

2013 HOUSE POLITICAL SUBDIVISIONS

HB 1162

2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

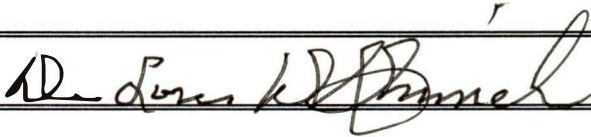
HB 1162

February 14, 2013

Job # 18977

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to definitions for unclaimed property purposes.

Minutes:

Testimony #1

Rep. Streyle: Introduced the bill. I was asked to put this in by the North Dakota Bankers Association to clean up some language in the unclaimed property section of law. This bill simply says a money order isn't a cashier's check. They are two separate financial instruments and they both have different sets of time when they are considered abandoned. A money order doesn't required you to tell the bank who the payee is. A cashier's check you are.

Rep. A. Maragos: How long do banks hold the information as to who bought the cashier's check if it was never cashed?

Rep. Streyle: Most of it is seven years.

Rep. A. Maragos: If someone purchases a cashier's check and sends it to another bank for payment; if it is never passed what happens?

Rep. Streyle: That is part of what this is trying to get at. After that time you would turn it over to unclaimed property.

Rep. A. Maragos: If the cashier's check was never cashed do they have an obligation to tell the person that drew the cashier's check that it was never cashed?

Rep. Streyle: Three years on a cashier's check and seven years on the money order. It is tough because anybody can come in a purchase a cashier's check. It doesn't have to be an account holder.

Marilyn Foss, General Counsel for the ND Bankers Assoc: (Testimony #1) 04:40-08:30

Rep. A. Maragos: If the cashier's check goes to the unclaimed property that do they try to find the person it goes to or who purchased the cashier's check or whom it is made out to.

Marilyn Foss: I think most financial institutions would try to find the person who had purchased the cashier's check. The reason for that is you do not know if it has been delivered or not.

Rep. A. Maragos: The bank keeps information in order to contact the person that created the cashier's check. How would they go about doing that?

Marilyn Foss: Where the purchaser is not a customer I don't know where they would get that information. There is an obligation to try and find the owner of the check and to give them notice in advance of delivering it to the unclaimed property administrator. When you do deliver it to the unclaimed property administrator you provide the administrator with information from which somebody could make a claim against those funds.

Linda Fisher, ND Claims and Property Claims Administrator: We are in support of this bill. We have no objections to what is being proposed here. We would oppose the seven years cashier's check because shorter dormancies allow our office to get busy faster when somebody is missing. The quicker the property comes to us the better the chance that the rightful owner will be reunited with their property.

Rep. Klemin: Why is the money order seven years?

Linda Fisher: They don't have names of the people they belong to. Traveler's checks are 15 years because people tuck them away for a rainy day and they know where they are.

Rep. Hatlestad: What happens if you have a cashier's check for ten years and there is no response from anybody; does the bank just keep the money then?

Linda Fisher: Once it comes to the unclaimed property office it stays there in perpetuity for that owner. It is never spent. The interest that is earned on it goes to fund the common schools trust.

Rep. Hatlestad: The check is cashed or not?

Linda Fisher: We might get \$20,000 from a financial institution. We don't get the actual checks.

Rep. M. Klein: How much do you have dollar wise in the kitty?

Linda Fisher: \$32 million since 1975. We pay out \$2 million a year to owners. We take in about double that. ND has one of the better records in the nation in terms of getting the property back to the rightful owner.

Rep. A. Maragos: You said the revenues from investing it goes to the common schools trust fund. Who is responsible for that?

Linda Fisher: Unclaimed property division is part of the department of trust funds and their job is to invest many millions of dollars and the unclaimed property fund is co-mingled

with that with the hopes of getting better returns. It is accounted for separately, but it is commingled with the investment pool of the rest of those funds.

Rep. J. Kelsh: If I sent a certified check and I sent it to someone. The bank still has that money and you hold it forever.

Linda Fisher: Correct.

Rep. Klemin: When somebody does claim that money do they get the interest also.

Linda Fisher: No, you get only the amount of the check. There is no fee to make a claim.

Opposition: None

Do Pass Motion Made by Rep. J. Kelsh: Seconded by Rep. A. Maragos

Vote: 15 Yes 0 No 0 Absent Carrier: Rep. A. Maragos

Closed.

Date: 2-14-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1162

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Kelsh Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Looyen	✓				
Rep. Andrew Maragos	✓				
Rep. Lisa Meier	✓				
Rep. Nathan Toman	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. Maragos

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1162: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1162 was placed on the Eleventh order on the calendar.

2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1162

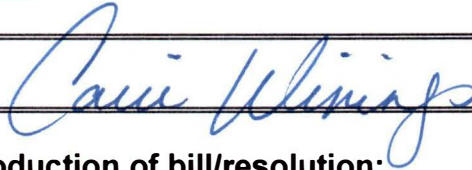
2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

HB 1162
03/08/2013
Job Number 19640

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act relating to definitions for unclaimed property purposes.

Minutes:

Chairman Dever: Opened the hearing on HB 1162.

Representative Streyle, District 3: Testified as sponsor and in support of the bill.

Explained the bill.

(1:37) Chairman Dever: That created complications?

Representative Streyle: Yes. With a cashier's check the bank fills out the payee and the amount and signs the check. A money order is purchased and the customer signs the check and the bank is not required to put the payee in. They are two separate instruments. A cashier's check is easier to track down and that is why the three years is a little more appropriate. The money order is more difficult and it is going to take you a little bit more time to find the person should they not be redeemed.

Chairman Dever: I don't know that I would have thought to bring a bill like this so there must have been special circumstances that brought it to your attention?

Representative Streyle: I was asked to introduce it because of the District court decision saying that a cashier's check is a money order and they are clearly two separate instruments and this just clarifies that they are in fact two separate.

Senator Nelson: Asks for clarification.

Representative Streyle: Explains again.

Senator Marcellais: Does that mean that it does not come on the unclaimed property until three years later?

Representative Streyle: Currently it is seven years for a money order. This would just say that a cashier's check is three and a money order is seven. Also to clarify that a cashier's check is not a money order.

(4:55) Marilyn Foss, North Dakota Bankers Association: See Attachment #1 for testimony in support of the bill.

(9:45) Chairman Dever: I am not quite clear of the three years verses the seven years or whether it is in the possession of the holder or the possession of unclaimed properties and how the funds transfer.

Marilyn Foss: Actually, ownership of the funds does not transfer. The state takes the money and puts it in the land and schools trust. The state takes it as custodian. The purpose of Mrs. Fisher's office is actually to administer claims to return these funds to the owner. The ownership does not change but the entity that is holding it is what changes; from the bank to the state. There are a lot of kinds of unclaimed properties in addition to cashier's checks. We have a very effective and efficient system for gathering property that has been deemed to be unclaimed or abandoned. In the unclaimed property statutes, there are many sections that address different classifications of property and the general rule is three years. Money orders are seven and traveler's checks are fifteen. The bank makes a report to the state and attaches to that check, probably a cashier's check, representing the funds that are associated with instruments that have sold and not used. The unclaimed property administrator then maintains list of that property and publishes lists of that property and maintains a website where you can go in and find out if you are on the

list. There are many different types of unclaimed property. We are trying to make it even clearer in the law that for cashier's checks the rule in North Dakota is three years. We are trying to avoid disagreements with the unclaimed property administrator as to when you turn this money over.

Chairman Dever: It really does not have anything to do with the ownership of the funds?

Marilyn Foss: No, it is a change in who is the holder of the funds.

Chairman Dever: I still don't understand why there would have been a lawsuit.

Marilyn Foss: It happened to be a lawsuit over an un-cashed cashier's check that then the bank and one of payees on the check had a dispute about it. It is an issue that was argued and decided in the lawsuit.

(15:00) Linda Fisher, Unclaimed Property Administrator: Testified in support of the bill. I am here to say we support the bill and to answer any questions if you have them.

(Committee had a discussion on how to find the unclaimed property on the state website and the process for claiming the property. The older the claims, the more difficult it becomes. Names are added regularly. They added 8000 names in the last twelve months.)

Unclaimed property comes from many different locations. Gift cards are not part of unclaimed property. They hold \$32 million in unclaimed property. They stay custodial in perpetuity and the money sits and are invested in the common schools trust fund. North Dakota has one of the best return rates. There is property that will never be claimed.)

(22:16) Chairman Dever: Closed public hearing on HB 1162.

Senator Cook: Moved a Do Pass.

Senator Nelson: Seconded.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Senator Nelson: Carrier.

REPORT OF STANDING COMMITTEE

HB 1162: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1162 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1162

#1

TESTIMONY OF MARILYN FOSS

(North Dakota Bankers Association)


HB 1162

Madam Chairwoman, members of the committee, I am Marilyn Foss, general counsel for the North Dakota Bankers Association. We asked Representative Streyle and Senator Lee to sponsor this bill. HB 1162 does only one thing - add a definition for the term "money order" to our unclaimed property laws and to expressly exclude a cashier's check from that definition, in order to make it crystal clear that under the unclaimed property statutes an outstanding cashier's check is unclaimed within the meaning of the law after a period of three years.

The need for this change came to my attention after I learned of a district court decision that an outstanding cashier's check is a money order, under N.D.C.C. 47-30.1-04, rather than a "check, draft[], and similar instrument issued or certified by banking and financial organizations" under N.D.C.C. 47-30.1-05. An outstanding money order is deemed to be "abandoned" after seven years, while an outstanding bank issued check, draft, and similar instrument is deemed to be abandoned and subject to the requirements for notice to an owner and, eventually, delivery to the state unclaimed property administrator after three years.

Until this decision was made, I and the unclaimed property administrator would have told banks that an outstanding cashier's check fell within the three year statute. Now, we would like that to be made clearer by defining what does constitute a money order subject to the seven year abandonment.



In researching this matter, I learned that North Dakota's unclaimed property statutes are, basically, a version of a uniform law from the 1980's. In the 1990's another version of the Uniform Unclaimed Property Act was developed. This newer version defined the term "money order" so that cashier's checks would not be interpreted to be money orders. What this bill basically does is incorporate the



money order definition from the 1990's version of the Uniform Unclaimed Property Act into our law again, stating expressly, that a cashier's check is not a money order. The Uniform Law Commissioners would have left this unstated and thus, up to interpretation, when the whole point of the bill is to eliminate the need for interpretation.

I have worked with Ms. Fisher, the state unclaimed property administrator, on this and understand that she concurs with the proposed change. The fact is that we all thought the law was as the bill states it to be. I would note, in closing, that our interest in this is removing any question from the law. If legislators want the cashier's check abandonment period to be seven years, that would be fine with us as well, as long as the law is clear. We retained the three year period because that is what we and the state unclaimed property administrator interpreted current law.

Thank you.




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