



Reprinted
February 24, 2000

ENGROSSED

SENATE BILL No. 227

DIGEST OF SB 227 (Updated February 23, 2000 4:25 PM - DI 84)

Citations Affected: IC 4-10; IC 5-11; IC 32-9.

Synopsis: Unclaimed property and unpaid checks. Provides a limit on the amount of compensation that may be paid to recover funds from an unpaid or outstanding warrant or check issued by the state or a political subdivision. Requires that certain elements must be in agreement to recover an unpaid or outstanding warrant or check issued by the state or a political subdivision. Makes changes to Indiana's unclaimed property law to conform with portions of the uniform unclaimed property act. Changes the time period requirement for written notice from the holder of property presumed abandoned to the apparent owner and attorney general. Provides that property and proceeds held by a court or a court clerk do not become unclaimed property until 5 years after the property or proceeds become distributable. Provides that property and proceeds related to child support that are held by a court or a court clerk do not become unclaimed property until 10 years after the property or proceeds become distributable. Requires that tangible property held in a safe deposit box be held for at least 120 days after the property is reported to the attorney general. Removes the requirement that the attorney general publish a notice relating to a traveler's check, money order, or similar instrument presumed abandoned. Requires the attorney general to give notice approving or denying a claim within 90 days after the claim is filed. Excludes from the definition of "property" in the unclaimed property law a transaction between business entities and motor carriers. Provides for a judicial appeal of an adverse unclaimed property decision.

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Effective: July 1, 2000; January 1, 2002.

Simpson

(HOUSE SPONSORS — DVORAK, ATTERHOLT, FOLEY)

January 10, 2000, read first time and referred to Committee on Commerce and Consumer Affairs.

January 18, 2000, amended, reported favorably — Do Pass.

January 24, 2000, read second time, amended, ordered engrossed.

January 25, 2000, engrossed.

January 27, 2000, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 7, 2000, read first time and referred to Committee on Judiciary.

February 17, 2000, amended, reported — Do Pass.

February 21, 2000, read second time, ordered engrossed.

February 22, 2000, engrossed.

February 23, 2000, read third time, recommitted to Committee of One, amended; passed. Yeas 94, nays 0.

ES 227—LS 6393/DI 94



Reprinted
February 24, 2000

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

ENGROSSED SENATE BILL No. 227

A BILL FOR AN ACT to amend the Indiana Code concerning property.

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

- 1 SECTION 1. IC 4-10-10-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
3 1, 2000]: **Sec. 11. (a) This section applies to a warrant drawn by the**
4 **state auditor upon funds in custody of the state treasurer or a**
5 **check authorized by law to be issued from funds in custody of any**
6 **other state agency, if the check or warrant is outstanding and**
7 **unpaid, but is not determined to be unclaimed property under**
8 **IC 32-9-1.5.**
9 (b) An agreement for which the primary purpose is to pay
10 compensation to locate, deliver, recover, or assist in the recovery
11 of a check or warrant described in subsection (a) is valid only if:
12 (1) the fee or compensation agreed upon is not more than ten
13 percent (10%) of the amount collected unless the amount
14 collected is fifty dollars (\$50) or less;
15 (2) the agreement is in writing;
16 (3) the agreement is signed by the apparent owner of the
17 check or warrant described in subsection (a); and

ES 227—LS 6393/DI 94+



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- (4) the agreement clearly sets forth:**
 - (A) the nature and value of the property; and**
 - (B) the value of the apparent owner's share after the fee or compensation has been deducted.**

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid.

SECTION 2. IC 5-11-10.5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 7. (a) This section applies to a warrant or a check drawn from the public funds of a political subdivision, if the check or warrant is outstanding and unpaid, but is not determined to be unclaimed property under IC 32-9-1.5.**

(b) An agreement for which the primary purpose is to pay compensation to locate, deliver, recover, or assist in the recovery of a check or warrant described in subsection (a) is valid only if:

- (1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less;**
- (2) the agreement is in writing;**
- (3) the agreement is signed by the apparent owner; and**
- (4) the agreement clearly sets forth:**
 - (A) the nature and value of the property; and**
 - (B) the value of the apparent owner's share after the fee or compensation has been deducted.**

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid.

SECTION 3. IC 32-9-1.5-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 7.5. As used in this chapter, "financial institution" means a depository financial institution that is organized or reorganized under Indiana law, the law of another state, or United States law. The term includes any of the following:**

- (1) A commercial bank.**
- (2) A trust company.**
- (3) A savings bank.**
- (4) A savings association.**
- (5) A credit union.**
- (6) An industrial loan and investment company. ~~or~~**
- (7) Any other entity that has powers similar to the powers of an entity described in subdivisions (1) through (6).**

~~organized or reorganized under the laws of the United States or a state.~~

SECTION 4. IC 32-9-1.5-17 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. (a) The definition
2 in this section does not apply to section 24 of this chapter.

3 (b) **Except as provided in subsection (c)**, as used in this chapter,
4 "property" means an interest in intangible personal property, except an
5 unliquidated claim, and all income or increment derived from the
6 interest, including that which is referred to as or evidenced by:

- 7 (1) money, a check, a draft, a deposit, an interest, or a dividend;
8 (2) a credit balance, a customer overpayment, a gift certificate, a
9 security deposit, a refund, a credit memorandum, an unpaid wage,
10 an unused airline ticket, mineral proceeds, or an unidentified
11 remittance;
12 (3) stock and other ownership interest in a business association;
13 (4) a bond, debenture, note, or other evidence of indebtedness;
14 (5) money deposited to redeem stocks, bonds, coupons, and other
15 securities or to make distributions;
16 (6) an amount due and payable under the terms of an insurance
17 policy; and
18 (7) an amount distributable from a trust or custodial fund
19 established under a plan to provide health, welfare, pension,
20 vacation, severance, retirement, death, stock purchase, profit
21 sharing, employee savings, supplemental unemployment
22 insurance, or similar benefits.

23 (c) **As used in this chapter, "property" does not include**
24 **transactions between business entities and:**

- 25 (1) **a motor carrier (as defined in IC 8-2.1-17-10); or**
26 (2) **a carrier (as defined in 49 U.S.C. 13102(3)).**

27 SECTION 5. IC 32-9-1.5-20 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 20. (a) For purposes of
29 this section, an indication of interest in the property by the owner:

- 30 (1) does not include a communication with an owner by an agent
31 of the holder who has not identified in writing the property to the
32 owner; and
33 (2) includes the following:
34 (A) The cashing of a dividend check or other instrument of
35 payment received **or evidence that the distribution has been**
36 **received if the distribution was made by electronic or**
37 **similar means**, with respect to an account or underlying
38 shares of stock **or other interest in a business association or**
39 **financial organization.**
40 (B) A deposit to or withdrawal from a bank account.
41 (C) The payment of a premium with respect to a property
42 interest in an insurance policy.



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- 1 (D) The mailing of any correspondence in writing from a
 2 financial institution to the owner, including:
 3 (i) a statement;
 4 (ii) a report of interest paid or credited; or
 5 (iii) any other written advice;
 6 relating to a demand, savings, or matured time deposit
 7 account, including a deposit account that is automatically
 8 renewable, or any other account or other property the owner
 9 has with the financial institution if the correspondence is not
 10 returned to the financial institution for nondelivery.
- 11 (E) Any activity by the owner that concerns:
 12 (i) another demand, savings, or matured time deposit
 13 account or other account that the owner has with a financial
 14 institution, including any activity by the owner that results
 15 in an increase or decrease in the amount of any other
 16 account; or
 17 (ii) any other relationship with the financial institution,
 18 including the payment of any amounts due on a loan;
 19 if the mailing address for the owner contained in the financial
 20 institution's books and records is the same for both an inactive
 21 account and for a related account.
- 22 (b) The application of an automatic premium loan provision or other
 23 nonforfeiture provision contained in an insurance policy does not
 24 prevent the policy from maturing or terminating if the insured has died
 25 or the insured or the beneficiary of the policy otherwise has become
 26 entitled to the proceeds before the depletion of the cash surrender value
 27 of the policy by the application of those provisions.
- 28 (c) Property that is held, issued, or owed in the ordinary course of
 29 a holder's business is presumed abandoned if the owner or apparent
 30 owner has not communicated in writing with the holder concerning the
 31 property or has not otherwise given an indication of interest in the
 32 property during the following times:
 33 (1) For traveler's checks, fifteen (15) years after issuance.
 34 (2) For money orders, seven (7) years after issuance.
 35 (3) For consumer credits, three (3) years after the credit becomes
 36 payable.
 37 (4) For gift certificates, ~~that are redeemable only in merchandise~~
 38 ~~that is valued for purposes of abandonment at sixty percent (60%)~~
 39 ~~of face value~~; three (3) years after December 31 of the year in
 40 which the gift certificate was sold. **If the gift certificate is**
 41 **redeemable in merchandise only, the amount abandoned is**
 42 **considered to be sixty percent (60%) of the certificate's face**

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- 1 **value.**
2 (5) For amounts owed by an insurer on a life or an endowment
3 insurance policy or an annuity contract:
4 (A) if the policy or contract has matured or terminated, ~~five (5)~~
5 **three (3)** years after the obligation to pay arose; or
6 (B) if the policy or contract is payable upon proof of death,
7 ~~five (5)~~ **three (3)** years after the insured has attained, or would
8 have attained if living, the limiting age under the mortality
9 table on which the reserve is based.
10 (6) For property distributable by a business association in a course
11 of dissolution, one (1) year after the property becomes
12 distributable.
13 (7) **Until January 1, 2002**, for property or proceeds held by a
14 court, ten (10) years after the property or proceeds become
15 distributable. **Beginning January 1, 2002, for property or**
16 **proceeds held by a court or a court clerk, other than property**
17 **or proceeds related to child support, five (5) years after the**
18 **property or proceeds become distributable.** The property or
19 proceeds must be treated as unclaimed property under IC 32-9-8.
20 **Beginning January 1, 2002, for property or proceeds related**
21 **to child support held by a court or a court clerk, ten (10) years**
22 **after the property or proceeds become distributable.**
23 (8) For property held by a state or other government,
24 governmental subdivision or agency, or public corporation or
25 other public authority, one (1) year after the property becomes
26 distributable.
27 (9) For compensation for personal services, one (1) year after the
28 compensation becomes payable.
29 (10) For deposits and refunds held for subscribers by utilities, one
30 (1) year after the deposits or refunds became payable.
31 (11) ~~Except as provided in subdivision (12);~~ For stock or other
32 interest in a business association, ~~seven (7)~~ **five (5)** years after ~~the~~
33 **earlier of:**
34 (A) the date of the last dividend, **stock split**, or other
35 distribution ~~paid with respect to the stock or other interest:~~
36 **unclaimed by the apparent owner; or**
37 (B) **the date of the second mailing of a statement of account**
38 **or other notification or communication that was:**
39 (i) **returned as undeliverable; or**
40 (ii) **made after the holder discontinued mailings to the**
41 **apparent owner.**
42 (12) For stock or other interest in a business association for

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1 which:

2 (A) a dividend has not been paid on the stock or other interest
3 for seven (7) consecutive years; or

4 (B) the stock or other interest is held under a plan that
5 provides for the automatic reinvestment of dividends or other
6 distributions;

7 the earliest of seven (7) years after the date of the second mailing
8 of official shareholder notifications or communications that were
9 returned as undeliverable; or the date the holder discontinued the
10 mailings to the shareholder.

11 ~~(13)~~ (12) For property in an individual retirement account or
12 another account or plan that is qualified for tax deferral under the
13 Internal Revenue Code, ~~one (1) year~~ **three (3) years** after the
14 earliest of:

15 (A) the actual date of the distribution or attempted
16 distribution;

17 (B) the distribution date as stated in the plan or trust
18 agreement governing the plan; or

19 (C) the date specified in the Internal Revenue Code by which
20 distribution must begin in order to avoid a tax penalty.

21 However, if during the four (4) years before the commencement
22 of the ~~one (1) year~~ abandonment period the apparent owner has
23 communicated in writing with the holder concerning the property
24 or otherwise indicated an interest in the property, then the date of
25 the presumed abandonment is ~~one (1) additional year~~ after the
26 property would otherwise have been presumed abandoned.

27 ~~(14)~~ (13) For a demand, savings, or matured time deposit,
28 including a deposit that is automatically renewable, ~~seven (7) five~~
29 (5) years after maturity or ~~seven (7) five (5)~~ years after the date of
30 the last indication by the owner of interest in the property,
31 whichever is ~~later~~ **earlier**. Property that is automatically
32 renewable is considered matured for purposes of this section upon
33 the expiration of its initial period, unless the owner has consented
34 to a renewal at or about the time of the renewal, and the consent
35 is in writing or is evidenced by a memorandum or other record on
36 file with the holder.

37 ~~(15)~~ (14) For all other property, ~~seven (7)~~ **the earlier of five (5)**
38 years after:

39 (A) **the owner's right to demand the property; or**

40 (B) the obligation to pay or distribute the property;
41 arose.

42 (d) Property is payable or distributed for purposes of this chapter

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1 notwithstanding the owner's failure to make demand or present an
 2 instrument or a document otherwise required to receive payment.

3 SECTION 6. IC 32-9-1.5-24 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 24. All tangible and
 5 intangible property held in a safe deposit box or any other safekeeping
 6 depository in Indiana in the ordinary course of the holder's business and
 7 the proceeds resulting from the sale of the property permitted by other
 8 law, which remains unclaimed by the owner for more than ~~seven (7)~~
 9 **five (5)** years after expiration of the lease or rental period on the box or
 10 other depository, is presumed abandoned.

11 SECTION 7. IC 32-9-1.5-26 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 26. (a) A holder of
 13 property presumed abandoned and subject to custody as unclaimed
 14 property under this chapter shall report in writing to the attorney
 15 general concerning the property. Items of value of less than fifty dollars
 16 (\$50) may be reported by the holder in the aggregate.

17 (b) For each item with a value of fifty dollars (\$50) or more, the
 18 report required under subsection (a) must be verified and include the
 19 following:

20 (1) Except with respect to traveler's checks and money orders, the
 21 apparent owner's:

22 (A) name, if known;

23 (B) last known address, if any; and

24 (C) Social Security number or taxpayer identification number,
 25 if readily ascertainable.

26 (2) In the case of the contents of a safe deposit box or other
 27 safekeeping depository of tangible property:

28 (A) a description of the property;

29 (B) the place where the property is held and may be inspected
 30 by the attorney general; and

31 (C) any amounts owing to the holder.

32 (3) The date:

33 (A) the property became payable, demandable, or returnable;
 34 and

35 (B) of the last transaction with the apparent owner with respect
 36 to the property.

37 (4) Other information that the attorney general requires by rules
 38 adopted under IC 4-22-2 as necessary for the administration of
 39 this chapter.

40 (c) If a holder of property presumed abandoned and subject to
 41 custody as unclaimed property is a successor to another person who
 42 previously held the property for the apparent owner or if the holder has

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1 changed its name while holding the property, the holder shall file with
 2 the report the former names of the holder, if any, and the known names
 3 and addresses of all previous holders of the property.

4 (d) The report required by subsection (a) must be filed as follows:

5 (1) The report of a life insurance company must be filed before
 6 May 1 of each year for the calendar year preceding the year in
 7 which the report is filed.

8 (2) All other holders must file the report before November 1 of
 9 each year to cover the year preceding July 1 of the year in which
 10 the report is filed.

11 (e) The holder of property presumed abandoned and subject to
 12 custody as unclaimed property under this chapter shall send written
 13 notice to the apparent owner, not more than one hundred twenty (120)
 14 days or less than ~~thirty (30)~~ **sixty (60)** days before filing the report
 15 required by this section, stating that the holder is in possession of
 16 property subject to this chapter if:

17 (1) the holder has a record of an address for the apparent owner
 18 that the holder's records do not show as inaccurate; ~~and~~

19 (2) the claim of the apparent owner is not barred by the statute of
 20 limitations; **and**

21 **(3) the value of the property is at least fifty dollars (\$50).**

22 (f) Before the date of filing the report the holder may request the
 23 attorney general to extend the time for filing the report. The attorney
 24 general may grant the extension upon a showing of good cause. The
 25 holder, upon receipt of the extension, may make an interim payment on
 26 the amount the holder estimates will ultimately be due, which will
 27 suspend the accrual of interest on the amount paid.

28 (g) The holder shall file with the report an affidavit stating that the
 29 holder has complied with this section.

30 SECTION 8. IC 32-9-1.5-27 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 27. (a) Except as
 32 provided in ~~subsection~~ **subsections (b) and (c)**, on the date a report is
 33 filed under section 26 of this chapter, the holder shall pay or deliver to
 34 the attorney general the property described in the report as unclaimed.

35 (b) In the case of an automatically renewable deposit, if at the time
 36 of delivery under subsection (a), a penalty or forfeiture in the payment
 37 of interest would result from the delivery of the property, the time for
 38 delivery is extended until the earliest date upon which a penalty or
 39 forfeiture would not result.

40 **(c) Tangible property held in a safe deposit box or other**
 41 **safekeeping depository may not be delivered to the attorney**
 42 **general until one hundred twenty (120) days after the date the**

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1 report describing the property under section 26 of this chapter is
2 filed.

3 (d) If the property reported to the attorney general is a security
4 or security entitlement under IC 26-1-8.1, the attorney general is
5 an appropriate person to make an endorsement, instruction, or
6 entitlement order on behalf of the apparent owner to invoke the
7 duty of the issuer or its transfer agent or the securities
8 intermediary to transfer or dispose of the security or the security
9 entitlement in accordance with IC 26-1-8.1.

10 (e) If the holder of property reported to the attorney general is
11 the issuer of a certificated security, the attorney general has the
12 right to obtain a replacement certificate under IC 26-1-8.1-405, but
13 an indemnity bond is not required.

14 (f) An issuer, the holder, and any transfer agent or other person
15 acting under the instructions of and on behalf of the issuer in
16 accordance with this section is not liable to the apparent owner and
17 must be indemnified against the claims of any person in accordance
18 with section 29 of this chapter.

19 SECTION 9. IC 32-9-1.5-28 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 28. (a) Except as
21 provided in subsection (e), the attorney general shall cause a notice to
22 be published not later than November 30 of the year immediately
23 following the year in which unclaimed property has been paid or
24 delivered to the attorney general.

25 (b) Except as provided in subsection (c), the notice required by
26 subsection (a) must be published at least once each week for two (2)
27 successive weeks in a newspaper of general circulation published in the
28 county in Indiana of the last known address of any person named in the
29 notice.

30 (c) If the holder does not report an address for the apparent owner,
31 or reports an address outside Indiana, the notice must be published in
32 the county in which the holder has its principal place of business within
33 Indiana or such other county as the attorney general may reasonably
34 select.

35 (d) The advertised notice required by this section must be in a form
36 that, in the judgment of the attorney general, will attract the attention
37 of the apparent owner of the unclaimed property and must contain the
38 following information:

39 (1) The name of each person appearing to be an owner of property
40 presumed abandoned, as set forth in the report filed by the holder.

41 (2) The last known address or location of each person appearing
42 to be an owner of property presumed abandoned, if an address or

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a location is set forth in the report filed by the holder.
(3) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the attorney general.
(4) A statement that information about the abandoned property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the attorney general.

(e) The attorney general is not required to publish **the following** in the notice:

- (1) Any item of less than fifty dollars (\$50) in value.
- (2) **Information concerning a traveler's check, money order, or similar instrument.**

SECTION 10. IC 32-9-1.5-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 30. If property other than money is paid or delivered to the attorney general under this chapter, the owner is entitled to receive from the attorney general any dividends, interest, or other increments realized or accruing on the property at or before ~~delivery to the attorney general. The owner is not entitled to receive dividends, interest, or other increments accruing~~ after delivery of the property to the attorney general unless the property was paid or delivered under section 40(b) of this chapter: **liquidation or conversion of the property into money. If the property was an interest bearing demand, savings, or time deposit, including a deposit that is automatically renewable, the attorney general shall pay interest at:**

- (1) **the one (1) year Treasury Bill rate published in the Wall Street Journal or its successor on the third Tuesday of:**
 - (A) **the month interest begins to accrue for the first year of accrual; and**
 - (B) **the anniversary of the month interest begins to accrue for every year of accrual thereafter; or**
- (2) **any lesser rate the property earned while in the possession of the holder;**

for every year of accrual. Interest begins to accrue when the property is delivered to the attorney general and ceases on the earlier of the expiration of ten (10) years after delivery or the date on which payment is made to the owner. Interest on interest bearing property is not payable under this section for any period before July 1, 2000.

SECTION 11. IC 32-9-1.5-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 36. (a) A person, not

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1 including another state, claiming an interest in property paid or
 2 delivered to the attorney general may file a claim on a form prescribed
 3 by the attorney general and verified by the claimant.

4 (b) **Not later than ninety (90) days after a claim is filed**, the
 5 attorney general shall:

6 (1) consider the claim; and

7 (2) give written notice to the claimant that the claim is granted or
 8 the claim is denied in whole or in part.

9 (c) Not later than thirty (30) days after a claim is allowed, the
 10 attorney general shall pay over or deliver to the claimant the property
 11 or the net proceeds of the sale of property if the property has been sold
 12 by the attorney general, together with any additional amount to which
 13 the claimant may be entitled under section 30 of this chapter.

14 (d) A holder who pays the owner for property that has been
 15 delivered to the state and that, if claimed from the attorney general by
 16 the owner, would be subject to an increment under section 30 of this
 17 chapter shall recover the amount of such increment from the attorney
 18 general.

19 (e) A person may file a claim under subsection (a) at any time
 20 within twenty-five (25) years after the date on which the property was
 21 first presumed abandoned under this chapter, notwithstanding the
 22 expiration of any other time specified by statute, contract, or court
 23 order during which an action or a proceeding may be commenced or
 24 enforced to obtain payment of a claim for money or recovery of
 25 property.

26 SECTION 12. IC 32-9-1.5-37 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 37. (a) At any time
 28 within twenty-five (25) years after the date on which the property was
 29 presumed abandoned under this chapter, notwithstanding the expiration
 30 of any other time specified by statute, contract, or court order during
 31 which an action or proceeding may be commenced or enforced to
 32 obtain payment of a claim for money or recovery of property, another
 33 state may recover the property if:

34 (1) the property was delivered to the custody of this state because
 35 the records of the holder did not reflect the last known address of
 36 the apparent owner when the property was presumed abandoned
 37 under this chapter, and:

38 (A) the other state establishes that the last known address of
 39 the apparent owner or other person entitled to the property was
 40 in that state; and

41 (B) under the laws of that state the property escheated to or
 42 was subject to a claim of abandonment by that state;



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1 (2) the last known address of the apparent owner or other person
 2 entitled to the property, as reflected by the records of the holder;
 3 is in the other state the property was paid or delivered to the
 4 custody of this state because the laws of the other state did not
 5 provide for the escheat or custodial taking of the property,
 6 and under the laws of that state subsequently enacted the
 7 property has escheated to or become subject to a claim of
 8 abandonment by that state;

9 (3) the records of the holder did not accurately identify the owner
 10 of the property and:

11 (A) the last known address of the owner is in the other state;
 12 and

13 (B) under the laws of the other state the property escheated to
 14 or was subject to a claim of abandonment by that state;

15 (4) the property was subject to custody by this state under section
 16 21(7) of this chapter and under the laws of the state of domicile
 17 of the holder the property has escheated to or become subject to
 18 a claim of abandonment by that state; or

19 (5) the property is a sum payable on a traveler's check, money
 20 order, or similar instrument that was delivered into the custody of
 21 this state under section 21(7) of this chapter, and:

22 (A) the instrument was purchased in the other state; and

23 (B) under the laws of the other state the property escheated to
 24 or is subject to a claim of abandonment by that state.

25 (b) A claim of another state to recover escheated or abandoned
 26 property must be presented in a form prescribed by the attorney
 27 general, who shall consider the claim and give written notice **not more**
 28 **than ninety (90) days after the presentation of the claim** to the other
 29 state that the claim is granted or denied in whole or in part. The
 30 attorney general shall allow the claim upon a determination that the
 31 other state is entitled to the abandoned property under subsection (a).

32 (c) The attorney general shall require another state, before
 33 recovering property under this section, to agree to indemnify this state
 34 and its officers and employees against any liability on a claim for the
 35 property.

36 SECTION 13. IC 32-9-1.5-38.1 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2000]: **Sec. 38.1. A person:**

39 (1) aggrieved by a decision of the attorney general; or

40 (2) whose claim has not been acted upon within ninety (90)
 41 days after its filing;

42 under this chapter, may maintain an original action to establish the

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1 **claim in a court with jurisdiction, naming the attorney general as**
 2 **a defendant.**

3 SECTION 14. IC 32-9-1.5-43 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 43. (a) The attorney
 5 general may require a person who has not filed a report, or a person
 6 who the attorney general believes has filed an inaccurate, an
 7 incomplete, or a false report, to file a verified report in a form
 8 prescribed by the attorney general stating the following:

9 (1) Whether the person is holding any unclaimed property
 10 reportable or deliverable under this chapter.

11 (2) Describing any property not previously reported or as to which
 12 the attorney general has made inquiry.

13 (3) Specifically identifying and stating the amounts of property
 14 that may be in issue.

15 (b) The attorney general, at reasonable times and upon reasonable
 16 notice, may examine the records of a person to determine whether the
 17 person has complied with this chapter. The attorney general may
 18 conduct the examination even if the person believes the person is not
 19 in possession of any property reportable or deliverable under this
 20 chapter. When making an examination under this chapter the attorney
 21 general may retain attorneys, appraisers, independent actuaries,
 22 independent certified public accountants, or other professionals and
 23 specialists as examiners.

24 (c) The attorney general may examine the records of an agent,
 25 including a dividend disbursing agent or transfer agent, of a business
 26 association that is the holder of property presumed abandoned if the
 27 attorney general has given the notice required by subsection (b) to both
 28 the business association and the agent at least ninety (90) days before
 29 the examination.

30 (d) If an examination of the records of a person results in the
 31 disclosure of property reportable and deliverable under this chapter, the
 32 attorney general may assess the cost of the examination against the
 33 holder at the rate of two hundred dollars (\$200) a day for each
 34 examiner. The cost of the examination made under subsection (c) may
 35 be imposed only against the business association.

36 ~~(e) This section does not limit the attorney general's authority to~~
 37 ~~terminate or suspend an examination in order to pursue other legal or~~
 38 ~~administrative action under this chapter. Findings of fact and~~
 39 ~~conclusions made pursuant to an examination are prima facie evidence~~
 40 ~~in a legal or an administrative action.~~

41 ~~(f)~~ (e) If a holder fails after July 1, 1996, to maintain the records
 42 required under section 44 of this chapter and the available records of

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1 the holder are insufficient to permit the preparation of a report, the
 2 attorney general may require the holder to report and pay such amounts
 3 as may reasonably be estimated from any available records of the
 4 holder or on the basis of any other reasonable estimating technique that
 5 the attorney general may select.

6 SECTION 15. IC 32-9-1.5-44 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 44. (a) Except as
 8 provided in subsection (b) and subject to rules adopted by the attorney
 9 general under IC 4-22-2, a holder required to file a report under section
 10 26 of this chapter as to any property for which the holder has the last
 11 known address of the owner shall maintain a record of the ~~name and~~
 12 ~~last known address of the owner~~ **information required to be in the**
 13 **report** for at least ten (10) years after the property becomes reportable.

14 (b) A business association that sells in Indiana traveler's checks,
 15 money orders, or other similar written instruments, other than
 16 third-party bank checks on which the business association is directly
 17 liable, or that provides those instruments to others for sale in Indiana,
 18 shall maintain a record of outstanding instruments indicating the state
 19 and date of issue for at least three (3) years after the date the property
 20 is reportable.

21 SECTION 16. IC 32-9-1.5-46 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 46. (a) The attorney
 23 general may enter into agreements with other states to exchange
 24 information relating to unclaimed property or the possible existence of
 25 unclaimed property. The agreements may permit other states, or a
 26 person acting on behalf of a state, to examine records as authorized in
 27 section 43 of this chapter. The attorney general may by rule require the
 28 reporting of information needed to enable compliance with agreements
 29 made under this section and prescribe the form.

30 (b) The attorney general may join with other states to seek
 31 enforcement of this chapter against a person who is or may be holding
 32 property reportable under this chapter.

33 (c) At the request of another state, the attorney general may
 34 commence an action on behalf of the administrator of the other state to
 35 enforce in Indiana the unclaimed property laws of the other state
 36 against a holder of property subject to escheat or a claim of
 37 abandonment by the other state, if the other state has agreed to pay
 38 expenses incurred by the attorney general in maintaining the action.

39 (d) The attorney general may request that the attorney general of
 40 another state or any other attorney commence an action on behalf of the
 41 attorney general in another state. The attorney general may retain
 42 another attorney to commence an action in Indiana on behalf of the

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1 attorney general. This state shall pay all expenses including attorney's
 2 fees in maintaining an action under this subsection. With the attorney
 3 general's approval, the expenses and attorney's fees may be paid from
 4 money received under this chapter. The attorney general may agree to
 5 pay the person bringing the action attorney's fees based in whole or in
 6 part on a percentage of the value of any property recovered in the
 7 action. Expenses or attorney's fees paid under this subsection may not
 8 be deducted from the amount that is subject to the claim by the owner
 9 under this chapter.

10 (e) Documents and working papers obtained or compiled by the
 11 attorney general or the attorney general's agents, employees, or
 12 designated representatives in the course of conducting an audit under
 13 section 43 of this chapter are confidential and are not public records
 14 except:

15 (1) when used by the attorney general to maintain an action to
 16 collect unclaimed property or otherwise enforce this chapter;

17 (2) when used in joint audits conducted with or under agreements
 18 with other states, the federal government, or other governmental
 19 entities; or

20 (3) pursuant to subpoena or court order.

21 **The documents and working papers may be disclosed to the**
 22 **abandoned property office of another state for that state's use in**
 23 **circumstances equivalent to those described in this subsection if the**
 24 **other state is bound to keep the documents and papers confidential.**

25 (f) The attorney general's final completed audit reports are public
 26 records, available for inspection and copying under IC 5-14-3. A final
 27 report may not contain confidential documentation or working papers
 28 unless an exception under subsection (e) applies.

29 SECTION 17. IC 32-9-1.5-48 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 48. (a) An agreement
 31 by an owner, **the primary purpose of which is** to pay compensation
 32 to locate, deliver, recover, or assist in the recovery of property ~~reported~~
 33 **presumed abandoned** under this chapter that is entered into **not**
 34 **earlier than the date the property was presumed abandoned and**
 35 **not later than twenty-four (24) months after the date the property is**
 36 **paid or delivered to the attorney general is void and unenforceable.**
 37 **This subsection does not apply to an owner's agreement with an**
 38 **attorney to file a claim as to identified property or to contest the**
 39 **attorney general's denial of a claim.**

40 (b) An agreement ~~described in subsection (a) that is entered into~~
 41 ~~more than twenty-four (24) months after the date the property is paid~~
 42 ~~or delivered to the attorney general by an owner, the primary~~



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1 **purpose of which is to locate, deliver, recover, or assist in the**
 2 **recovery of property, is valid only if:**

3 (1) the fee or compensation agreed upon is not more than ten
 4 percent (10%) of the amount collected unless the amount
 5 collected is fifty dollars (\$50) or less;

6 (2) the agreement is in writing;

7 (3) the agreement is signed by the apparent owner;

8 (4) the agreement clearly sets forth:

9 (A) the nature and value of the property; and

10 (B) the value of the apparent owner's share after the fee or
 11 compensation has been deducted; and

12 (5) the agreement contains the provision set forth in subsection
 13 (d).

14 (c) This section does not prevent an owner from asserting at any
 15 time that an agreement to locate property is otherwise invalid.

16 (d) This subsection applies to a person who locates, delivers,
 17 recovers, or assists in the recovery of property reported under this
 18 chapter for a fee or compensation. An advertisement, a written
 19 communication, or an agreement concerning the location, delivery,
 20 recovery, or assistance in the recovery of property reported under this
 21 chapter shall contain a provision stating that by law any contract
 22 provision requiring the payment of a fee for finding property held by
 23 the attorney general for less than twenty-four (24) months is void and
 24 that fees are limited to not more than ten percent (10%) of the amount
 25 collected unless the amount collected is fifty dollars (\$50) or less.

26 (e) Subsections ~~(b)(1)~~, ~~(b)(5)~~, ~~(b)(4)~~ and (d) do not apply to
 27 attorney's fees.

28 **(f) If an agreement covered by this section applies to mineral**
 29 **proceeds and the agreement contains a provision to pay**
 30 **compensation that includes a portion of the underlying minerals or**
 31 **any mineral proceeds not then presumed abandoned, the provision**
 32 **is void and unenforceable.**

33 **(g) An agreement covered by this section that provides for**
 34 **compensation that is unconscionable is unenforceable except by the**
 35 **owner. An owner who has agreed to pay compensation that is**
 36 **unconscionable, or the attorney general on behalf of the owner,**
 37 **may maintain an action to reduce the compensation to a**
 38 **conscionable amount. The court may award reasonable attorney's**
 39 **fees to an owner who prevails in the action.**

40 SECTION 18. IC 32-9-1.5-54 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2000]: **Sec. 54. This chapter shall be applied**



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1 **and construed to effectuate its general purpose to make uniform**
2 **the law with respect to the subject of this chapter among states**
3 **enacting it.**

4 SECTION 19. IC 32-9-8-2 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. (a) All money,
6 **other than money related to child support**, that remains in the office
7 of a clerk for a period of ~~ten (10)~~ **five (5) years after being**
8 **distributable** without being claimed by the person entitled to it shall
9 be collected by the attorney general. **All money related to child**
10 **support that remains in the office of a clerk for a period of ten (10)**
11 **years after being distributable without being claimed by the person**
12 **entitled to it shall be collected by the attorney general.** Clerks shall
13 deliver that money to the attorney general upon demand, and the
14 attorney general shall:

- 15 (1) make a record of the money collected; and
- 16 (2) turn it over to the treasurer of state.
- 17 (b) The treasurer of state shall deposit the money in the unclaimed
18 funds account.

19 SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE
20 JULY 1, 2000]: IC 32-9-1.5-38; IC 32-9-1.5-39.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 227, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-9-1.5-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7.5. (a) As used in this chapter, "financial institution" means **a depository financial institution that is organized or reorganized under Indiana law, the law of another state, or United States law. The term includes any of the following:**

- (1) A commercial bank.
- (2) A trust company.
- (3) A savings bank.
- (4) A savings association.
- (5) A credit union.
- (6) An industrial loan and investment company. ~~or~~
- (7) Any other entity that has powers similar to the powers of an entity described in subdivisions (1) through (6).

~~organized or reorganized under the laws of the United States or a state.~~

(b) For purposes of section 17 of this chapter, the term includes a bank of discount and deposit.

SECTION 2. IC 32-9-1.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. (a) The definition in this section does not apply to section 24 of this chapter.

(b) **Except as provided in subsection (c)**, as used in this chapter, "property" means an interest in intangible personal property, except an unliquidated claim, and all income or increment derived from the interest, including that which is referred to as or evidenced by:

- (1) money, a check, a draft, a deposit, an interest, or a dividend;
- (2) a credit balance, a customer overpayment, a gift certificate, a security deposit, a refund, a credit memorandum, an unpaid wage, an unused airline ticket, mineral proceeds, or an unidentified remittance;
- (3) stock and other ownership interest in a business association;
- (4) a bond, debenture, note, or other evidence of indebtedness;
- (5) money deposited to redeem stocks, bonds, coupons, and other securities or to make distributions;
- (6) an amount due and payable under the terms of an insurance



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policy; and

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

(c) As used in this chapter, "property" does not include transactions between business entities and:

(1) a motor carrier (as defined in IC 8-2.1-17-10); or

(2) a carrier (as defined in 49 U.S.C. 13102(3))."

Page 13, reset in roman lines 38 through 40.

Page 13, line 41, delete "(2)(1)" and insert "(2)".

Page 13, line 42, delete "(3)(2)" and insert "(3)".

Page 14, line 1, delete "(4)(3)" and insert "(4)".

Page 14, line 5, delete "(5)(4)" and insert "(5)".

Page 14, line 16, delete ".".

Page 14, line 16, reset in roman "and".

Page 14, reset in roman lines 17 through 18.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 227 as introduced.)

MILLS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 227 be amended to read as follows:

Page 15, delete lines 35 through 39.

Re-number all SECTIONS consecutively.

(Reference is to SB 227 as printed January 19, 2000.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 227, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-10-10-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 11. (a) This section applies to a warrant drawn by the state auditor upon funds in custody of the state treasurer or a check authorized by law to be issued from funds in custody of any other state agency, if the check or warrant is outstanding and unpaid, but is not determined to be unclaimed property under IC 32-9-1.5.**

(b) An agreement for which the primary purpose is to pay compensation to locate, deliver, recover, or assist in the recovery of a check or warrant described in subsection (a) is valid only if:

- (1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less;**
- (2) the agreement is in writing;**
- (3) the agreement is signed by the apparent owner of the check or warrant described in subsection (a); and**
- (4) the agreement clearly sets forth:

 - (A) the nature and value of the property; and**
 - (B) the value of the apparent owner's share after the fee or compensation has been deducted.****

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid.

SECTION 2. IC 5-11-10.5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 11. (a) This section applies to a warrant or a check drawn from the public funds of a political subdivision, if the check or warrant is outstanding and unpaid, but is not determined to be unclaimed property under IC 32-9-1.5.**

(b) An agreement for which the primary purpose is to pay compensation to locate, deliver, recover, or assist in the recovery of a check or warrant described in subsection (a) is valid only if:

- (1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less;**

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- (2) the agreement is in writing;
- (3) the agreement is signed by the apparent owner; and
- (4) the agreement clearly sets forth:
 - (A) the nature and value of the property; and
 - (B) the value of the apparent owner's share after the fee or compensation has been deducted.

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid."

Page 1, line 2, delete "(a)".

Page 1, delete lines 16 through 17.

Page 4, line 14, delete "For" and insert "**Until January 1, 2002,** for".

Page 4, line 14, reset in roman "ten (10) years".

Page 4, line 14, delete "one".

Page 4, line 15, delete "(1) year".

Page 4, line 15, after "." insert "**Beginning January 1, 2002, for property or proceeds held by a court or a court clerk, other than property or proceeds related to child support, five (5) years after the property or proceeds become distributable.**".

Page 4, line 17, after "." insert "**Beginning January 1, 2002, for property or proceeds related to child support held by a court or a court clerk, ten (10) years after the property or proceeds become distributable.**".

Page 15, between lines 40 and 41, begin a new paragraph and insert:
"SECTION 19. IC 32-9-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. (a) All money, **other than money related to child support**, that remains in the office of a clerk for a period of ~~ten (10)~~ **five (5) years after being distributable** without being claimed by the person entitled to it shall be collected by the attorney general. **All money related to child support that remains in the office of a clerk for a period of ten (10) years after being distributable without being claimed by the person entitled to it shall be collected by the attorney general.** Clerks shall deliver that money to the attorney general upon demand, and the attorney general shall:

- (1) make a record of the money collected; and
- (2) turn it over to the treasurer of state.

(b) The treasurer of state shall deposit the money in the unclaimed funds account."

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 227 as reprinted January 25, 2000.)

VILLALPANDO, Chair

Committee Vote: yeas 8, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 227 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 2, line 9, delete "11." and insert "7.".

(Reference is to ESB 227 as printed February 18, 2000.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 227, begs leave to report that said bill has been amended as directed.

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