

August 28, 2018

To the Honorable Members of  
The Illinois House of Representatives,  
100th General Assembly:

Today I return Senate Bill 2921 with specific recommendations for change.

This legislation amends the State Treasurer Act to authorize the Treasurer to purchase and renovate a building and amends The State Finance Act to divert funds collected from Illinois businesses under the deeply flawed Revised Uniform Unclaimed Property Act (“RUUPA”) enacted last year over my veto of SB 9. Under existing law, these moneys are dedicated for the funding of the unfunded liabilities of the State retirement systems and Senate Bill 2921 would divert a portion of the funds earmarked for the pension systems.

RUUPA is problematic in a number of ways. It is improperly retroactive, has a statute of limitations that is illusory, includes estimation provisions that will lead to unrealistic and inflated assessments, authorizes the Treasurer to utilize third-party contingent fee auditors to harm the business community, and in combination with the foregoing imposes a stealth tax increase on Illinois businesses by eliminating the longstanding business-to-business exemption.

The business community should not be subjected to a hidden tax and the Treasurer should not be spending funds improperly diverted from Illinois businesses to purchase and renovate a building. As we reconsider the scope of the Treasurer’s Authority pursuant to RUUPA, we should be looking to minimize the negative impact of this Act, as opposed to allowing it to be used as a mechanism to fund the Treasurer’s building projects.

Therefore, pursuant to Section 9(e) of Article IV of the Illinois Constitution of 1970, I hereby return Senate Bill 2921, entitled “AN ACT concerning State government,” with the following specific recommendations for change:

By deleting page 1, line 4 through page 6 line 21; and

On page 1, immediately after line 3, by inserting the following:

“Section 5. The Revised Uniform Unclaimed Property Act is amended by changing Sections 15-201, 15-610, 15-1006, 15-1009, and 15-1503 as follows:

(765 ILCS 1026/15-201)

Sec. 15-201. When property presumed abandoned.

a) Subject to Section 15-210, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified below:

- (1) a traveler's check, 15 years after issuance;
- (2) a money order, 7 years after issuance;
- (3) any instrument on which a financial organization or business association is directly liable, 3 years after issuance;
- (4) a state or municipal bond, bearer bond, or original-issue-discount bond, 3 years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;
- (5) a debt of a business association, 3 years after the obligation to pay arises;
- (6) a demand, savings, or time deposit, 3 years after the later of maturity or the date of the last indication of interest in the property by the apparent owner, except for a deposit that is automatically renewable, 3 years after its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;
- (7) money or a credit owed to a customer as a result of a retail business transaction, other than in-store credit for returned merchandise, 3 years after the obligation arose;
- (8) an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, 3 years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant, as follows:
  - (A) with respect to an amount owed on a life or endowment insurance policy, the earlier of:
    - (i) 3 years after the death of the insured; or
    - (ii) 2 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and
  - (B) with respect to an amount owed on an annuity contract, 3 years after the death of the annuitant.
- (9) funds on deposit or held in trust pursuant to the Illinois Funeral or Burial Funds Act, the earliest of:
  - (A) 2 years after the date of death of the beneficiary;
  - (B) one year after the date the beneficiary has attained, or would have attained if living, the age of 105 where the holder does not know whether the beneficiary is deceased;
  - (C) 40 years after the contract for prepayment was executed;
- (10) property distributable by a business association in the course of dissolution or distributions from the termination of a retirement plan, one year after the property becomes distributable;
- (11) property held by a court, including property received as proceeds of a class action, 3 years after the property becomes distributable;

(12) property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, 3 years after the property becomes distributable;

(13) wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, including amounts held on a payroll card, one year after the amount becomes payable;

(14) a deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable, except that any capital credits or patronage capital retired, returned, refunded or tendered to a member of an electric cooperative, as defined in Section 3.4 of the Electric Supplier Act, or a telephone or telecommunications cooperative, as defined in Section 13-212 of the Public Utilities Act, that has remained unclaimed by the person appearing on the records of the entitled cooperative for more than 2 years, shall not be subject to, or governed by, any other provisions of this Act, but rather shall be used by the cooperative for the benefit of the general membership of the cooperative; and

(15) property not specified in this Section or Sections 15-202 through 15-208, the earlier of 3 years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

b) Notwithstanding anything to the contrary in this Section 15-201, and subject to Section 15-210, a deceased owner cannot indicate interest in his or her property. If the owner is deceased and the abandonment period for the owner's property specified in this Section 15-201 is greater than 2 years, then the property, other than an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, shall instead be presumed abandoned 2 years from the date of the owner's last indication of interest in the property.

c) Notwithstanding anything to the contrary in this Section, any property due or owed by a business association resulting from a transaction occurring in the normal and ordinary course of business is exempt from this Act.

(765 ILCS 1026/15-610)

Sec. 15-610. Periods of limitation and repose.

(a) Expiration, before, on, or after the effective date of this Act, of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder under this Act to file a report or pay or deliver property to the administrator.

(b) An action or proceeding may not be maintained by the administrator to enforce this Act in regard to the reporting, delivery, or payment of property more than 5 10 years after the holder filed a non-fraudulent report with the administrator. The parties may agree to extend the limitation period in this subsection specifically identified the property in a report filed with the administrator or gave express notice to the administrator of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

(c) The administrator may not commence an action, proceeding, or examination with respect to a duty of a holder under this Act more than 10 years after the duty arose.

(765 ILCS 1026/15-1006)

Sec. 15-1006. Failure of person examined to retain records.

- (a) If a person subject to examination under Section 15-1002 does not retain the records required by Section 15-404, the administrator may use estimation techniques that conform to either generally accepted auditing standards or generally accepted accounting principles to determine the amount of unclaimed property. In the conduct of an examination, the State shall not request of a holder any records that relate to property that is not subject to this Act. Estimation techniques used shall incorporate a "net" method to extrapolation, meaning the numerator shall consist of only property located in Illinois or Illinois-sourced property and the denominator shall be a reasonable surrogate, such as sales or payroll ~~determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under Section 15-1003. A payment made based on estimation under this Section is a penalty for failure to maintain the records required by Section 15-404 and does not relieve a person from an obligation to report and deliver property to a State in which the holder is domiciled.~~
- (b) Within 60 business days of the receipt of a final examination report, a holder may request a hearing to contest the use or validity of estimation techniques. The examination shall become final upon the failure of the holder to request a hearing as provided in this Section. If a hearing is held, the State Treasurer shall issue an order approving or disapproving the use or validity of the estimation techniques. The order shall be a final order under the Administrative Review Law.

(765 ILCS 1026/15-1009)

Sec. 15-1009. Administrator's contract with another to conduct examination.

(a) The administrator may contract with a person to conduct an examination under this Article. The contract shall be awarded pursuant to a request for proposals issued in compliance with the procurement rules of the administrator.

(b) If the administrator contracts with a person under subsection (a):

(1) the contract may provide for compensation of the person based on a fixed fee, or hourly fee, ~~or contingent fee; and~~

(2) ~~(Blank) a contingent fee arrangement may not provide for a payment that exceeds 15% of the amount or value of property paid or delivered as a result of the examination; and~~

(3) as authorized in the State Officers and Employees Money Disposition Act, the administrator may permit the deduction of fees from property recovered during an examination under this Article prior to depositing funds received under this Act into the Unclaimed Property Trust Fund.

(c) A contract under subsection (a) is a public record under the Freedom of Information Act.

(765 ILCS 1026/15-1503)

Sec. 15-1503. Transitional provision.

(a) ~~(Blank) An initial report filed under this Act for property that was not required to be reported before the effective date of this Act, but that is required to be reported under this Act, must include all items of property that would have been presumed abandoned during the 5 year period preceding the effective date of this Act as if this Act had been in effect during that period.~~

(b) This Act does not relieve a holder of a duty that arose before the effective date of this Act to report, pay, or deliver property. ~~Subject to subsection (b) of Section 15-610,~~ a A holder that did not comply with the law governing unclaimed property before the effective date of this Act is subject to applicable provisions for enforcement and penalties in effect before the effective date of this Act.

With these changes, Senate Bill 2921 will have my approval. I respectfully request your concurrence.

Sincerely,

Bruce Rauner

GOVERNOR