

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 599**

BY SENATORS HALL, CARMICHAEL, PREZIOSO

AND PLYMALE

[Originating in the Committee on the Judiciary;

reported on February 28, 2016]



1 A BILL to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating  
2 generally to Uniform Unclaimed Property Act; and clarifying that presumed abandoned  
3 property in the form of amounts owed by an insurer on a life or endowment insurance  
4 policy or an annuity that has matured or terminated, and obligations related thereto, are  
5 guided by policies, requirements and interpretations of the Insurance Commissioner.

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

1 That §36-8-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
2 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 the apparent owner during the  
2 time set forth below for the particular property:

3 (1) Traveler's check, fifteen 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 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;

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

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

27 (8) Amount owed by an insurer on a life or endowment insurance policy or an annuity that  
28 has matured or terminated, three years after the obligation to pay arose or, in the case of a policy  
29 or annuity payable upon proof of death, three years after the insured has attained, or would have  
30 attained if living, the limiting age under the mortality table on which the reserve is based: Provided,  
31 That the obligations set forth in this subdivision and the application of subsection (e) of this section  
32 relating to this subdivision are guided by policies, requirements and interpretations of the  
33 Insurance Commissioner;

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

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

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

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

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

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

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

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

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

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

63           (c) Property is unclaimed if, for the applicable period set forth in subsection (a) of this  
64 section, the apparent owner has not communicated in writing or by other means reflected in a  
65 contemporaneous record prepared by or on behalf of the holder, with the holder concerning the  
66 property or the account in which the property is held, and has not otherwise indicated an interest  
67 in the property. A communication with an owner by a person other than the holder or its

68 representative who has not in writing identified the property to the owner is not an indication of  
69 interest in the property by the owner.

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

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

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

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

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

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

NOTE: The purpose of this bill is to clarify that obligations pertaining to abandoned property in the form of unclaimed life insurance proceeds are guided by any policies or other pronouncements from the Insurance Commissioner.

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