



## 2013 SENATE BILL 634

February 26, 2014 – Introduced by Senators GROTHMAN, RISSER and L. TAYLOR, cosponsored by Representative MURPHY. Referred to Committee on Workforce Development, Forestry, Mining, and Revenue.

1     **AN ACT to amend** 177.26 and 177.34 (1) of the statutes; **relating to:** procedures  
2             for establishing a claim to abandoned, intangible property and interest due on  
3             property determined to be abandoned and due to be paid or delivered to the  
4             Department of Revenue.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person who holds property that has been determined to be abandoned by the owner of the property must pay or deliver that property to the Department of Revenue (department). If the person who holds the property fails to pay or deliver the property within the time required by law, the person must pay interest on the property or the value of the property at the annual rate of 18 percent from the date the property should have been paid or delivered. Under this bill, the department may only require a person to pay interest on the property if the person has willfully neglected to pay or deliver the property in a timely manner. The bill also changes the interest rate from 18 percent to 12 percent.

Under current law, a person may claim an interest in abandoned, intangible property by filing a claim with the department. Intangible property is presumed to be abandoned if it is held, issued, or owing in the ordinary course of a holder's business and it has remained unclaimed by the owner for more than five years after it became payable or distributable. Current law requires the department to consider each claim within 90 days after the claim is filed. The department may also refer a claim to the attorney general for an opinion on whether to either allow the claim or deny the claim in whole or in part.

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A person aggrieved by a decision of the department or whose claim has not been acted upon within 90 days (claimant) may, under current law, bring an action to establish the claim in circuit court. If, in circuit court, the claimant establishes the claim against the department, the court must award costs and reasonable attorney fees to the claimant.

This bill permits a claimant to petition for judicial review of the decision or inaction of the department under chapter 227 of the Wisconsin Statutes; chapter 227 establishes uniform procedures for the review of administrative actions and decisions. The bill also eliminates the mandatory award of costs and reasonable attorneys fees to a claimant who prevails against the department in circuit court in those cases in which the circuit court determines the department was substantially justified in taking its position or in which special circumstances exist that would make the award of costs and attorney fees unjust.

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

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

1           **SECTION 1.** 177.26 of the statutes is amended to read:

2           **177.26 Action to establish claim.** A person aggrieved by a decision of the  
3 administrator or whose claim has not been acted upon within 90 days after its filing  
4 may ~~bring an action to establish the claim in the circuit court, naming the~~  
5 ~~administrator as a defendant. The action shall be brought~~ petition for judicial review  
6 of the decision or of the claim under s. 227.52, except that petitions for review shall  
7 be served and filed within 90 days after the decision of the administrator or within  
8 180 days after the filing of the claim if the administrator has failed to act on it. If the  
9 person establishes the claim in an action against the administrator, the ~~court shall~~  
10 standards under s. 227.485 shall apply to the award the person of costs and  
11 reasonable attorney fees by the court.

12           **SECTION 2.** 177.34 (1) of the statutes is amended to read:

13           177.34 (1) ~~A~~ The administrator may require a person who fails willfully  
14 neglects to pay or deliver property within the time prescribed by this chapter ~~shall~~

