

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1149

Introduced by

Representative Klemin

Senator Hogue

1 A BILL for an Act to amend and reenact sections 47-30.2-04, 47-30.2-24, 47-30.2-32,
2 47-30.2-39, 47-30.2-50, 47-30.2-52, 47-30.2-55, and 47-30.2-63 of the North Dakota Century
3 Code, relating to the revised uniform unclaimed property act; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 47-30.2-04 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **47-30.2-04. (201) When property presumed abandoned.**

8 Subject to section 47-30.2-12, the following property is presumed abandoned if it is
9 unclaimed by the apparent owner during the period specified below:

- 10 1. Except as provided in this section, checks held, issued, or owing in the ordinary
11 course of the holder's business which remain uncashed by the owner two years after
12 becoming payable;
- 13 2. A traveler's check, fifteen years after issuance;
- 14 3. A money order, seven years after issuance;
- 15 4. A state or municipal bond, bearer bond, or original-issue-discount bond, three years
16 after the earliest of the date:
 - 17 a. The bond matures;
 - 18 b. The bond is called; or
 - 19 c. The obligation to pay the principal of the bond arises;
- 20 5. A debt of a business association, three years after the obligation to pay arises;
- 21 6. A payroll card or a demand, savings, or time deposit, including a time deposit that is
22 automatically renewable, five years after the date of maturity of the time deposit or the

- 1 date of the last indication of interest in the property by the apparent owner, whichever
2 is earlier, provided a time deposit that is automatically renewable is deemed matured
3 on its initial date of maturity unless the apparent owner has consented in a record on
4 file with the holder to renewal at or about the time of the renewal. If an apparent owner
5 has another established account with the financial institution and has demonstrated
6 interest in any account under section 47-30.2-12, then all accounts must be
7 considered active;
- 8 7. A cashier's check or certified check, two years after issuance;
- 9 8. Money or a credit owed to a customer as a result of a retail business transaction, other
10 than in-store credit for returned merchandise, three years after the obligation arose;
- 11 9. An amount owed by an insurance company on a life or endowment insurance policy or
12 an annuity contract that has matured or terminated, three years after the obligation to
13 pay arose under the terms of the policy or contract or, if a policy or contract for which
14 an amount is owed on proof of death has not matured by proof of the death of the
15 insured or annuitant, as follows:
- 16 a. With respect to an amount owed on a life or endowment insurance policy, three
17 years after the earlier of the date:
- 18 (1) The insurance company has knowledge of the death of the insured; or
19 (2) The insured has attained, or would have attained if living, the limiting age
20 under the mortality table on which the reserve for the policy is based; and
- 21 b. With respect to an amount owed on an annuity contract, three years after the
22 date the insurance company has knowledge of the death of the annuitant.
- 23 10. Property distributable by a business association in the course of dissolution, one year
24 after the property becomes distributable;
- 25 11. Property held by a court, including property received as proceeds of a class action,
26 three years after the property becomes distributable;
- 27 12. Property held by a government or political subdivision, agency, or instrumentality,
28 including municipal bond interest and unredeemed principal under the administration
29 of a paying agent or indenture trustee, three years after the property becomes
30 distributable;

- 1 13. Wages, commissions, bonuses, or reimbursements to which an employee is entitled,
2 or other compensation for personal services, one year after the amount becomes
3 payable;
- 4 14. A deposit or refund owed to a subscriber by a utility, one year after the deposit or
5 refund becomes payable;
- 6 15. A security deposit, including interest on the security deposit, made in advance by a
7 person to secure an agreement for rights of services, less any lawsuit deductions,
8 which remains unclaimed by the owner for more than one year after termination of the
9 agreement for which the deposit or advance payment was made;
- 10 16. A sum payable as mineral proceeds which has remained unclaimed by the owner for
11 more than three years after it became payable or distributable and the owner's
12 underlying right to receive those mineral proceeds are deemed abandoned. At the time
13 an owner's underlying right to receive mineral proceeds is deemed abandoned, any
14 mineral proceeds then owing to the owner and any proceeds accruing after that time
15 are deemed abandoned; and
- 16 17. Virtual currency, three years after the apparent owner's last indication of interest in the
17 property;
- 18 18. Excess proceeds from the sale of abandoned vehicles under chapter 23.1-15, the time
19 prescribed by section 23.1-15-07;
- 20 19. Excess proceeds from the sale of public or private property under chapter 57-28, the
21 time prescribed by section 57-28-20; and
- 22 20. Property not specified in this section or sections 47-30.2-05 through 47-30.2-10, the
23 earlier of three years after the owner first has a right to demand the property or the
24 obligation to pay or distribute the property arises.

25 **SECTION 2. AMENDMENT.** Section 47-30.2-24 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **47-30.2-24. (404) Retention of records by holder.**

- 28 1. A holder required to file a report under section 47-30.2-21 shall retain records for ten
29 years after the later of the date the report was filed or the last date a timely report was
30 due to be filed, unless a shorter period is provided by rule of the commissioner.

- 1 2. Upon receipt of a notice for an examination or notice of authorization to participate in
2 the voluntary disclosure program under section 47-30.2-55, a holder shall retain, until
3 the conclusion of the examination or any related appeal or litigation, or the conclusion
4 of authorized voluntary disclosure in each instance, all relevant records dating back
5 ten years from the commencement of the examination, plus the applicable dormancy
6 period under section 47-30.2-04, before the date of the administrator's delivery of a
7 notice of an examination to a holder under this chapter.
- 8 3. The holder may satisfy the requirement to retain records under this section through an
9 agent.
- 10 4. The records must contain:
- 11 a. The verifiable information required to be included in the report;
- 12 b. The date, place, and nature of the circumstances that gave rise to the property
13 right;
- 14 c. The amount or value of the property;
- 15 d. The last address of the apparent owner, if known to the holder;
- 16 e. If the holder sells, issues, or provides to others for sale or issue in this state
17 traveler's checks, money orders, or similar instruments, other than third-party
18 bank checks, on which the holder is directly liable, a record of the instruments
19 while they remain outstanding indicating the state and date of issue; and
- 20 f. Records of items that were not reported as unclaimed sufficient to determine
21 whether the holder has complied with this chapter.

22 **SECTION 3. AMENDMENT.** Section 47-30.2-32 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **47-30.2-32. (603) Payment or delivery of property to administrator.**

- 25 1. Except as otherwise provided in this section, on filing a report under section
26 47-30.2-21, the holder shall pay or deliver to the administrator the property described
27 in the report.
- 28 2. If property in a report under section 47-30.2-21 is an automatically renewable deposit
29 and a penalty or forfeiture in the payment of interest would result from paying the
30 deposit to the administrator at the time of the report, the date for payment of the

- 1 property to the administrator is extended until a penalty or forfeiture no longer would
2 result from payment, if the holder informs the administrator of the extended date.
- 3 3. If property reported to the administrator under section 47-30.2-21 is a security, the
4 administrator may:
- 5 a. Make an endorsement, instruction, or entitlement order on behalf of the apparent
6 owner to invoke the duty of the issuer, the transfer agent of the issuer, or the
7 securities intermediary to transfer the security; or
8 b. Dispose of the security under section 47-30.2-41.
- 9 4. If the holder of property reported to the administrator under section 47-30.2-21 is the
10 issuer of a certificated security, the administrator may obtain a replacement certificate
11 in physical or book-entry form under section 41-08-38. An indemnity bond is not
12 required.
- 13 5. The administrator shall establish procedures for the registration, issuance, method of
14 delivery, transfer, and maintenance of securities delivered to the administrator by a
15 holder.
- 16 6. An issuer, holder, or transfer agent acting under this section under instructions of and
17 on behalf of the issuer or holder is not liable to the apparent owner for, and shall be
18 indemnified by the state against, a claim arising with respect to property after the
19 property has been delivered in good faith to the administrator.
- 20 7. A holder is not required to deliver to the administrator a security identified by the
21 holder as a non-freely transferable security. If the administrator or holder determines
22 that a security is no longer a non-freely transferable security, the holder shall deliver
23 the security on the next regular date prescribed for delivery of securities under this
24 chapter. The holder shall make a determination annually whether a security identified
25 in a report filed under section 47-30.2-21 as a non-freely transferable security is no
26 longer a non-freely transferable security.
- 27 8. If property reported to the administrator is virtual currency, the holder shall liquidate
28 the virtual currency and remit the proceeds to the administrator. The liquidation must
29 occur anytime within thirty days before the filing of the report under section
30 47-30.2-21. The owner may not have recourse against the holder or the administrator.

1 to recover any gain in value occurring after the liquidation of the virtual currency under
2 this subsection.

3 **SECTION 4. AMENDMENT.** Section 47-30.2-39 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **47-30.2-39. (610) Periods of limitation and repose.**

- 6 1. Expiration before, on, or after July 1, 2021, of a period of limitation on an owner's right
7 to receive or recover property, whether specified by contract, statute, or court order,
8 does not prevent the property from being presumed abandoned or affect the duty of a
9 holder under this chapter to file a report or pay or deliver property to the administrator.
- 10 2. The administrator may not commence an action or proceeding to enforce this chapter
11 with respect to the reporting, payment, or delivery of property more than seven years
12 after the holder filed a nonfraudulent report under section 47-30.2-21 with the
13 administrator. The parties may agree in a record to extend the limitation in this
14 subsection.
- 15 3. The administrator may not commence an action, proceeding, or examination with
16 respect to a duty of a holder under this chapter more than ten years after the duty
17 arose.
- 18 4. The periods of limitation established by this section are tolled by the earlier of the
19 administrator's delivery of a notice that a holder is subject to an examination or the
20 delivery of notice of authorization to voluntarily disclose property subject to this
21 chapter under section 47-30.2-55.

22 **SECTION 5. AMENDMENT.** Section 47-30.2-50 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **47-30.2-50. (903) Claim for property by person claiming to be owner.**

- 25 1. A person claiming to be the owner of property held under this chapter by the
26 administrator may file a claim for the property and the claim must be on a form
27 prescribed by the administrator. The claimant shall verify the claim as to the claim's
28 completeness and accuracy.
- 29 2. The administrator may waive the requirement in subsection 1 and may pay or deliver
30 property directly to a person if:

- 1 a. The person receiving the property or payment is shown to be the apparent owner
2 included on a report filed under section 47-30.2-21; and
3 b. The administrator reasonably believes the person is entitled to receive the
4 property or payment; ~~and~~
5 e. ~~The property has a value as provided by rules adopted by the commissioner.~~

6 **SECTION 6. AMENDMENT.** Section 47-30.2-52 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **47-30.2-52. (905) Allowance of claim for property.**

- 9 1. Not later than sixty days after a claim is allowed under subsection 2 of section
10 47-30.2-51, the administrator shall pay or deliver to the owner the property or pay to
11 the owner the net proceeds of a sale of the property, together with income or gain to
12 which the owner is entitled under section 47-30.2-36. On request of the owner, the
13 administrator may sell or liquidate a security and pay the net proceeds to the owner,
14 even if the security had been held by the administrator for fewer than three years or
15 the administrator has not complied with the notice requirements under section
16 47-30.2-41.
- 17 2. Property held under this chapter by the administrator is subject to a claim for the
18 payment of an enforceable debt the owner owes in this state for:
- 19 a. Child support arrearages, including child support collection costs and child
20 support arrearages that are combined with maintenance;
- 21 b. A civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed
22 by a final order of an administrative agency or a final court judgment; ~~or~~
23 c. State or local taxes, penalties, and interest that have been determined to be
24 delinquent or as to which notice has been recorded with the state or local taxing
25 authority; or
- 26 d. A civil monetary judgment for which an execution order has been issued by a
27 state court of competent jurisdiction.
- 28 3. The state and local agencies may make periodic inquiries to the administrator to
29 determine whether an apparent owner included in the unclaimed property records of
30 this state has enforceable debts described in subsection 2. The administrator first shall
31 apply the property or net proceeds of a sale of property held by the administrator to a

1 debt under subsection 2 of an apparent owner which appears in the records of the
2 administrator and deliver the amount to the appropriate state or local agency.

3 **SECTION 7. AMENDMENT.** Section 47-30.2-55 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **47-30.2-55. (1002) Examination of records to determine compliance.**

6 The administrator, at reasonable times and on reasonable notice, may:

- 7 1. Examine the records of a person, including examination of appropriate records in the
8 possession of an agent of the person under examination, if the records are reasonably
9 necessary to determine whether the person has complied with this chapter;
- 10 2. Issue an administrative subpoena requiring the person or agent of the person to make
11 records available for examination; ~~and~~
- 12 3. Bring an action seeking judicial enforcement of the subpoena; and
- 13 4. Authorize a holder to voluntarily disclose property subject to this chapter.

14 **SECTION 8. AMENDMENT.** Section 47-30.2-63 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **47-30.2-63. (1202) Interstate and international agreement - Cooperation.**

- 17 1. ~~Subject to subsection 2, the~~The administrator may:
 - 18 a. Exchange information with another state or foreign country relating to property
19 presumed abandoned or relating to the possible existence of property presumed
20 abandoned; and
 - 21 b. Authorize in a record another state or foreign country or a person acting on
22 behalf of the other state or country to examine its records of a putative holder as
23 provided in sections 47-30.2-54, 47-30.2-55, 47-30.2-56, 47-30.2-57, 47-30.2-58,
24 47-30.2-59, 47-30.2-60, 47-30.2-61, and 47-30.2-62.
- 25 2. An exchange or examination with a foreign country under subsection 1 may be done
26 only if the ~~state or~~ foreign country has confidentiality and security requirements
27 substantially equivalent to those in sections 47-30.2-71, 47-30.2-72, and 47-30.2-73 or
28 agrees in a record to be bound by this state's confidentiality and security
29 requirements.

30 **SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.