



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1464

Introduced 2/13/2019, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

225 ILCS 45/2	from Ch. 111 1/2, par. 73.102
765 ILCS 1026/15-201	
815 ILCS 390/16	from Ch. 21, par. 216

Amends the Presumption of Abandonment Article of the Revised Uniform Unclaimed Property Act. Provides that funds on deposit or held in trust in relation to a prepayment contract are presumed abandoned 40 years after the contract for prepayment was executed, unless the apparent owner has indicated an interest in the property more than 40 years after the contract for prepayment was executed, in which case, 3 years after the last indication of interest in the property by the apparent owner. Amends the Illinois Funeral or Burial Funds Act and the Illinois Pre-Need Cemetery Sales Act. Provides that if a trustee has a reason to believe that the contact information for a purchaser is no longer valid or the purchaser is deceased, then the trustee shall promptly notify the seller. Provides that a trustee shall report and remit any trust funds relating to an individual account that is presumed abandoned to the State Treasurer.

LRB101 09433 LNS 54531 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Funeral or Burial Funds Act is  
5 amended by changing Section 2 as follows:

6 (225 ILCS 45/2) (from Ch. 111 1/2, par. 73.102)

7 Sec. 2. (a) If a purchaser selects a trust arrangement to  
8 fund the pre-need contract, all trust deposits as determined by  
9 Section 1b shall be made within 30 days of receipt.

10 (b) A trust established under this Act must be maintained  
11 with a corporate fiduciary as defined in Section 1-5.05 of the  
12 Corporate Fiduciary Act or with a foreign corporate fiduciary  
13 recognized by Article IV of the Corporate Fiduciary Act.

14 (c) Trust agreements and amendments to the trust agreements  
15 used to fund a pre-need contract shall be filed with the  
16 Comptroller.

17 (d) (Blank).

18 (e) A seller or provider shall furnish to the trustee and  
19 depository the name of each payor and the amount of payment on  
20 each such account for which deposit is being so made. Nothing  
21 shall prevent the trustee from commingling the deposits in any  
22 such trust fund for purposes of its management and the  
23 investment of its funds as provided in the Common Trust Fund

1 Act. In addition, multiple trust funds maintained under this  
2 Act may be commingled or commingled with other funeral or  
3 burial related trust funds if all record keeping requirements  
4 imposed by law are met.

5 (f) (Blank).

6 (g) Upon no less than 30 days prior notice to the  
7 Comptroller, the seller may change the trustee of the fund.  
8 Failure to provide the Comptroller with timely prior notice is  
9 an intentional violation of this Act.

10 (h) A trustee shall at least annually furnish to each  
11 purchaser a statement containing: (1) the receipts,  
12 disbursements, and inventory of the trust, including an  
13 explanation of any fees or expenses charged by the trustee  
14 under Section 5 of this Act or otherwise, (2) an explanation of  
15 the purchaser's right to a refund, if any, under this Act, and  
16 (3) identifying the primary regulator of the trust as a  
17 corporate fiduciary under state or federal law.

18 (i) If a trustee has reason to believe that the contact  
19 information for a purchaser is no longer valid, then the  
20 trustee shall promptly notify the seller. If a trustee has  
21 reason to believe that the purchaser is deceased, then the  
22 trustee shall promptly notify the seller. A trustee shall  
23 report and remit to the State Treasurer any trust funds,  
24 including both the principal and any accrued earnings or  
25 losses, relating to an individual account that is presumed  
26 abandoned under the Revised Uniform Unclaimed Property Act.

1 (Source: P.A. 96-879, eff. 2-2-10; 97-593, eff. 8-26-11.)

2 Section 10. The Revised Uniform Unclaimed Property Act is  
3 amended by changing Section 15-201 as follows:

4 (765 ILCS 1026/15-201)

5 Sec. 15-201. When property presumed abandoned. Subject to  
6 Section 15-210, the following property is presumed abandoned if  
7 it is unclaimed by the apparent owner during the period  
8 specified below:

9 (1) a traveler's check, 15 years after issuance;

10 (2) a money order, 7 years after issuance;

11 (3) any instrument on which a financial organization or  
12 business association is directly liable, 3 years after  
13 issuance;

14 (4) a state or municipal bond, bearer bond, or  
15 original-issue-discount bond, 3 years after the earliest  
16 of the date the bond matures or is called or the obligation  
17 to pay the principal of the bond arises;

18 (5) a debt of a business association, 3 years after the  
19 obligation to pay arises;

20 (6) a demand, savings, or time deposit, 3 years after  
21 the later of maturity or the date of the last indication of  
22 interest in the property by the apparent owner, except for  
23 a deposit that is automatically renewable, 3 years after  
24 its initial date of maturity unless the apparent owner

1 consented in a record on file with the holder to renewal at  
2 or about the time of the renewal;

3 (7) money or a credit owed to a customer as a result of  
4 a retail business transaction, other than in-store credit  
5 for returned merchandise, 3 years after the obligation  
6 arose;

7 (8) an amount owed by an insurance company on a life or  
8 endowment insurance policy or an annuity contract that has  
9 matured or terminated, 3 years after the obligation to pay  
10 arose under the terms of the policy or contract or, if a  
11 policy or contract for which an amount is owed on proof of  
12 death has not matured by proof of the death of the insured  
13 or annuitant, as follows:

14 (A) with respect to an amount owed on a life or  
15 endowment insurance policy, the earlier of:

16 (i) 3 years after the death of the insured; or

17 (ii) 2 years after the insured has attained, or  
18 would have attained if living, the limiting age  
19 under the mortality table on which the reserve for  
20 the policy is based; and

21 (B) with respect to an amount owed on an annuity  
22 contract, 3 years after the death of the annuitant.

23 (9) funds on deposit or held in trust pursuant to the  
24 Illinois Funeral or Burial Funds Act, the earliest of:

25 (A) 2 years after the date of death of the  
26 beneficiary;

1 (B) one year after the date the beneficiary has  
2 attained, or would have attained if living, the age of  
3 105 where the holder does not know whether the  
4 beneficiary is deceased;

5 (C) 40 years after the contract for prepayment was  
6 executed, unless the apparent owner has indicated an  
7 interest in the property more than 40 years after the  
8 contract for prepayment was executed, in which case, 3  
9 years after the last indication of interest in the  
10 property by the apparent owner;

11 (10) property distributable by a business association  
12 in the course of dissolution or distributions from the  
13 termination of a retirement plan, one year after the  
14 property becomes distributable;

15 (11) property held by a court, including property  
16 received as proceeds of a class action, 3 years after the  
17 property becomes distributable;

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

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

1           (14) a deposit or refund owed to a subscriber by a  
2 utility, one year after the deposit or refund becomes  
3 payable, except that any capital credits or patronage  
4 capital retired, returned, refunded or tendered to a member  
5 of an electric cooperative, as defined in Section 3.4 of  
6 the Electric Supplier Act, or a telephone or  
7 telecommunications cooperative, as defined in Section  
8 13-212 of the Public Utilities Act, that has remained  
9 unclaimed by the person appearing on the records of the  
10 entitled cooperative for more than 2 years, shall not be  
11 subject to, or governed by, any other provisions of this  
12 Act, but rather shall be used by the cooperative for the  
13 benefit of the general membership of the cooperative; and

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

18           Notwithstanding anything to the contrary in this Section  
19 15-201, and subject to Section 15-210, a deceased owner cannot  
20 indicate interest in his or her property. If the owner is  
21 deceased and the abandonment period for the owner's property  
22 specified in this Section 15-201 is greater than 2 years, then  
23 the property, other than an amount owed by an insurance company  
24 on a life or endowment insurance policy or an annuity contract  
25 that has matured or terminated, shall instead be presumed  
26 abandoned 2 years from the date of the owner's last indication

1 of interest in the property.

2 (Source: P.A. 100-22, eff. 1-1-18; 100-566, eff. 1-1-18.)

3 Section 15. The Illinois Pre-Need Cemetery Sales Act is  
4 amended by changing Section 16 as follows:

5 (815 ILCS 390/16) (from Ch. 21, par. 216)

6 Sec. 16. Trust funds; disbursements.

7 (a) A trustee shall make no disbursements from the trust  
8 fund except as provided in this Act.

9 (b) A trustee has a duty to invest and manage the trust  
10 assets pursuant to the Prudent Investor Rule under the Trusts  
11 and Trustees Act. Whenever the seller changes trustees pursuant  
12 to this Act, the trustee must provide written notice of the  
13 change in trustees to the Comptroller no less than 28 days  
14 prior to the effective date of such a change in trustee. The  
15 trustee has an ongoing duty to provide the Comptroller with a  
16 current and true copy of the trust agreement under which the  
17 trust funds are held pursuant to this Act.

18 (c) The trustee may rely upon certifications and affidavits  
19 made to it under the provisions of this Act, and shall not be  
20 liable to any person for such reliance.

21 (d) A trustee shall be allowed to withdraw from the trust  
22 funds maintained pursuant to this Act a reasonable fee pursuant  
23 to the Trusts and Trustees Act.

24 (e) The trust shall be a single-purpose trust fund. In the



1 event of the seller's bankruptcy, insolvency or assignment for  
2 the benefit of creditors, or an adverse judgment, the trust  
3 funds shall not be available to any creditor as assets of the  
4 seller or to pay any expenses of any bankruptcy or similar  
5 proceeding, but shall be distributed to the purchasers or  
6 managed for their benefit by the trustee holding the funds.  
7 Except in an action by the Comptroller to revoke a license  
8 issued pursuant to this Act and for creation of a receivership  
9 as provided in this Act, the trust shall not be subject to  
10 judgment, execution, garnishment, attachment, or other seizure  
11 by process in bankruptcy or otherwise, nor to sale, pledge,  
12 mortgage, or other alienation, and shall not be assignable  
13 except as approved by the Comptroller. The changes made by this  
14 amendatory Act of the 91st General Assembly are intended to  
15 clarify existing law regarding the inability of licensees to  
16 pledge the trust.

17 (f) Because it is not known at the time of deposit or at  
18 the time that income is earned on the trust account to whom the  
19 principal and the accumulated earnings will be distributed, for  
20 purposes of determining the Illinois Income Tax due on these  
21 trust funds, the principal and any accrued earnings or losses  
22 relating to each individual account shall be held in suspense  
23 until the final determination is made as to whom the account  
24 shall be paid.

25 (g) A trustee shall at least annually furnish to each  
26 purchaser a statement identifying: (1) the receipts,

1 disbursements, and inventory of the trust, including an  
2 explanation of any fees or expenses charged by the trustee  
3 under paragraph (d) of this Section or otherwise, (2) an  
4 explanation of the purchaser's right to a refund, if any, under  
5 this Act, and (3) the primary regulator of the trust as a  
6 corporate fiduciary under state or federal law.

7 (h) If a trustee has reason to believe that the contact  
8 information for a purchaser is no longer valid, then the  
9 trustee shall promptly notify the seller. If a trustee has  
10 reason to believe that the purchaser is deceased, then the  
11 trustee shall promptly notify the seller. A trustee shall  
12 report and remit to the State Treasurer any trust funds,  
13 including both the principal and any accrued earnings or  
14 losses, relating to an individual account that is presumed  
15 abandoned under the Revised Uniform Unclaimed Property Act.

16 (Source: P.A. 96-879, eff. 2-2-10.)