

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/19/15
A Bill

HOUSE BILL 1782

By: Representative Jean

For An Act To Be Entitled

AN ACT TO AMEND THE LAWS CONCERNING UNCLAIMED PROPERTY; TO AMEND THE TIME PERIODS FOR THE PRESUMPTION OF ABANDONMENT OF UNCLAIMED PROPERTY; TO AMEND THE REPORTING REQUIREMENTS RELATED TO ABANDONED MINERAL PROCEEDS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAWS CONCERNING UNCLAIMED PROPERTY; TO AMEND THE TIME PERIODS FOR THE PRESUMPTION OF ABANDONMENT OF UNCLAIMED PROPERTY; AND TO AMEND THE REPORTING REQUIREMENTS RELATED TO ABANDONED MINERAL PROCEEDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 18-28-202(a), concerning the time periods for the presumption of abandonment of unclaimed property, is amended to read as follows:

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

- (1) ~~traveler's~~ Traveler's check, fifteen (15) years after issuance;
- (2) ~~money~~ Money order, seven (7) years after issuance;
- (3) ~~stock~~ Stock or other equity interest in a business association or financial organization, including a security entitlement under § 4-8-101 et seq. (UCC – Investment Securities), five (5) years after the



earlier of ~~(i) the:~~

(A) The date of the most recent dividend, stock split, or other distribution unclaimed by the apparent owner; ~~or (ii) the~~

(B) The date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the apparent owner;

(4) ~~debt~~ Debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, ~~five (5) three (3)~~ years after the date of the most recent interest payment unclaimed by the apparent owner;

(5) ~~a~~ A demand, savings, or time deposit, including a deposit that is automatically renewable, ~~five (5) three (3)~~ years after the earlier of maturity or the date of the last indication by the owner of interest in the property; but a deposit that is automatically renewable ~~shall not be deemed~~ is not matured for purposes of this section upon its initial date of maturity, unless the most recent correspondence from the financial organization to the owner has been returned unclaimed or undelivered to the financial organization by the postal service;

(6) ~~money~~ Money or credits owed to a customer as a result of a retail business transaction, three (3) years after the obligation accrued;

(7) ~~amount~~ Amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three (3) years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, three (3) years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(8) ~~property~~ Property distributable by a business association or financial organization in a course of dissolution, one (1) year after the property becomes distributable;

(9) ~~property~~ Property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one (1) year after the distribution date;

(10) ~~property~~ Property held by a court, government, governmental subdivision, agency, or instrumentality, one (1) year after the property becomes distributable;

- (11) ~~wages~~ Wages or other compensation for personal services, one (1) year after the compensation becomes payable;
- (12) ~~deposit~~ Deposit or refund owed to a subscriber by a utility, one (1) year after the deposit or refund becomes payable;
- (13) ~~property~~ Property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three (3) years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;
- (14) ~~all~~ All other property, ~~five (5)~~ three (3) years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs; and
- (15) ~~unclaimed~~ Unclaimed property payable or distributable in the course of a demutualization of an insurance company ~~five (5)~~ three (3) years after the earlier of:
- (A) ~~the~~ The date of last contact with the policy holder;
- or
- (B) ~~the~~ The date the property became payable or distributable.

SECTION 2. Arkansas Code § 18-28-402 is amended to read as follows:
18-28-402. Escrow accounts.

(a)(1) A holder of mineral proceeds shall establish an escrow account for mineral proceeds if the person entitled to the receipt of the mineral proceeds is unknown or has not been located within one (1) year after the funds became payable or distributable.

(2) The escrow account shall be for the benefit of the rightful recipient of the mineral proceeds.

(3) ~~Any~~ A person showing to the holder of mineral proceeds sufficient proof of identity and ~~ownership of~~ marketable title to the property shall be promptly paid the sum accumulated for his or her benefit in the escrow account.

(b)(1) If a holder of mineral proceeds is required to establish more

than one (1) escrow account by operation of this section, then the mineral proceeds accruing may be commingled in a single escrow account.

(2) Separate records of each deposit and withdrawal on behalf of specific persons shall be maintained.

~~(c)(1) The Auditor of State and the Oil and Gas Commission shall require a report of each escrow account to be filed annually.~~

~~(2) The report shall include, but shall not be limited to:~~

~~(A) The name and last known address of the property owner;~~

~~(B) The legal description of the property interest;~~

~~(C) The location and account number of the escrow account;~~

~~(D) The name of the person authorized to order withdrawals from the escrow account; and~~

~~(E) Any other information that the Auditor of State and the commission may require.~~

~~(d) Any (c) A holder of mineral proceeds who violates this section is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation.~~

~~(e) (d) The ~~commission~~ Auditor of State shall enforce the provisions of this subchapter and shall ~~may~~ conduct random audits of the escrow accounts required by this section.~~

SECTION 3. Arkansas Code § 18-28-403(a), concerning abandoned mineral proceeds, is amended to read as follows:

(a)(1)(A) All mineral proceeds that are held or owing by the holder and that have remained unclaimed by the owner for longer than ~~five~~ (5) three (3) years after the mineral proceeds became payable or distributable are presumed abandoned.

(B) Abandoned mineral proceeds are subject to the unclaimed property provisions of § 18-28-201 et seq., except that funds received by the Auditor of State ~~pursuant to~~ under this section shall be deposited by the Auditor of State into a special trust fund to be known as the Abandoned Mineral Proceeds Trust Fund.

(C) Such funds shall be deposited ~~in~~ into accounts in one (1) or more financial institutions authorized to do business in this state, to be administered in accordance with the laws of this state pertaining to the appropriation, administration, and expenditure of cash funds.

(2)(A) *However, upon petition of the county attorney of the county ~~wherein~~ in which the abandoned minerals were produced or severed, abandoned mineral proceeds that are held pursuant to leases executed by receivers or their successors appointed by a court of proper jurisdiction, shall be remitted by the holder to the county ~~wherein~~ in which the minerals were produced or severed and deposited into the county general fund.*

(B) *The county attorney shall publish notice of his or her petition in a legal newspaper having general circulation in the county, and the notice shall be published at least ~~two (2) times a week for two (2) consecutive weeks~~ one (1) time.*

(3) The holder of abandoned mineral proceeds turned over to the Auditor of State under this section shall provide the following information to the Auditor of State:

(A) The name and last known address of the property owner;

(B) The applicable well name, uncontrolled lease name, or unitized area name as recognized by the Oil and Gas Commission;

(C) Either:

(i) The county, section, township, and range of the well; or

(ii) The county, section, township, and range from which the abandoned minerals were severed or produced; and

(D) Any other information required by the Auditor of State.

SECTION 4. Arkansas Code Title 18, Chapter 28, Subchapter 4, is amended to add an additional section to read as follows:

18-28-404. Reports.

A report required to be made to the Auditor of State by a holder of abandoned mineral proceeds under this subchapter shall be submitted to the Auditor of State in an electronic format approved by the Auditor of State.

/s/Jean