

1 (a) Property is presumed abandoned if it is unclaimed by the
2 apparent owner during the time set forth below for the particular
3 property:

4 (1) Traveler's check, fifteen years after issuance;

5 (2) Money order, seven years after issuance;

6 (3) Stock or other equity interest in a business association
7 or financial organization, including a security entitlement under
8 article eight of the Uniform Commercial Code, five years after the
9 earlier of: (i) The date of the most recent dividend, stock split
10 or other distribution unclaimed by the apparent owner; or (ii) the
11 date of the second mailing of a statement of account or other
12 notification or communication that was returned as undeliverable or
13 after the holder discontinued mailings, notifications or
14 communications to the apparent owner;

15 (4) Debt of a business association or financial organization,
16 other than a bearer bond or an original issue discount bond, five
17 years after the date of the most recent interest payment unclaimed
18 by the apparent owner;

19 (5) A noninterest bearing demand, savings or time deposit,
20 including a deposit that is automatically renewable, five years of
21 continuous inactivity after the earlier of maturity or the date of
22 the last indication by the owner of interest in the property; an
23 interest bearing demand, savings or time deposit including a
24 deposit that is automatically renewable, seven years of continuous

1 inactivity after the earlier of maturity or the date of the last
2 indication by the owner of interest in the property. A deposit
3 that is automatically renewable is deemed matured for purposes of
4 this section upon its initial date of maturity, unless the owner
5 has consented to a renewal at or about the time of the renewal and
6 the consent is in writing or is evidenced by a memorandum or other
7 record on file with the holder;

8 (6) Money or credits owed to a customer as a result of a
9 retail business transaction, three years after the obligation
10 accrued;

11 (7) Gift certificate, three years after December 31, of the
12 year in which the certificate was sold, but if redeemable in
13 merchandise only, the amount abandoned is deemed to be sixty
14 percent of the certificate's face value;

15 (8) Amount owed by an insurer on a life or endowment insurance
16 policy or an annuity that has matured or terminated, three years
17 after the obligation to pay arose or, in the case of a policy or
18 annuity payable upon proof of death, three years after the insured
19 has attained, or would have attained if living, the limiting age
20 under the mortality table on which the reserve is based;

21 (9) Property distributable by a business association or
22 financial organization in a course of dissolution, one year after
23 the property becomes distributable;

24 (10) Property received by a court as proceeds of a class

1 action, and not distributed pursuant to the judgment, one year
2 after the distribution date;

3 (11) Property held by a court, government, governmental
4 subdivision, agency or instrumentality, one year after the property
5 becomes distributable;

6 (12) Wages or other compensation for personal services, one
7 year after the compensation becomes payable;

8 (13) Deposit or refund owed to a subscriber by a utility, two
9 years after the deposit or refund becomes payable;

10 (14) Property in an individual retirement account, defined
11 benefit plan or other account or plan that is qualified for tax
12 deferral under the income tax laws of the United States, three
13 years after the earliest of the date of the distribution or
14 attempted distribution of the property, the date of the required
15 distribution as stated in the plan or trust agreement governing the
16 plan, or the date, if determinable by the holder, specified in the
17 income tax laws of the United States by which distribution of the
18 property must begin in order to avoid a tax penalty;

19 (15) Warrants for payment issued by the State of West Virginia
20 which have not been presented for payment, within six months of the
21 date of issuance;

22 (16) All funds held by a fiduciary, including the State
23 Municipal Bond Commission, for the payment of a note, bond,
24 debenture or other evidence or indebtedness, five years after the

1 principal maturity date, or if such note, bond, debenture or
2 evidence of indebtedness is called for redemption on an earlier
3 date, then the redemption date, such premium or redemption date to
4 also be applicable to all interest and premium, if any,
5 attributable to such note, bond, debenture or other evidence of
6 indebtedness; and

7 (17) All other property, five years after the owner's right to
8 demand the property or after the obligation to pay or distribute
9 the property arises, whichever first occurs.

10 (b) At the time that an interest is presumed abandoned under
11 subsection (a) of this section, any other property right accrued or
12 accruing to the owner as a result of the interest, and not
13 previously presumed abandoned, is also presumed abandoned.

14 (c) Property is unclaimed if, for the applicable period set
15 forth in subsection (a) of this section, the apparent owner has not
16 communicated in writing or by other means reflected in a
17 contemporaneous record prepared by or on behalf of the holder, with
18 the holder concerning the property or the account in which the
19 property is held, and has not otherwise indicated an interest in
20 the property. A communication with an owner by a person other than
21 the holder or its representative who has not in writing identified
22 the property to the owner is not an indication of interest in the
23 property by the owner.

24 (d) An indication of an owner's interest in property includes:

1 (1) The presentment of a check or other instrument of payment
2 of a dividend or other distribution made with respect to an account
3 or underlying stock or other interest in a business association or
4 financial organization or, in the case of a distribution made by
5 electronic or similar means, evidence that the distribution has
6 been received;

7 (2) Owner-directed activity in the account in which the
8 property is held, including a direction by the owner to increase,
9 decrease or change the amount or type of property held in the
10 account;

11 (3) The making of a deposit to or withdrawal from a bank
12 account; and

13 (4) The payment of a premium with respect to a property
14 interest in an insurance policy; but the application of an
15 automatic premium loan provision or other nonforfeiture provision
16 contained in an insurance policy does not prevent a policy from
17 maturing or terminating if the insured has died or the insured or
18 the beneficiary of the policy has otherwise become entitled to the
19 proceeds before the depletion of the cash surrender value of a
20 policy by the application of those provisions.

21 (e) Property is payable or distributable for purposes of this
22 article notwithstanding the owner's failure to make demand or
23 present an instrument or document otherwise required to obtain
24 payment.

(NOTE: The purpose of this bill is to clarify that there must be five years of continuous inactivity of a noninterest bearing demand, savings or time deposit before it may be presumed to be abandoned for unclaimed property purposes. The bill clarifies that there must be seven years of continuous inactivity of an interest bearing demand, savings or time deposit before it may be presumed to be abandoned for unclaimed property purposes.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)