

CHAPTER 229

PROPERTY

HOUSE BILL 93-1336

BY REPRESENTATIVES George, Anderson, Foster, Kaufman, Lyle, Reeser, Reeves, and Wright;
also SENATOR Rizzuto.

AN ACT

CONCERNING CHANGES TO THE "UNCLAIMED PROPERTY ACT" THAT MODIFY THE APPLICABILITY OF CERTAIN REQUIREMENTS RELATED TO THE DELIVERY OF PROPERTY TO THE ADMINISTRATOR UNDER THE ACT, AND, IN CONNECTION THEREWITH, CONFORMING THE ACT WITH H.B. 92-1152 AND CREATING AN EXEMPTION FROM THE PROVISIONS OF THE ACT UNDER CERTAIN CIRCUMSTANCES FOR BUSINESS ASSOCIATIONS WITH GROSS ANNUAL SALES UNDER FIVE HUNDRED THOUSAND DOLLARS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-8-530 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

10-8-530. Funding of plan. (1) The plan shall be funded by the premiums collected pursuant to section 10-8-512, ~~and~~ by the payments collected FOR INCOME TAX YEARS UP TO AND INCLUDING THE 1992 INCOME TAX YEAR pursuant to section 39-22-117, C.R.S., AS SAID SECTION EXISTED PRIOR TO JULY 1, 1993, AND BY MONEYS CREDITED PURSUANT TO SECTION 38-13-116 (4), C.R.S. Premiums shall be collected by the administering carrier pursuant to section 10-8-509 and shall be paid to the plan. All such ~~payments~~ MONEYS ~~collected~~ CREDITED pursuant to section 39-22-117, C.R.S., AS SAID SECTION EXISTED PRIOR TO JULY 1, 1993, AND SECTION 38-13-116(4), C.R.S., shall be transmitted to the state treasurer, who shall credit the same to the Colorado uninsurable health insurance plan cash fund, which fund is hereby created.

SECTION 2. 38-13-107 (2), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-13-107. Bank deposits and funds in financial organizations. (2) For

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

purposes of subsection (1) of this section, "property" includes interest and dividends. ~~but does not include credit card accounts.~~

SECTION 3. 38-13-133, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is repealed as follows:

38-13-133. Applicability - exclusions. ~~The provisions of this article shall apply only to property held by banking or financial organizations, insurance companies, or the public employees' retirement association and shall not be construed to apply to credit card accounts.~~

SECTION 4. 38-13-108.4 (1), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended, and the said 38-13-108.4 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

38-13-108.4. Gift certificates and credit memos. (1) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, a gift certificate or a credit memo issued in the ordinary course of an issuer's business which remains unclaimed by the owner for more than five years after becoming payable or distributable is presumed abandoned.

(3) THE PROVISIONS OF THIS SECTION SHALL APPLY TO ANY GIFT CERTIFICATE ISSUED BY A BUSINESS THAT IS REDEEMABLE IN CASH AND NOT TO ANY GIFT CERTIFICATE ISSUED FOR FOOD, PRODUCTS, GOODS, OR SERVICES.

SECTION 5. 38-13-110 (4) (a), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended, and the said 38-13-110 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

38-13-110. Report and payment or delivery of abandoned property. (4) (a) The report required by subsection (1) of this section ~~must~~ SHALL be filed and, pursuant to section 38-13-112, payment or delivery of abandoned property shall be made before November 1 of each year as of June 30 next preceding, with the initial report to be filed before November 1, 1987, except as provided in paragraphs (b), (c), ~~and~~ (d), AND (e) of this subsection (4).

(e) ANY BUSINESS ASSOCIATION WITH ANNUAL GROSS RECEIPTS OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS THAT HOLDS PROPERTY, TANGIBLE OR INTANGIBLE, OF VALUE UNDER FIVE HUNDRED DOLLARS SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (4) AND SECTION 38-13-112 UNTIL SUCH TIME AS THE AGGREGATE VALUE OF SUCH PROPERTY EXCEEDS FIVE HUNDRED DOLLARS.

SECTION 6. 38-13-116 (1), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended, and the said 38-13-116 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

38-13-116. Creation of funds. (1) There is hereby created in the state treasury a fund to be known as the abandoned property fund. Except as provided in ~~subsection~~ SUBSECTIONS (3) AND (4) of this section, moneys collected under this article, including the proceeds from the sale of abandoned property under section 38-13-115, shall be credited to said fund and are appropriated to the administrator for payment of claims as provided in this section. The administrator shall maintain at least one

hundred thousand dollars but not more than one hundred twenty thousand dollars in said fund for the prompt payment of all claims. The moneys in the abandoned property fund shall not revert to the general fund at the end of any fiscal year. Moneys received in excess of that required by this subsection (1) shall be credited to the general fund. The general assembly shall make annual appropriations, out of the general fund, for the direct and indirect costs of administering this article. Before crediting any moneys, the administrator shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the property. The record must be available for public inspection at all reasonable business hours.

(4) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY A FUND TO BE KNOWN AS THE BUSINESS ASSOCIATIONS UNCLAIMED MONEYS FUND. MONEYS COLLECTED BY THE ADMINISTRATOR UNDER THIS ARTICLE AS A RESULT OF PAYMENT OR DELIVERY TO THE ADMINISTRATOR OF AMOUNTS DUE AND PAYABLE BY BUSINESS ASSOCIATIONS, EXCEPT MONEYS COLLECTED PURSUANT TO SECTIONS 38-13-105, 38-13-106, 38-13-107, 38-13-108, 38-13-109, 38-13-109.5, 38-13-112, AND 38-13-112.5, SHALL BE CREDITED TO THE BUSINESS ASSOCIATIONS UNCLAIMED MONEYS FUND AND ARE APPROPRIATED TO THE ADMINISTRATOR FOR PAYMENT OF CLAIMS AS PROVIDED IN THIS SECTION. THE MONEYS IN THE BUSINESS ASSOCIATIONS UNCLAIMED MONEYS FUND SHALL NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR.

(b) EACH YEAR AFTER NOVEMBER 1, BUT NO LATER THAN DECEMBER 30, THE ADMINISTRATOR SHALL CREDIT UP TO TWO MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THE BUSINESS ASSOCIATIONS UNCLAIMED MONEYS FUND TO THE COLORADO UNINSURABLE HEALTH INSURANCE PLAN CASH FUND, CREATED IN SECTION 10-8-530 (1), C.R.S. IF IN ANY YEAR THE ADMINISTRATOR DETERMINES THAT ADDITIONAL MONEYS ARE REQUIRED TO PAY CLAIMS, THE ADMINISTRATOR SHALL REDUCE THE AMOUNT CREDITED TO THE COLORADO UNINSURABLE HEALTH INSURANCE PLAN CASH FUND FOR SUCH YEAR IN ORDER TO PAY SUCH CLAIMS. BEFORE CREDITING ANY MONEYS PURSUANT TO THIS PARAGRAPH (b), THE ADMINISTRATOR SHALL RECORD THE NAME AND LAST KNOWN ADDRESS OF EACH PERSON APPEARING FROM THE HOLDERS' REPORTS TO BE ENTITLED TO THE PROPERTY. THE RECORD SHALL BE AVAILABLE FOR PUBLIC INSPECTION AT ALL REASONABLE BUSINESS HOURS.

(c) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 1997.

SECTION 7. 38-13-123 (2), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended, and the said 38-13-123 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

38-13-123. Requests for reports and examination of records. (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7) OF THIS SECTION, the administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the provisions of this article. The administrator may conduct the examination even if the person believes he is not in possession of any property reportable or deliverable under this article.

(7) ANY EXAMINATION UNDER THIS SECTION OF THE RECORDS OF A BUSINESS ASSOCIATION WITH ANNUAL GROSS RECEIPTS OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS ARISING FROM A REPORT FILED UNDER THIS ARTICLE BY SUCH AN ASSOCIATION SHALL BE CONDUCTED BY THE ADMINISTRATOR WITHIN THREE YEARS

FROM THE DATE OF FILING SUCH REPORT.

SECTION 8. 38-13-127, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

38-13-127. Interest and penalties. (5) (a) ANY BUSINESS ASSOCIATION WITH ANNUAL GROSS RECEIPTS OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS THAT, IN GOOD FAITH COMPLIANCE, ACTS WITHIN THE SCOPE OF THE DUTIES AND RESPONSIBILITIES OF THIS ARTICLE SHALL BE IMMUNE FROM THE PENALTIES AND INTEREST OF THIS SECTION FOR FAILURE TO PAY OR DELIVER PROPERTY OR TO RENDER ANY REPORT REQUIRED BY THIS ARTICLE. FOR PURPOSES OF THIS ARTICLE, THERE SHALL BE A PRESUMPTION OF GOOD FAITH COMPLIANCE WHEN SUCH A BUSINESS ASSOCIATION HAS FILED THE INITIAL OR ANNUAL REPORT REQUIRED BY THIS ARTICLE AND A PRINCIPAL OF SUCH BUSINESS ASSOCIATION HAS ATTESTED, AS EVIDENCED BY SUCH PRINCIPAL'S SIGNATURE ON SUCH REPORT, THAT SUCH BUSINESS ASSOCIATION HAS MADE REASONABLE EFFORTS TO DETERMINE IF SUCH BUSINESS HOLDS ANY PROPERTY PRESUMED ABANDONED UNDER THIS ARTICLE. THE PRESUMPTION OF GOOD FAITH COMPLIANCE MAY BE REBUTTED BY THE ADMINISTRATOR UPON A SHOWING BY A PREPONDERANCE OF EVIDENCE THAT SUCH A BUSINESS ASSOCIATION'S ACTIONS WERE KNOWINGLY FALSE, DELIBERATELY MISLEADING, OR MADE FOR A MALICIOUS PURPOSE.

(b) THE ADMINISTRATOR SHALL EXPLAIN WHAT CONSTITUTES GOOD FAITH COMPLIANCE WITH REGARD TO THE REPORTING AND PAYMENT OR DELIVERY REQUIREMENTS OF THIS ARTICLE IN ANY DOCUMENT, MANUAL, OR REQUEST DISTRIBUTED BY THE ADMINISTRATOR TO SUCH A BUSINESS ASSOCIATION IN CONNECTION WITH THIS ARTICLE.

SECTION 9. 38-13-130 (2) (b), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

38-13-130. Effect of new provisions - clarification of application. (2) (b) The initial report filed under this article for property that was not required to be reported before July 1, 1992, but which is subject to this article must include all items of property for which the presumption of abandonment first arose during the ten-year period preceding July 1, 1992, as if this article had been in effect during that period. ANY PERSON WHO HAS NOT REPORTED AS OF JULY 1, 1992, SHALL NOT BE PENALIZED FOR NOT REPORTING PRIOR TO NOVEMBER 1, 1993.

SECTION 10. Effective date. This act shall take effect July 1, 1993.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1993