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Nonpartisan Services for Colorado's Legislature

FINAL FISCAL NOTE

Drafting Number:	LLS 18-1213	Date:	September 24, 2018
Prime Sponsors:	Sen. Gardner Rep. Wist	Bill Status:	Postponed Indefinitely
		Fiscal Analyst:	Chris Creighton 303-866-5834 Chris.Creighton@state.co.us

Bill Topic: REVISED UNIFORM UNCLAIMED PROPERTY ACT

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue <input checked="" type="checkbox"/> State Expenditure <input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> TABOR Refund <input checked="" type="checkbox"/> Local Government (<i>minimal</i>) <input type="checkbox"/> Statutory Public Entity
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This bill repeals the Unclaimed Property Act and replaces it with the Revised Uniform Unclaimed Property Act with updated definitions and standards and procedures related to the handling, reporting, sale and disposition, and establishment of claims on unclaimed property. This bill increases state revenue, expenditures, and workload on an ongoing basis. Local government revenue and workload is also increased by a minimal amount.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill, as recommended by the Colorado Commission on Uniform State Laws. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

Effective July 1, 2019, this bill repeals and reenacts, the Unclaimed Property Act and renames it the Revised Uniform Unclaimed Property Act. Among its provisions, this bill provides definitions, makes conforming amendments, and provides standards and procedures related to:

- determining if unclaimed property is abandoned;
- procedures for taking custody of unclaimed property and the handling of such property including confidentiality and security of personal information;
- notification that holders of unclaimed property must provide to presumed owners;
- reporting requirements for holders of unclaimed property;
- procedures for the Department of Treasury to take custody of unclaimed property and sell such property at a public sale after sufficient notice is provided; and
- procedures for the owner of unclaimed property to file a claim to recover the unclaimed property, including examination of records, enforcement, and the payment of claims.

Dormancy periods. This bill reduces the general dormancy period for all property not specified in statute from five years to three years. The dormancy periods for the following property are also reduced from five to three years:

- municipal bonds, a bearer bond, or an original-issue discount bond;

- an amount owed to an insurance company on a life or endowment insurance policy or annuity contract that has matured or terminated;
- property held in a tax deferred retirement account with new provisions regarding communications to be sent to the apparent owner;
- the debt of a business association; and
- a security or stock or other intangible interest in business associations.

Reporting. The bill makes the following changes to reporting requirements:

- establishes an aggregate threshold of \$50 for when reports on the holding of property must include the name and address of an apparent owner;
- the elimination of different filing dates for some business associations, insurance companies, and PERA, and the creation of a standard filing date of November 1 each year; and
- changing record retention requirements for property holders required to file reports on the property to ten years from five years for most records and three years for money orders;

Notifications. This bill makes the following changes to notification requirements:

- changing the date the holder of property presumed to be unclaimed must provide notice to an apparent owner to 180 days from 120 days; and
- removing the requirement that the Department of Treasury limit moneys expended on the publication of notices regarding unclaimed property to no more than 2 percent of the prior year paid claims and instead requiring the use of a website to inform the public about the existence of unclaimed property.

Taking custody of property. The bill makes the following changes to property taken custody of by the Department of Treasury:

- allowing an owner of property required to be paid to the Department of Treasury to deduct a reasonable dormancy charge;
- increasing the period for when property the Department of Treasury takes possession of unclaimed property to after three years instead of within three years;
- allowing the Department of Treasury to return any property that has no substantial commercial value or would cost more to dispose of than its actual value;
- increasing the period in which a claimant can file an action against the Department of Treasury to establish ownership of unclaimed property to one year; and
- establishing a statute of limitations to commence a court action of five years for the reporting, payment, or delivery of property to the Department of Treasury and ten years with respect to the duty of a property holder.

Sale of property. The following changes are made regarding the sale of property:

- increasing the period for when the Department of Treasury may sell or liquidate securities to after three years from one year; and
- if a security is sold and an apparent owner files a valid claim for that security, the Department of Treasury may offer a replacement security. Under current law, the only remedy for this is repaying the value of the security.

Interest and penalties. This bill makes the following changes regarding the payment and calculation of interest and penalties on the failure to report, pay, or deliver unclaimed property to the Department of Treasury:

- the interest rate assessed on the failure to report, pay, or deliver property is changed to a rate established annually by the Department of Treasury from 18 percent;
- the civil penalty that may be assessed in addition to interest is increased to \$200 from \$100; and
- the Department of Treasury is authorized to waive interest and penalties assessed for failure to report, pay, or deliver property in a timely manner.

State Revenue

Beginning in FY 2019-20, this bill increases state cash fund revenue by an indeterminate amount from district court filing fees, interest and penalties on the failure of a property holder to report, pay, or deliver property in a timely manner, and revenue from the sale of unclaimed property.

Filing fees. By increasing the period in which a claimant has to file an action against the Department of Treasury to establish that the claimant is the owner of unclaimed property to one year, this bill may increase the number of district court filings which will increase district court filing fee revenue. However, because other remedies are in place to allow a claimant to establish an unclaimed property claim before filing an action against the Department of Treasury, any increase in filing fee revenue is expected to be minimal.

Interest and penalties. Under current law, property holders may be assessed interest and penalties for the failure to report, pay, or deliver property within a timely manner. This bill increases the civil penalty that may be assessed by the Department of Treasury and authorizes the department to annually set the interest rate on the penalty. The revenue increase resulting from this penalty cannot be determined, because interest collections are dependent on a rate established by the department and penalties that may be assessed at the discretion of the department.

Sale of unclaimed property. By reducing the dormancy period for most properties from five to three years, changing the period when the Department of Treasury may take possession of unclaimed property to after three years, and increasing the period for when securities may be sold to three years this bill changes the timing of when unclaimed properties will be sold. This will change cash fund revenue receipts from the sale of unclaimed property. This impact has not been estimated.

TABOR Refund

This bill increases state cash fund revenue from filing fees, interest and penalties, and revenue from the sale of unclaimed property, which will increase the amount of money required to be refunded under TABOR for FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

Beginning in FY 2019-20, this bill increases expenditures and workload for the departments of Treasury, Law, and Health Care Policy and Financing. Workload is also increased for the Judicial Department. These impacts are described below.

Department of Treasury. Beginning in FY 2019-20, this bill increases costs and workload for the Department of Treasury to update policies, procedures, and materials including the unclaimed property website regarding duties for the handling, reporting, sale and distribution, and claims against unclaimed property. Workload further increases to provide training to implement new unclaimed property provisions. Conversely, some cost and workload efficiencies are expected by allowing for the use of electronic communications and the return of property with no substantial value. To the extent that additional appropriations are needed by the department, they will be requested through the annual budget process.

Judicial Department. This bill increases the period in which a claimant may file an action against the Department of Treasury to establish that the claimant is the owner of unclaimed property to one year. Under current law, this claim must be filed within 90 days after a claim decision made by the Department of Treasury or 180 after a claim was filed and the Department of Treasury does not act on it. By extending this period, this bill may increase workload in the state run, Denver District Court where the claim must be filed under current law and this bill.

Department of Law. This bill potentially increases workload for the Department of Law to provide counsel to the Department of Treasury. It is assumed this increase can be accomplished within existing appropriations, however should additional appropriations be needed as a result of increased claimant actions against the Department of Treasury, additional appropriations will be requested through the annual budget process.

Department of Health Care Policy and Financing. This bill may increase workload for the Department of Health Care Policy and Financing to update policies and procedures related to the reporting of unclaimed payments to providers enrolled in the Medicaid program, Child Health Plan Plus, and other programs. It is assumed this workload can be accomplished within existing appropriations.

Local Government

Beginning in FY 2019-20, this bill may increase local government revenue from overages on foreclosed property sales by reducing the dormancy period. Additionally, this bill may increase workload for local governments to update policies and procedures related to the handling and reporting of unclaimed property. These impacts have not been estimated, but are expected to be minimal.

Effective Date

This bill was postponed indefinitely by the Senate Judiciary Committee on April 25, 2018.

State and Local Government Contacts

All State Agencies Counties Municipalities