

# Senate Bill No. 474

(By Senator Chafin)

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[Introduced March 7, 2013;  
referred to the Committee on Banking and Insurance;  
and then to the Committee on Government Organization.]

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A BILL to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating to clarifying 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; and clarifying 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.

*Be it enacted by the Legislature of West Virginia:*

That §36-8-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.**

**§36-8-2. Presumptions of abandonment.**

1           (a) Property is presumed abandoned if it is unclaimed by  
2 the apparent owner during the time set forth below for the  
3 particular 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  
7 association or financial organization, including a security  
8 entitlement under article eight of the Uniform Commercial  
9 Code, five years after the earlier of: (i) The date of the most  
10 recent dividend, stock split or other distribution unclaimed by  
11 the apparent owner; or (ii) the date of the second mailing of  
12 a statement of account or other notification or communication  
13 that was returned as undeliverable or after the holder  
14 discontinued mailings, notifications or communications to the  
15 apparent owner;

16           (4) Debt of a business association or financial  
17 organization, other than a bearer bond or an original issue

18 discount bond, five years after the date of the most recent  
19 interest payment unclaimed by the apparent owner;

20 (5) A noninterest bearing demand, savings or time  
21 deposit, including a deposit that is automatically renewable,  
22 five years of continuous inactivity after the earlier of maturity  
23 or the date of the last indication by the owner of interest in  
24 the property; an interest bearing demand, savings or time  
25 deposit including a deposit that is automatically renewable,  
26 seven years of continuous inactivity after the earlier of  
27 maturity or the date of the last indication by the owner of  
28 interest in the property. A deposit that is automatically  
29 renewable is deemed matured for purposes of this section  
30 upon its initial date of maturity, unless the owner has  
31 consented to a renewal at or about the time of the renewal  
32 and the consent is in writing or is evidenced by a  
33 memorandum or other record on file with the holder;

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

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

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

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

51           (10) Property received by a court as proceeds of a class  
52 action, and not distributed pursuant to the judgment, one year  
53 after the distribution date;

54           (11) Property held by a court, government,  
55 governmental subdivision, agency or instrumentality, one  
56 year after the property becomes distributable;

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

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

61 (14) Property in an individual retirement account,  
62 defined benefit plan or other account or plan that is qualified  
63 for tax deferral under the income tax laws of the United  
64 States, three years after the earliest of the date of the  
65 distribution or attempted distribution of the property, the date  
66 of the required distribution as stated in the plan or trust  
67 agreement governing the plan, or the date, if determinable by  
68 the holder, specified in the income tax laws of the United  
69 States by which distribution of the property must begin in  
70 order to avoid a tax penalty;

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

74 (16) All funds held by a fiduciary, including the State  
75 Municipal Bond Commission, for the payment of a note,

76 bond, debenture or other evidence of indebtedness, five years  
77 after the principal maturity date, or if such note, bond,  
78 debenture or evidence of indebtedness is called for  
79 redemption on an earlier date, then the redemption date, such  
80 premium or redemption date to also be applicable to all  
81 interest and premium, if any, attributable to such note, bond,  
82 debenture or other evidence of indebtedness; and

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

86 (b) At the time that an interest is presumed abandoned  
87 under subsection (a) of this section, any other property right  
88 accrued or accruing to the owner as a result of the interest,  
89 and not previously presumed abandoned, is also presumed  
90 abandoned.

91 (c) Property is unclaimed if, for the applicable period set  
92 forth in subsection (a) of this section, the apparent owner has  
93 not communicated in writing or by other means reflected in  
94 a contemporaneous record prepared by or on behalf of the

95 holder, with the holder concerning the property or the  
96 account in which the property is held, and has not otherwise  
97 indicated an interest in the property. A communication with  
98 an owner by a person other than the holder or its  
99 representative who has not in writing identified the property  
100 to the owner is not an indication of interest in the property by  
101 the owner.

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

104 (1) The presentment of a check or other instrument of  
105 payment of a dividend or other distribution made with respect  
106 to an account or underlying stock or other interest in a  
107 business association or financial organization or, in the case  
108 of a distribution made by electronic or similar means,  
109 evidence that the distribution has been received;

110 (2) Owner-directed activity in the account in which the  
111 property is held, including a direction by the owner to  
112 increase, decrease or change the amount or type of property  
113 held in the account;

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

116 (4) The payment of a premium with respect to a property  
117 interest in an insurance policy; but the application of an  
118 automatic premium loan provision or other nonforfeiture  
119 provision contained in an insurance policy does not prevent a  
120 policy from maturing or terminating if the insured has died or  
121 the insured or the beneficiary of the policy has otherwise  
122 become entitled to the proceeds before the depletion of the  
123 cash surrender value of a policy by the application of those  
124 provisions.

125 (e) Property is payable or distributable for purposes of  
126 this article notwithstanding the owner's failure to make  
127 demand or present an instrument or document otherwise  
128 required to obtain payment.

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(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.)