

**2003 DRAFTING REQUEST**

**Senate Amendment (SA-SB44)**

Received: **04/30/2003**

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Rhodes**

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

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us** ✓

**Pre Topic:**

LFB:.....Rhodes -

**Topic:**

Unclaimed property law changes

**Instructions:**

See Attached.

**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 04/30/2003	csicilia 04/30/2003					
/1	rmarchan 05/19/2003	chanaman 05/19/2003	chaskett 05/01/2003		sbasford 05/01/2003		
/2			jfrantze		mbarman		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			05/19/2003 _____		05/19/2003		

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<END>

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/1			chaskett 05/01/2003	_____	sbasford 05/01/2003		
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*cut*  
*5/19*  
*h*

*To 5/19*

*Self*  
*5/19*

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/?	rmarchan	/ 1 js 4/30 03		_____			

FE Sent For:

&lt;END&gt;

Kurt LFB Charges to unclaimed property laws (177)

Convert from mutual to stock

"related" reorganization?

rechar, reorg, conversion, or other transformation



**Legislative Fiscal Bureau**

One East Main, Suite 301 o Madison, WI 53703 o (608) 266-3847 • Fax: (608) 267-6873

**Date: April 30, 2003**

**DELIVER TO:** Rob Marchant

**Addressee Fax #:** 4-6948

**Addressee Phone #:**

**# of Pages, Including Cover:** 5

**Sender's Initials:**

**From:** Terry Rhodes

**Information relative to requested LFB budget draft for unclaimed property statute, including specific draft language that motion was based on. Please call if questions.**

Senator Darling  
Representative Kaufert

STATE TREASURER

Reporting Requirements for Unclaimed Insurance Company Demutualization Proceeds

Motion:

Move to amend Chapter 177 of the Statutes to create special reporting requirements for unclaimed property resulting from the demutualization, rehabilitation or related reorganization of insurance companies by specifying that:

(1) For property distributable in the course of a demutualization, rehabilitation or related reorganization of an insurance company, abandoned property of presumed owners located in this state is to be reported as unclaimed property to the State Treasurer two years after the date the property was first distributable;

(2) Such property is to be deemed abandoned if: (a) at the time of the first distribution the last known address of the owner is known to be incorrect; or (b) the distribution or statement is returned by the post office as undeliverable; and if the owner has not communicated with the holder of property regarding the person's interest in the property;

(3) Property otherwise distributable as a result of the demutualization, rehabilitation or related reorganization of a mutual insurance company but that would not be required to be reported under this special provision would be reportable under the existing unclaimed reporting statutes.

(4) As a one-time provision, unclaimed property that would be reportable under this special insurance company demutualization proceeds provision would be required to be reported under this new provision to the State Treasurer no later than May 1, 2004, for all property determined to be unclaimed under this special provision as of December 31, 2003.

Note: *Kaufert/Darling OK 15-1* *NO Lopez*

Under current law, intangible property owed to a person in the ordinary course of a business's operation and that has been unclaimed by the owner for more than 5 years after it became payable or distributable is presumed abandoned and is to be reported by the holder to the state as unclaimed property. A number of mutual insurance companies have acted in the last few years to convert to stock companies. Such a demutualization typically results in the mutual company distributing its net worth at that time to the mutual "stockholders" -- the policyholders -- in the form of stock, cash or policy credits. For policy holders who have paid-up policies, the mutual company may have not had active contact with the policy holder and as a consequence was not able to contact the policy holder when demutualization occurred. If stock or cash is due a policy holder who cannot be found, that property will become unclaimed property. This motion would create a shorter time period (two years rather than five) of no contact with the property owner before such property is to be reported



to this state as unclaimed. It also would provide for a special one-time early reporting data for such property of May 1, 2004.

Unclaimed property proceeds transmitted to the State Treasurer are held for different period of times, depending on their nature. In this case, it is presumed that most of the unclaimed property proceeds would either be cash or securities (stocks). Cash proceeds, net of claims payments and administrative expenses, would typically be distributed by the State Treasurer during the fiscal year, depending on the time of receipt, to the common school fund and become assets of that fund. However, by statute, securities must be held for a minimum of one year and are typically, depending upon the nature from the individual security, held by the State Treasurer for up to three years. Once sold, the actual proceeds from the security sale are also transferred to the common school fund. The State Treasurer incurs various costs associated with unclaimed property program, including fees charged by national firms who audit business entities, including insurance companies, in other states for unclaimed property due Wisconsin (as well as other states). These firms receive 12.5% of the value of the unclaimed property found and delivered to Wisconsin. For securities, the state deposits such securities with a custodial service that charges fees for holding the securities and ultimately for selling the securities that are not claimed.

A unit of one these national firms, the ACS Unclaimed Property Clearinghouse, Inc., has made an estimate that under this proposed change some \$47 million in unclaimed demutualization proceeds could potentially be made available to the state as unclaimed property. This estimate was based on a percentage of premiums written for Wisconsin residents for five major companies headquartered in other states that have demutualized. The actual amounts realized would require audits of these companies (and others) and any claims granted following the normal reporting and notification of potential claimants. While the proceeds in question would, as found, still come to Wisconsin under the existing unclaimed property statute, this motion would provide a process under which the proceeds would be determined to be abandoned under a shorter time-frame and, based on the change, would be projected to become available to Wisconsin within the 2003-05 biennium.

The presumed intent of this change would be to provide monies to the common school fund sooner than would occur under current law. Unclaimed property proceeds, once transmitted by the State Treasurer's Office to the Board of Commissioner of Public Lands, become a part of trust fund assets and are constitutionally protected. Currently, interest earnings on the monies in that fund are distributed annually to school districts as school library aids. The actual amount of funds that would accrue to common school fund in the 2003-05 biennium under this proposed change would depend upon several factors: the actual amount of proceeds determined unclaimed as a result of contracted audits; the amount of those proceeds that are in cash as opposed to securities; and the deductions from those proceeds for various administrative costs incurred by the State Treasurer's Office in association with the receipt and handling of such proceeds as well as any unclaimed property proceeds which are returned to claimants. No funds are budgeted to the State Treasurer's Office for any added costs that that Office would have in the 2003-05 biennium for the handling of these additional one-time unclaimed property proceeds.

[Change to Bill: See Text]



TERRY RHODES

FAX: 267-6873

**Unclaimed Demutualization Initiative--State of Wisconsin**

**Background:**

Under the current provisions of the Uniform Unclaimed Property Act, (Chapter 177, WI Stats.) there is no specific provision addressing unclaimed distributions relating from the conversion of a mutual insurance company to a stock company ("demutualization"). By default, this property becomes reportable to the state five years following the date of the demutualization. However, the vast majority of policyholders who fail to claim such distributions lost contact with the insurance company years, if not decades, prior to the demutualization. There is no public policy reason for further delaying the reporting and delivery to the state of the unclaimed demutualization proceeds.

The current significance of this issue relates to the number and size of insurance companies that demutualized between 1998 and 2002. (See Exhibit A). By amending Chapter 177 to expedite the reporting of unclaimed demutualization proceeds, Wisconsin can better protect the interests of Wisconsin policyholders and maximize its earnings on unclaimed property.

To date, eight states have amended their unclaimed property statutes to expressly provide for the abandonment of unclaimed demutualization proceeds. (Arkansas, Kentucky, Maine, Massachusetts, New Jersey, Virginia, Iowa and Kansas). Similar legislation is pending in Florida, Illinois, Oklahoma, South Carolina, Texas, Connecticut, Indiana and Tennessee. We anticipate a significant number of additional states will introduce demutualization bills yet this session.

REQUESTED  
DRAFT  
LANG.

**Proposed Amendment:** Amend Chapter 177 to create a new provision as follows.

**Lost Owners of Unclaimed Demutualization, Rehabilitation, or Related Reorganization Proceeds.**

1. Property distributable in the course of a demutualization, rehabilitation, or related reorganization of an insurance company is deemed abandoned two years after the date the property is first distributable if, at the time of the first distribution the last known address of the owner on the books and records of the holder is known to be incorrect, or the distribution or statements are returned by the post office as undeliverable, and the owner
  - a. has not communicated in writing with the holder or its agent regarding the interest; or
  - b. otherwise communicated with the holder regarding the interest as evidenced by a memorandum or other record on file with the holder or its agent.

REQUESTED  
DRAFT  
LANG.

2. Property distributable in the course of demutualization, rehabilitation or related reorganization of a mutual insurance company that is not subject to subsection 1 hereto shall be reportable as otherwise provided by this chapter.
3. Property subject to (new section) of this act shall be reported and delivered no later than November 1 as of the preceding December 31; however, the initial report under (new section) shall be filed no later than May 1, 2004 as of December 31, 2003.



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRBb0119/1

RJM:.....

*Handwritten notes:*  
ejs  
RJM  
DNOTE

LFB:.....Rhodes – Unclaimed property law changes

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT,  
TO 2003 SENATE BILL 44

*SAV ✓  
new CR ✓  
x-12 ✓*

1 At the locations indicated, amend the bill as follows:

2 1. Page 848, line 8: after that line insert:

3 ✓ "SECTION 2120<sup>m</sup>. 177.075<sup>^</sup> of the statutes is created to read:

4 **177.075 Distributions caused by certain insurance company activities.**

5 (1) Any intangible property distributable in the course of a rehabilitation or  
6 reorganization, conversion, or other transformation of an insurance company is  
7 presumed abandoned if the distribution remains unclaimed for more than 2 years  
8 after the date on which the property is distributable and if all of the following apply:

9 (a) At the time the property is distributable, the holder knows that the  
10 last-known address of the owner, as reflected in the records of the holder, is incorrect  
11 or the holder has mailed the distribution or notice thereof to the owner at the

1 last-known address of the owner, as reflected in the records of the holder, and the  
2 mailing has been returned to the holder as undeliverable. ✓

3 (b) The holder has not communicated with the owner in writing concerning the  
4 distribution after the date on which the property is distributable. ✓

5 (c) The holder has not communicated with the owner in any other manner  
6 concerning the distribution, as reflected in the records of the holder, after the date  
7 on which the property is distributable. ✓

8 (2) Any intangible property distributable in the course of a rehabilitation or  
9 reorganization, conversion, or other transformation of an insurance company is  
10 presumed abandoned as otherwise provided under this chapter if sub. (1) (a) ✓  
11 ~~are not satisfied~~ <sup>does not apply</sup> with respect to the distribution. ✓  
*(b) or*

12 SECTION 2120p. 177.10 (1) (intro.) of the statutes is amended to read:

13 177.10 (1) (intro.) Except as provided in subs. (2) and (5) and s. 177.075 (1), any  
14 stock or other intangible ownership interest in a business association, the existence  
15 of which is evidenced by records available to the association, is presumed abandoned  
16 and, with respect to the interest, the association is the holder, if a dividend,  
17 distribution or other sum payable as a result of the interest has remained unclaimed  
18 by the owner for 5 years and the owner has not done either of the following within  
19 5 years:

20 SECTION 2120s. 177.17 (4) (b) of the statutes is amended to read:

21 177.17 (4) (b) The holder of an interest under s. 177.10 or a stock or other  
22 intangible ownership interest presumed abandoned under s. 177.075 (1) shall  
23 deliver to the administrator, upon filing the report required under this section, a  
24 duplicate certificate or other evidence of ownership if the holder does not issue  
25 certificates of ownership. Upon delivery of a duplicate certificate to the

1 administrator, the holder and any transfer agent, registrar or other person acting for  
2 or on behalf of a holder in executing or delivering the duplicate certificate are  
3 relieved of all liability, as provided under s. 177.20, to any person, including any  
4 person acquiring the original certificate or the duplicate of the certificate issued to  
5 the administrator, for any loss or damage caused by the issuance and delivery of the  
6 duplicate certificate to the administrator.” ✓

History: 1983 a. 408; 1987 a. 399; 2001 a. 16 ss. 2888 to ~~2890~~, 2897.

7 **2.** Page 1098, line 6: after that line insert:

8 “(2) REPORTING OF CERTAIN UNCLAIMED PROPERTY. Notwithstanding section  
9 177.17 of the statutes, a holder of property presumed abandoned under section  
10 177.075 (1) of the statutes is exempt from filing the report required under section  
11 177.17 of the statutes concerning that property covering the 2002 calendar year.  
12 Notwithstanding section 177.17 (4) (a) 1. of the statutes, such a holder shall file the  
13 report required under section 177.17 of the statutes concerning that property  
14 covering the 2003 calendar year by May 1, 2004.” ✓

15

(END)

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

LRBb0119/?dn

RJM:.....

gjs

Terry Rhoades:

Attached is the draft the committee requested concerning unclaimed property. Please review the draft to ensure that I adequately captured the committee's intent. The language is not identical to the language submitted with the committee's motion, but I think it more accurately accomplishes the intended result. Please feel free to call 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**

LRBb0119/1dn  
RJM:cjs:cph

April 30, 2003

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*imb*  
*RJM*

LFB:.....Rhodes – Unclaimed property law changes

FOR 2003-05 BUDGET -- NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2003 SENATE BILL 44

1 At the locations indicated, amend the bill as follows:

2 1. Page 848, line 8: after that line insert:

3 "SECTION 2120m. 177.075 of the statutes is created to read:

4 **177.075 Distributions caused by certain insurance company activities.**

5 (1) Any intangible property distributable in the course of a rehabilitation or  
6 reorganization, conversion, or other transformation of an insurance company is  
7 presumed abandoned if the distribution remains unclaimed for more than 2 years  
8 after the date on which the property is distributable and if all of the following apply:

9 (a) At the time the property is distributable, the holder knows that the  
10 last-known address of the owner, as reflected in the records of the holder, is incorrect  
11 or the holder has mailed the distribution or notice thereof to the owner at the

1 last-known address of the owner, as reflected in the records of the holder, and the  
2 mailing has been returned to the holder as undeliverable.

3 (b) The holder has not communicated with the owner in writing concerning the  
4 distribution after the date on which the property is distributable.

5 (c) The holder has not communicated with the owner in any other manner  
6 concerning the distribution, as reflected in the records of the holder, after the date  
7 on which the property is distributable.

8 (2) Any intangible property distributable in the course of a rehabilitation or  
9 reorganization, conversion, or other transformation of an insurance company is  
10 presumed abandoned as otherwise provided under this chapter if sub. (1) (a), (b), or  
11 (c) does not apply with respect to the distribution.

12 **SECTION 2120p.** 177.10 (1) (intro.) of the statutes is amended to read:

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 4 person acquiring the original certificate or the duplicate of the certificate issued to  
 5 the administrator, for any loss or damage caused by the issuance and delivery of the  
 6 duplicate certificate to the administrator.”.

7 **2.** Page 1098, line 6: after that line insert:

8 *comma moves too*  
 9 *steps*  
 10 *on*  
 11 *Notwithstanding section*  
 12 *177.17 of the statutes, a holder of property presumed abandoned under section*  
 13 *177.075 (1) of the statutes, as created by this act is exempt from filing the report*  
 14 *required under section 177.17 of the statutes concerning that property covering the*  
 15 *2002 calendar year. Notwithstanding section 177.17 (4) (a) 1. of the statutes, such*  
 a holder shall file the report required under section 177.17 of the statutes concerning  
 that property covering the 2003 calendar year by May 1, 2004.”.

(END)



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRBb0119/2  
RJM:cjs&cmh:jf

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11 under section 177.17 of the statutes concerning that property covering the 2003  
12 calendar year by May 1, 2004.”.

13 (END)