39 (3) (b) of the statutes is repealed.

16 **SECTION 29.** 863.39 (3) (bm) of the statutes is created to read:

17 863.39 (3) (bm) 1. Notwithstanding par. (a), any person claiming an amount
18 deposited under sub. (1) or under s. 852.01 (3) or 863.37 (2) that does not exceed
19 \$5,000 may, within 10 years after the date of publication under s. 177.18 (2m), file
20 with the state treasurer a claim on a form prescribed by the state treasurer and
21 verified by the claimant.

22 2. The state treasurer shall consider each claim within 90 days after it is filed
23 and may refer any claim to the attorney general for an opinion. For each claim
24 referred, the attorney general shall advise the state treasurer either to allow it or to
25 deny it in whole or in part. The state treasurer shall give written notice to the

BILL

1 claimant if the claim is denied in whole or in part. The notice shall be given by
2 mailing it to the last address, if any, stated in the claim as the address of the claimant
3 to which notices are to be sent. If no address for notices is stated in the claim, the
4 notice shall be mailed to the last address, if any, stated in the claim as the address
5 of the claimant. No notice of denial need be given if the claim fails to state either the
6 last address to which notices are to be sent or the address of the claimant.

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

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

SECTION 30. Nonstatutory provisions.

23 (1) REPORT OF ABANDONED PROPERTY. Notwithstanding section 177.17 (4) (a) of
24 the statutes, as affected by this act, ~~If this subsection takes effect after October 31,~~
25

1.
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1.

1 2001, the report due under section 177.17 (4) (a) of the statutes, as affected by this
2 act, by November 1, 2002, shall cover the period from January 1, 2000 to June 30,
3 2002. If this subsection takes effect on or before October 31, 2001, the report due
4 under section 177.17 (4) (a) of the statutes, as affected by this act, by November 1,
5 2001, shall cover the period from January 1, 2000 to June 30, 2001.

~~SECTION 31. Initial applicability~~

7 (1) AGREEMENTS TO LOCATE PROPERTY. The treatment of section 177.35 (2) of the
8 statutes first applies to agreements entered into on the effective date of this
9 subsection.

10 (2) UNCLAIMED PROPERTY CLAIMS, SECURITIES. The treatment of sections 177.22
11 (4) and 177.24 (3) of the statutes first applies to claims filed under section 177.24 of
12 the statutes on the effective date of this subsection. *APISING*

(END)

13

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3506/2ins
RJM:.....

INSERT ANALYSIS

This bill ~~also~~ shortens to 3 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 3 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 3 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 3 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 3 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 3 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 3 year period, the owner has failed to claim a dividend, distribution, or other sum payable as a result of the ownership interest or communicate with the association regarding the ownership interest.

INSERT 6-9

, as affected by 2001 Wisconsin Act 16,

SECTION 1. 177.10 (1) to (3) of the statutes are repealed and recreated to read:

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

(a) The interest in the association is owned by a person who for more than 3 years has failed to claim a dividend, distribution, or other sum payable as a result of the interest or, 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.

huph
↓

(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 the association does not know the location of the owner.

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

(a) The underlying stock, shareholdings, or other intangible ownership 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.

(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.

as affected by 2001 Wisconsin Act 16,

SECTION 2. 177.10 (5) of the statutes is renumbered 177.10 (5) (intro.) and amended to read:

177.10 (5) (intro.) This ~~chapter 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 ~~the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan,~~

5

that the owner has not within 5 years communicated in any manner specified under sub. (1). any of the following apply:

History: 1983 a. 408.

SECTION 3. 177.10 (5) (a) and (b) of the statutes are created to read:

177.10 (5) (a) The records available to the person administering the plan show, with respect to any intangible ownership interest owned by the same person but not enrolled in the plan, that for more than 3 years the owner has failed to claim a dividend, distribution, or other sum payable as a result of the interest as provided under sub. (1) (a) or communicate with the association as provided under sub. (1) (a).

(b) Except as otherwise provided in this paragraph, more than 3 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, during this 3-year period, the owner has failed to claim a dividend, distribution, or other sum payable as a result of the interest as provided under sub. (1) (a) or communicate with the association as provided under sub. (1) (a). The 3-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 date on which the holder discontinues mailings to the owner.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3506/2dn

RJM/.....

95

(C)

With regard to s. 177.10, it appears as though proposed s. 177.10 (2) (c) is broad enough to cover the situation covered by proposed s. 177.10 (2) (b). If you agree, let me know and we can eliminate par. (b).

Mary Celentani:

Attached is the redraft you requested. Please review the revised treatment of ss. 177.10 and 177.22 (4). I did not stray too much from the suggested language for s. 177.10, although I did adjust the language somewhat.

10 With regard to s. 177.22 (4), I drafted this treatment in a way that preserves the blanket immunity for the state, without regard to whether the property was reported and delivered in good faith. It didn't seem to make sense to link the state's potential liability with the state of mind of the holder who reported and delivered the property. However, there may be a problem in current law with this grant of immunity, because s. 177.21 requires the state to pay dividends that accrue while the state has custody of a stock. Given this requirement, should the grant of immunity to the state under s. 177.22 (4) be amended to say "except as provided under s. 177.21"?

Please let me know if you desire any changes or if you have any questions.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3506/2dn
RJM:cjs:pg

September 12, 2001

Mary Celentani:

Attached is the redraft you requested. Please review the revised treatment of ss. 177.10 and 177.22 (4). I did not stray too much from the suggested language for s. 177.10, although I did adjust the language somewhat.

With regard to s. 177.10, it appears as though proposed s. 177.10 (2) (c) is broad enough to cover the situation covered by proposed s. 177.10 (2) (b). If you agree, let me know and we can eliminate par. (b).

With regard to s. 177.22 (4), I drafted this treatment in a way that preserves the blanket immunity for the state, without regard to whether the property was reported and delivered in good faith. It didn't seem to make sense to link the state's potential liability to the state of mind of the holder who reported and delivered the property. However, there may be a problem in current law with this grant of immunity, because s. 177.21 requires the state to pay dividends that accrue while the state has custody of a stock. Given this requirement, should the grant of immunity to the state under s. 177.22 (4) be amended to say "except as provided under s. 177.21"?

Please let me know if you desire any changes or if you have any questions.

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

Rob:

Attached please find LRB 3506/2 with some handwritten changes and references to Attachments A, B and C. I hope the proposed language for 177.10 and the dormancy period changes in 177.02 will address both the underlying shares and the corresponding dividends.

Also, I have been informed that the life insurance companies would like to have 3-year dormancy periods for all types of abandoned property. I checked the existing statutes for Washington DC and CT, and they have exact language and proposed dormancy and notice periods.

I will be out of the office on Friday, but will call you late AM Friday to see if you have any questions or need additional information. Thanks again.

A handwritten signature in black ink, appearing to be "Shay", written in a cursive style.