

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

### **Committee Substitute**

**For**

### **House Bill 4511**

BY DELEGATES LINVILLE, HOWELL, HANSHAW (MR. SPEAKER),  
GRAVES, SUMMERS, ESPINOSA, HOUSEHOLDER, STEELE AND  
HAMRICK

(BY REQUEST OF THE STATE TREASURER)

[Introduced February 02, 2022; referred to the Committee  
on Government Organization then the Judiciary]



1 A BILL to amend and reenact §16-5C-18 of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §36-8-1, §36-8-2, §36-8-8, §36-8-10, §36-8-13, §36-8-15, §36-8-25,  
3 and §36-8-33 of said code, all relating generally to unclaimed property and escheatment  
4 of said property to the state; providing that personal funds of nursing home residents may  
5 be used for the benefit of such residents during their lifetimes with consent of certain  
6 authorized persons; requiring nursing homes to keep an accounting of certain receipts  
7 and disbursements of resident's personal funds and to provide said accounting to  
8 authorized persons in certain circumstances; extending the presumption of abandonment  
9 period for personal funds of nursing home residents; specifying that a willful or intentional  
10 violation of requirements related to nursing home management of resident's personal  
11 funds is a misdemeanor and providing criminal penalties; defining terms; setting forth  
12 presumption of abandonment period for virtual currency; setting forth the presumption of  
13 abandonment period for demand, savings, or time deposits; requiring the holder of virtual  
14 currency to liquidate said currency prior to remittance to the state; providing that the owner  
15 of abandoned virtual currency has no recourse against the holder or state for gain in value  
16 after liquidation; providing that the administrator shall reimburse the holder of a safety  
17 deposit box for the cost of opening said box upon remittance to the administrator using  
18 administrative funds in the Unclaimed Property Fund; authorizing the administrator to  
19 invest the moneys in the Unclaimed Property Fund and allowing earnings to accrue to said  
20 fund; eliminating obsolete language related to previous transfers of moneys from the  
21 Unclaimed Property Fund; discontinuing an annual transfer from the Unclaimed Property  
22 Trust Fund to the Prepaid Trust Escrow Fund and instead providing for an annual transfer  
23 from the Unclaimed Property Trust Fund to the Jumpstart Savings Trust Fund; authorizing  
24 the administrator to waive the requirement that an apparent owner file a claim with the  
25 administrator in certain circumstances; permitting the administrator to disclose the  
26 monetary value and nature or type of a property to a person who is reasonably believed

27 to be the property's apparent owner or a person authorized to receive the property on the  
28 owner's behalf; and requiring the administrator to publish a report including certain  
29 unclaimed property data for the most recently concluded fiscal year.

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

## CHAPTER 16. PUBLIC HEALTH.

### ARTICLE 5C. NURSING HOMES.

#### **§16-5C-18. Separate accounts for residents' personal funds; consent for use; records; penalties.**

1 (a) Each nursing home subject to the provisions of this article shall hold in a separate  
2 account and in trust each resident's personal funds deposited with the nursing home.

3 (b) No person may use or cause to be used ~~for any purpose~~ the personal funds of any  
4 resident admitted to any such nursing home except for the benefit of such resident during his or  
5 her lifetime and unless consent for the use thereof has been obtained from the resident or from  
6 an agent under a durable power of attorney for the resident, a committee or guardian duly  
7 appointed for the resident, or a relative of the resident if there is no power of attorney, committee  
8 or guardian.

9 (c) Each nursing home shall maintain a true and complete record of all receipts for any  
10 disbursements from the personal funds account of each resident in the nursing home, including  
11 the purpose and payee of each disbursement, and shall render a true account of such record to  
12 the resident or his or her agent, committee, guardian, personal representative, successor, heir,  
13 or assign upon demand and upon termination of the resident's stay in the nursing home including  
14 upon the resident's death.

15 (d) Notwithstanding §16-5C-18(b) of this code or any other provision of this code, upon  
16 the death of the resident, any funds remaining in his or her personal account held in trust  
17 hereunder by the nursing home shall be distributable to the estate or successor of the deceased

18 resident in accordance with any of the provisions of chapter 44 of this code: *Provided*, That if after  
19 150 days there has been no qualification of the estate of the deceased resident or payment to a  
20 spouse or distributee under §44-1-28(c) of this code, those funds are deemed unclaimed and are  
21 reportable to the State Treasurer pursuant to the West Virginia Unclaimed Property Act, §36-8-1  
22 *et seq.* of this code.

23 (d) (e) Any person or corporation who willfully or intentionally violates any subsection of  
24 this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than  
25 \$1,000, or imprisoned in jail not more than one year, or both fined and imprisoned.

26 (e) (f) Reports provided to review organizations are confidential unless inaccessibility of  
27 information interferes with the secretary's ability to perform his or her oversight function as  
28 mandated by federal regulations and this section.

29 (f) ~~Notwithstanding §16-5C-18(b) of this code or any other provision of this code, upon the~~  
30 ~~death of a resident, any funds remaining in his or her personal account shall be made payable to~~  
31 ~~the person or probate jurisdiction administering the estate of said resident: *Provided*, That if after~~  
32 ~~30 days there has been no qualification over the decedent resident's estate, those funds are~~  
33 ~~presumed abandoned and are reportable to the State Treasurer pursuant to the West Virginia~~  
34 ~~Uniform Unclaimed Property Act, §36-8-1 *et seq.* of this code~~

## CHAPTER 36. ESTATES AND PROPERTY.

### ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

#### §36-8-1. Definitions.

1 As used in this article:

2 (1) "Administrator" means the State Treasurer.

3 (2) "Apparent owner" means a person whose name appears on the records of a holder as  
4 the person entitled to property held, issued, or owing by the holder.

5           ~~(3)~~ “Business association” means a corporation, joint stock company, investment  
6 company, partnership, unincorporated association, joint venture, limited liability company,  
7 business trust, trust company, safe deposit company, financial organization, insurance company,  
8 mutual fund, utility, or other business entity consisting of one or more persons, whether or not for  
9 profit.

10           ~~(4)~~ “Domicile” means the state of incorporation of a corporation and the state of the  
11 principal place of business of a holder other than a corporation.

12           “Electronic” means relating to technology having electrical, digital, magnetic, wireless,  
13 optical, electromagnetic, or similar capabilities.

14           “Electronic mail” means a communication by electronic means which is automatically  
15 retained and stored and may be readily accessed or retrieved.

16           ~~(5)~~ “Financial organization” means a savings and loan association, bank, banking  
17 organization or credit union.

18           ~~(6)~~ “Holder” means a person obligated to hold for the account of, or deliver or pay to, the  
19 owner property that is subject to this article.

20           ~~(7)~~ “Insurance company” means an association, corporation, or fraternal or mutual benefit  
21 organization, whether or not for profit, engaged in the business of providing life endowments,  
22 annuities or insurance, including accident, burial, casualty, credit life, contract performance,  
23 dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage,  
24 surety, wage protection, and workers’ compensation insurance.

25           ~~(8)~~ “Mineral” means gas; oil; coal; other gaseous, liquid and solid hydrocarbons; oil shale;  
26 cement material; sand and gravel; road material; building stone; chemical raw material; gemstone;  
27 fissionable and non-fissionable ores; colloidal and other clay; steam and other geothermal  
28 resource; or any other substance defined as a mineral by the law of this state.

29           ~~(9)~~ “Mineral proceeds” means amounts payable for the extraction, production or sale of  
30 minerals, or, upon the abandonment of those payments, all payments that become payable  
31 thereafter. The term includes amounts payable:

32           ~~(i)~~ For the acquisition and retention of a mineral lease, including bonuses, royalties,  
33 compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

34           ~~(ii)~~ For the extraction, production, or sale of minerals, including net revenue interests,  
35 royalties, overriding royalties, extraction payments, and production payments; and

36           ~~(iii)~~ Under an agreement or option, including a joint operating agreement, unit agreement,  
37 pooling agreement, and farm-out agreement.

38           ~~(10)~~ “Money order” includes an express money order and a personal money order, on  
39 which the remitter is the purchaser. The term does not include a bank money order or any other  
40 instrument sold by a financial organization if the seller has obtained the name and address of the  
41 payee.

42           ~~(11)~~ “Owner” means a person who has a legal or equitable interest in property subject to  
43 this article or the person’s legal representative. The term includes a depositor in the case of a  
44 deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant,  
45 or payee in the case of other property.

46           ~~(12)~~ “Person” means an individual, business association, financial organization, estate,  
47 trust, government, governmental subdivision, agency, or instrumentality, or any other legal or  
48 commercial entity.

49           ~~(13)~~ “Property” means tangible personal property described in section three of this article  
50 or a fixed and certain interest in intangible personal property that is held, issued, or owed in the  
51 course of a holder’s business, or by a government, governmental subdivision, agency or  
52 instrumentality, and all income or increments therefrom. The term includes property that is  
53 referred to as or evidenced by:

54           ~~(i)~~ Money, virtual currency, a check, draft, warrant for payment issued by the State of West  
55 Virginia, deposit, interest, or dividend;

56           ~~(ii)~~ Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit  
57 memorandum, unpaid wage, unused ticket, mineral proceeds, or unidentified remittance;

58           ~~(iii)~~ Stock or other evidence of ownership of an interest in a business association or  
59 financial organization;

60           ~~(iv)~~ A bond, debenture, note or other evidence of indebtedness;

61           ~~(v)~~ Money deposited to redeem stocks, bonds, coupons or other securities or to make  
62 distributions;

63           ~~(vi)~~ An amount due and payable under the terms of an annuity or insurance policy,  
64 including policies providing life insurance, property and casualty insurance, workers'  
65 compensation insurance, or health and disability insurance; and

66           ~~(vii)~~ An amount distributable from a trust or custodial fund established under a plan to  
67 provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit  
68 sharing, employee savings, supplemental unemployment insurance, or similar benefits.

69           ~~(14)~~ "Record" means information that is inscribed on a tangible medium or that is stored  
70 in an electronic or other medium and is retrievable in perceivable form.

71           ~~(15)~~ "State" means a state of the United States, the District of Columbia, the  
72 Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of  
73 the United States.

74           ~~(16)~~ "United States savings bond" means property, tangible or intangible, in the form of a  
75 savings bond issued by the United States Treasury whether in paper form, electronic or paperless  
76 form, along with the proceeds thereof.

77           ~~(17)~~ "Utility" means a person who owns or operates for public use any plant, equipment,  
78 real property, franchise, or license for the transmission of communications or the production,



79 storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas as defined  
80 in §24-1-2 of this code.

81 “Virtual currency” means a digital representation of value, including cryptocurrency, used  
82 as a medium of exchange, unit of account, or store of value, which does not have legal tender  
83 status recognized by the United States. The term does not include:

84 (A) The software or protocols governing the transfer of the digital representation of value;

85 (B) Game-related digital content; or

86 (C) A loyalty card or gift card.

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

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

3 (1) Traveler’s check, 15 years after issuance;

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

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

11 (4) Debt of a business association or financial organization, other than a bearer bond or  
12 an original issue discount bond, ~~five~~ three years after the date of the most recent interest payment  
13 unclaimed by the apparent owner;

14 ~~(5) A noninterest bearing demand, savings, or time deposit, including a deposit that is~~  
15 ~~automatically renewable, five years after the earlier of maturity or the date of the last indication~~  
16 ~~by the owner of interest in the property; an interest bearing demand, savings, or time deposit~~  
17 ~~including a deposit that is automatically renewable, seven years after the earlier of maturity or the~~

18 ~~date of the last indication by the owner of interest in the property. A deposit that is automatically~~  
19 ~~renewable is deemed matured for purposes of this section upon its initial date of maturity, unless~~  
20 ~~the owner has consented to a renewal at or about the time of the renewal and the consent is in~~  
21 ~~writing or is evidenced by a memorandum or other record on file with the holder. A demand,~~  
22 ~~savings, or time deposit, including a deposit that is automatically renewable, five years after the~~  
23 ~~maturity of the deposit, except a deposit that is automatically renewable is deemed matured on~~  
24 ~~its initial date of maturity unless the apparent owner consented in a record on file with the holder~~  
25 ~~to renewal at or about the time of the renewal;~~

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

28 (7) Gift certificate, three years after December 31, of the year in which the certificate was  
29 sold, but if redeemable in merchandise only, the amount abandoned is deemed to be 60 percent  
30 of the certificate's face value;

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

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

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

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

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

43 (13) Deposit or refund owed to a subscriber by a utility, ~~two one years~~ year after the deposit  
44 or refund becomes payable;

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

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

53 (16) All funds held by a fiduciary, including the state Municipal Bond Commission, for the  
54 payment of a note, bond, debenture or other evidence or indebtedness, ~~five~~ three years after the  
55 principal maturity date, or if such note, bond, debenture, or evidence of indebtedness is called for  
56 redemption on an earlier date, then the redemption date, such premium or redemption date to  
57 also be applicable to all interest and premium, if any, attributable to such note, bond, debenture  
58 or other evidence of indebtedness; ~~and~~

59 (17) Any virtual currency held or owing by any banking organization, corporation,  
60 custodian, exchange, or other entity engaged in virtual currency business activity, three years  
61 after the owner's last indication of interest in the property; and

62 ~~(17)~~ (18) All other property, ~~five~~ three years after the owner's right to demand the property  
63 or after the obligation to pay or distribute the property arises, whichever first occurs.

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

67 (c) Property is unclaimed if, for the applicable period set forth in subsection (a) of this  
68 section, the apparent owner has not communicated in writing or by other means reflected in a

69 contemporaneous record prepared by or on behalf of the holder, with the holder concerning the  
70 property or the account in which the property is held, and has not otherwise indicated an interest  
71 in the property. A communication with an owner by a person other than the holder or its  
72 representative who has not in writing identified the property to the owner is not an indication of  
73 interest in the property by the owner.

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

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

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

81 (3) The making of a deposit to or withdrawal from a bank account;

82 (4) The payment of a premium with respect to a property interest in an insurance policy;  
83 but the application of an automatic premium loan provision or other nonforfeiture provision  
84 contained in an insurance policy does not prevent a policy from maturing or terminating if the  
85 insured has died or the insured or the beneficiary of the policy has otherwise become entitled to  
86 the proceeds before the depletion of the cash surrender value of a policy by the application of  
87 those provisions; and

88 (5) For demand, savings and time deposits held by a financial organization, any indication  
89 of the owner's interest in any demand, savings and time deposit held by the financial organization  
90 for that owner is an indication of the owner's interest in all demand, savings and time deposits  
91 held by that financial organization.

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

**§36-8-8. Payment or delivery of abandoned property.**

1           (a) Except for property held in a safe deposit box or other safekeeping depository, upon  
2 filing the report required by §36-8-7 of this code, the holder of property presumed abandoned  
3 shall pay, deliver or cause to be paid or delivered to the administrator the property described in  
4 the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty  
5 or forfeiture in the payment of interest would result, the time for compliance is extended until a  
6 penalty or forfeiture would no longer result. Property held in a safe deposit box or other  
7 safekeeping depository may not be delivered to the administrator until 120 days after filing the  
8 report required by §36-8-7 of this code.

9           (b) If the property reported to the administrator is a security or security entitlement under  
10 article eight of the uniform commercial code, the administrator is an appropriate person to make  
11 an indorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the  
12 duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the  
13 security or the security entitlement in accordance with article eight of the uniform commercial  
14 code.

15           (c) If the holder of property reported to the administrator is the issuer of a certificated  
16 security, the administrator has the right to obtain a replacement certificate pursuant to article eight,  
17 section four hundred eight of the uniform commercial code, but an indemnity bond is not required.

18           (d) An issuer, the holder, and any transfer agent or other person acting pursuant to the  
19 instructions of and on behalf of the issuer or holder in accordance with this section is not liable to  
20 the apparent owner and must be indemnified against claims of any person in accordance with  
21 section ten of this article.

22           (e) If the property reported is virtual currency, the holder shall liquidate the virtual currency  
23 anytime within 30 days of filing the report and remit the proceeds to the administrator. The owner  
24 shall have no recourse against either the holder or the administrator for any gain in value after  
25 liquidation.

**§36-8-10. Custody by state; recovery by holder; defense of holder.**

1 (a) In this section, payment or delivery is made in “good faith” if:

2 (1) Payment or delivery was made in a reasonable attempt to comply with this article;

3 (2) The holder was not then in breach of a fiduciary obligation with respect to the property  
4 and had a reasonable basis for believing, based on the facts then known, that the property was  
5 presumed abandoned: *Provided*, That no fiduciary shall be deemed to be in breach of a fiduciary  
6 obligation for purposes of this section by virtue of paying or delivering property to the administrator  
7 prior to the expiration of the period for holding unclaimed or abandoned property contained in the  
8 instrument under which such fiduciary is acting; and

9 (3) There is no showing that the records under which the payment or delivery was made  
10 did not meet reasonable commercial standards of practice.

11 (b) Upon payment or delivery of property to the administrator, the state assumes custody  
12 and responsibility for the safekeeping of the property. A holder who pays or delivers property to  
13 the administrator in good faith is relieved of all liability arising thereafter with respect to the  
14 property.

15 (c) A holder who has paid money to the administrator pursuant to this article may  
16 subsequently make payment to a person reasonably appearing to the holder to be entitled to  
17 payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to  
18 the payment, the administrator shall promptly reimburse the holder for the payment without  
19 imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable  
20 instrument, including a traveler’s check or money order, the holder must be reimbursed upon filing  
21 proof that the instrument was duly presented and that payment was made to a person who  
22 reasonably appeared to be entitled to payment. The holder must be reimbursed for payment made  
23 even if the payment was made to a person whose claim was barred under §36-8-19(a) of this  
24 code.

25 (d) A holder who has delivered property other than money to the administrator pursuant  
26 to this article may reclaim the property if it is still in the possession of the administrator, without  
27 paying any fee or other charge, upon filing proof that the apparent owner has claimed the property  
28 from the holder.

29 (e) The administrator may accept a holder's affidavit as sufficient proof of the holder's right  
30 to recover money and property under this section.

31 (f) If a holder pays or delivers property to the administrator in good faith and thereafter  
32 another person claims the property from the holder or another state claims the money or property  
33 under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon  
34 written notice of the claim, shall defend the holder against the claim and indemnify the holder  
35 against any liability on the claim resulting from payment or delivery of the property to the  
36 administrator.

37 (g) Property removed from a safe deposit box or other safekeeping depository is received  
38 by the administrator subject to the holder's right to be reimbursed for the cost of the opening and  
39 to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage  
40 charges in an amount not to exceed \$150. The administrator shall reimburse the holder ~~out of the~~  
41 ~~proceeds remaining after deducting the expense incurred by the administrator in selling the~~  
42 ~~property~~ after the property has been claimed and returned to the apparent owner using funds in  
43 the Unclaimed Property Fund.

**§36-8-13. Deposit of funds**

1 (a) The administrator shall record the name and last known address of each person  
2 appearing from the holders reports to be entitled to the property and the name and last known  
3 address of each insured person or annuitant and beneficiary and with respect to each policy or  
4 annuity listed in the report of an insurance company, its number, the name of the company and  
5 the amount due.

6 (b) The Unclaimed Property Fund is continued. The administrator shall deposit all funds  
7 received pursuant to this article in the Unclaimed Property Fund, including the proceeds from the  
8 sale of abandoned property under §36-8-12 of this code. The administrator may invest the  
9 Unclaimed Property Fund with the West Virginia Board of Treasury Investments or the Investment  
10 Management Board and all earnings shall accrue to the fund and are available for expenditure in  
11 accordance with the article. In addition to paying claims of unclaimed property duly allowed, the  
12 administrator may deduct the following expenses from the Unclaimed Property Fund:

- 13 (1) Expenses of the sale of abandoned property;
- 14 (2) Expenses incurred in returning the property to owners, including without limitation the  
15 costs of mailing and publication to locate owners;
- 16 (3) Reasonable service charge; and
- 17 (4) Expenses incurred in examining records of holders of property and in collecting the  
18 property from those holders.

19 (c) The Unclaimed Property Trust Fund is continued within the State Treasury. The  
20 administrator may invest the Unclaimed Property Trust Fund with the West Virginia Board of  
21 Treasury Investments and all earnings shall accrue to the fund and are available for expenditure  
22 in accordance with this article. After deducting the expenses specified in subsection (b) of this  
23 section and maintaining a sum of money from which to pay claims duly allowed, the administrator  
24 shall transfer the remaining moneys in the Unclaimed Property Fund to the Unclaimed Property  
25 Trust Fund.

26 (d) ~~(1) On July 1, 2009, the unclaimed property administrator shall transfer the amount of~~  
27 ~~\$8 million from the Unclaimed Property Trust Fund to the Prepaid Tuition Trust Escrow Fund~~

28 ~~(2) On or before December 15 of each year, notwithstanding any provision of this code to~~  
29 ~~the contrary, the administrator shall transfer the sum of \$1 million from the Unclaimed Property~~  
30 ~~Trust Fund to the Prepaid Tuition Trust Escrow~~ Jumpstart Savings Trust Fund, until the an actuary



31 certifies there are sufficient funds to ~~pay out all contracts~~ satisfy all obligations and administrative  
32 expenses of the Jumpstart Savings Program.

33 ~~(e) On or before June 1, 2007, the unclaimed property administrator shall transfer the~~  
34 ~~amount of \$2 million from the Unclaimed Property Trust Fund to the Deferred Compensation~~  
35 ~~Matching Fund for operation of the deferred compensation matching program for state~~  
36 ~~employees. On or before June 1, 2008, the unclaimed property administrator shall transfer the~~  
37 ~~amount of \$1 million from the Unclaimed Property Trust Fund to the Deferred Compensation~~  
38 ~~Matching Fund for operation of the matching program.~~

39 ~~(f) On or before June 1, 2013, the unclaimed property administrator shall transfer the~~  
40 ~~amount of \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and~~  
41 ~~Protection Fund for the purpose of satisfying any amounts due as of April 27, 2012 to policemen's~~  
42 ~~and firemen's pension and relief funds in accordance with section fourteen d, article three, chapter~~  
43 ~~thirty-three of this Code~~

44 ~~(g) (e)~~ After transferring any money required by ~~subsections (d) through (f)~~ subsection (d)  
45 of this section, the administrator shall transfer moneys remaining in the Unclaimed Property Trust  
46 Fund to the General Revenue Fund.

**§36-8-15. Filing claim with administrator; handling of claims by administrator.**

1 (a) A person, excluding another state, claiming property paid or delivered to the  
2 administrator may file a claim on a form prescribed by the administrator and verified by the  
3 claimant.

4 (b) Within 90 days after a claim is filed, the administrator shall allow or deny the claim and  
5 give written notice of the decision to the claimant. If the claim is denied, the administrator shall  
6 inform the claimant of the reasons for the denial and specify what additional evidence is required  
7 before the claim will be allowed. The claimant may then file a new claim with the administrator or  
8 maintain an action under section sixteen of this article.

9 (c) Within 30 days after a claim is allowed, the property or the net proceeds of a sale of  
10 the property must be delivered or paid by the administrator to the claimant.

11 (d) The administrator may waive the requirement in subsection (a) and may pay or deliver  
12 property directly to a person who does not file a claim if:

13 (1) The person receiving the property or payment is shown to be the apparent owner  
14 included on a report filed pursuant to this act;

15 (2) The administrator reasonably believes the person is entitled to receive the property or  
16 payment; and

17 (3) The property has a value of less than \$5,000.

**§36-8-25. Records of abandoned property.**

1 Records of abandoned property kept by the administrator are available for inspection and  
2 copying only by an owner of such property as to the particular property he or she owns, or by his  
3 or her personal representative, next of kin, attorney at law, or such person entitled to inherit from  
4 the owner conducting a legal audit thereof. These records are exempt from the provisions of the  
5 West Virginia Freedom of Information Act, chapter 29B of this code: Provided, That nothing in this  
6 section prevents the administrator from disclosing the monetary value of an unclaimed property  
7 or the general nature or type of said property to any person that the administrator reasonably  
8 believes to be the apparent owner of said property or a person entitled to claim the property on  
9 the apparent owner's behalf.

**§36-8-33. Report by administrator.**

1 (a) Not later than six months after the end of the state's fiscal year, the administrator shall  
2 compile and publish a report on the West Virginia Treasury website. The report must contain the  
3 following information about property deemed unclaimed for the preceding fiscal year for the state:

4 (1) The total amount and value of all property paid or delivered under this act to the  
5 administrator, separated into:

6 (A) The portion voluntarily paid or delivered; and

7           (B) The portion delivered as the result of an examination under the act.

8           (2) The total amount and value of all property paid or delivered by the administrator to  
9 persons that made claims for property held by the administrator under this act.

10           (b) The report required under subsection (a) of this section is a public record and is subject  
11 to disclosure pursuant to the West Virginia Freedom of Information Act, Chapter 29B of this code.

NOTE: The purpose of this bill is to make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act.

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