

HB

330

Bill History/Action Display



BILL: HB 330

SHORT TITLE: DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

BILL VERSION:

CURRENT STATUS: (H) STA
THEN FIN

STATUS DATE: 03/31/04

SPONSOR(s): RLS BY REQUEST OF THE GOVERNOR

TITLE: "An Act shortening the time periods after which certain unclaimed property is presumed to be abandoned; and providing for an effective date."

Bill Root: [Display Bill Root](#) [Next Bill](#)

[Full Text](#) [Fiscal Notes](#)

[Committee Action with Bill History](#)

Jrn-Date	Jrn-Page	Action
05/21/03	2068	(H) READ THE FIRST TIME - REFERRALS
05/21/03	2068	(H) L&C, STA
05/21/03	2069	(H) FN1: (REV)
05/21/03	2069	(H) GOVERNOR'S TRANSMITTAL LETTER
03/31/04	3131	(H) L&C RPT CS(L&C) NT 3DP 1NR
03/31/04	3131	(H) DP: LYNN, DAHLSTROM, ANDERSON;
03/31/04	3131	(H) NR: GUTTENBERG
03/31/04	3132	(H) FN1: (REV)
03/31/04	3132	(H) REFERRED TO STATE AFFAIRS
03/31/04	3150	(H) FIN REFERRAL ADDED AFTER STA

[Similar Subject Match](#) or [Exact Subject Match](#)
PROPERTY

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CS FOR HOUSE BILL NO. 330(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/31/04

Referred: State Affairs, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to unclaimed property; and providing for an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1.** AS 34.45.110(a) is amended to read:

4 (a) Except as otherwise provided in AS 34.45.120 - 34.45.780, all intangible
5 property, including income or increment derived from the property, less lawful
6 charges, that is held, issued, or owing in the ordinary course of a holder's business and
7 has remained unclaimed by the owner for more than three [FIVE] years after
8 becoming payable or distributable is presumed abandoned.

9 *** Sec. 2.** AS 34.45.150(a) is amended to read:

10 (a) Other than money payable on an instrument that is subject to
11 AS 34.45.140, money payable on a check, draft, or similar instrument on which a
12 banking or financial organization is directly liable, including a cashier's check and a
13 certified check, that has been outstanding for more than five [SEVEN] years after it
14 was payable or after its issuance if payable on demand, is presumed abandoned. This
15 presumption does not apply if the owner, within the preceding five [SEVEN] years,

1 has communicated in writing with the banking or financial organization concerning
2 the instrument or has otherwise indicated an interest as evidenced by a memorandum
3 or other record, on file, prepared by an employee of the organization.

4 * Sec. 3. AS 34.45.160(a) is amended to read:

5 (a) A demand, savings, or matured time deposit with a banking or financial
6 organization, including a deposit that is automatically renewable, and money paid
7 toward the purchase of a share, a mutual investment certificate, or other intangible
8 property interest in a banking or financial organization is presumed abandoned unless
9 the owner, within the preceding five [SEVEN] years, has

10 (1) in the case of a deposit, increased or decreased its amount or
11 presented the passbook or other similar evidence of the deposit for the crediting of
12 interest;

13 (2) communicated in writing with the banking or financial organization
14 concerning the property; or

15 (3) otherwise indicated an interest in the property as evidenced by a
16 memorandum or other record, on file, prepared by an employee of the banking or
17 financial organization [;

18 (4) OWNED OTHER PROPERTY TO WHICH (1), (2), OR (3) OF
19 THIS SUBSECTION APPLIES AND THE BANKING OR FINANCIAL
20 ORGANIZATION HAS COMMUNICATED IN WRITING WITH THE OWNER
21 WITH REGARD TO THE PROPERTY THAT WOULD OTHERWISE BE
22 PRESUMED ABANDONED UNDER THIS SUBSECTION AT THE ADDRESS TO
23 WHICH COMMUNICATIONS REGARDING THE OTHER PROPERTY ARE
24 REGULARLY SENT; OR

25 (5) HAD ANOTHER RELATIONSHIP WITH THE BANKING OR
26 FINANCIAL ORGANIZATION CONCERNING WHICH THE OWNER HAS

27 (A) COMMUNICATED IN WRITING WITH THE
28 BANKING OR FINANCIAL ORGANIZATION OR OTHERWISE
29 INDICATED AN INTEREST AS EVIDENCE BY A MEMORANDUM OR
30 OTHER RECORD, ON FILE, PREPARED BY AN EMPLOYEE OF THE
31 BANKING OR FINANCIAL ORGANIZATION; AND

1 (B) THE BANKING OR FINANCIAL ORGANIZATION
 2 COMMUNICATES IN WRITING WITH THE OWNER WITH REGARD TO
 3 THE PROPERTY THAT WOULD OTHERWISE BE ABANDONED
 4 UNDER THIS SUBSECTION AT THE ADDRESS TO WHICH
 5 COMMUNICATIONS REGARDING THE OTHER RELATIONSHIP
 6 REGULARLY ARE SENT].

7 * Sec. 4. AS 34.45.170(a) is amended to read:

8 (a) Money held or owing under a life or endowment insurance policy or
 9 annuity contract that has matured or terminated is presumed abandoned if unclaimed
 10 for more than three [FIVE] years after the money became due and payable as
 11 established from the records of the insurance company holding or owing the money.
 12 [HOWEVER, PROPERTY DESCRIBED IN (c)(2) OF THIS SECTION IS
 13 PRESUMED ABANDONED IF UNCLAIMED FOR MORE THAN TWO YEARS.]

14 * Sec. 5. AS 34.45 is amended by adding a new section to read:

15 **Sec. 34.45.175. Certain property distributed in insurance company**
 16 **reorganizations.** (a) Property distributed in the course of a demutualization,
 17 rehabilitation, or related reorganization of an insurance company is presumed
 18 abandoned two years after the date of the demutualization, rehabilitation, or related
 19 reorganization if, at the time of the demutualization, rehabilitation, or related
 20 reorganization, the last known address of the owner on the books and records of the
 21 holder is known to be incorrect, or a distribution or statement is returned by the post
 22 office as undeliverable, and the owner has not

23 (1) communicated in writing with the holder or its agent regarding the
 24 property; or

25 (2) otherwise communicated with the holder regarding the property as
 26 evidenced by a memorandum on file with the holder or its agent.

27 (b) The conditions raising a presumption of abandonment for property
 28 distributable in the course of a demutualization, rehabilitation, or related
 29 reorganization of a mutual insurance company that is not subject to (a) of this section
 30 are as otherwise provided in AS 34.45.110 - 34.45.780.

31 * Sec. 6. AS 34.45.200 is repealed and reenacted to read:

1 **Sec. 34.45.200. Stock and other intangible interests in business**
2 **associations or financial organizations.** (a) Stock or other equity interest in a
3 business association or financial organization is presumed abandoned five years after
4 the earliest of

5 (1) the date of the most recent dividend, stock split, or other
6 distribution unclaimed by the owner;

7 (2) the date that a statement of account or other notification or
8 communication concerning the stock or other equity interest was returned as
9 undeliverable; or

10 (3) the date that the holder of the stock or other equity interest
11 discontinued mailings, notifications, or communications to the owner.

12 (b) Unmatured or unredeemed debt of a business association or financial
13 organization, other than a bearer bond or an original issue discount bond, is presumed
14 abandoned five years after the date of the most recent interest payment unclaimed by
15 the owner.

16 (c) Matured or redeemed debt, including bearer bonds and original issue
17 discount bonds, is presumed abandoned five years after the date of maturity or
18 redemption.

19 (d) At the time property is presumed abandoned under this section, any other
20 property right accrued or accruing to the owner as a result of the property interest and
21 not previously presumed abandoned is also presumed abandoned.

22 (e) A distribution of net margins by a cooperative incorporated under
23 AS 10.25 is presumed abandoned if the distribution remains unclaimed by the owner
24 for more than one year after the date authorized for the distribution. The distribution
25 presumed abandoned under this subsection reverts to the cooperative if the cooperative
26 has, at least six months before the proposed date that the distribution reverts to the
27 cooperative, both

28 (1) mailed a notice of the proposed reversion to the last known address
29 of the owner as shown on the cooperative records; and

30 (2) published notice of the proposed reversion in the manner provided
31 by law or court rule for service of a summons by publication.

1 * **Sec. 7.** AS 34.45.220(a) is amended to read:

2 (a) Intangible property and income or increment derived from the intangible
3 property held in a fiduciary capacity for the benefit of another person is presumed
4 abandoned unless the owner, within three [FIVE] years after it has become payable or
5 distributable, has increased or decreased the principal, accepted payment of principal
6 or income, communicated concerning the property, or otherwise indicated an interest
7 as evidenced by a memorandum or other record, on file, prepared by the fiduciary.

8 * **Sec. 8.** AS 34.45.240(a) is amended to read:

9 (a) A gift certificate or a credit memo, issued in the ordinary course of an
10 issuer's business, that remains unclaimed by the owner for more than three [FIVE]
11 years after becoming payable or distributable is presumed abandoned.

12 * **Sec. 9.** AS 34.45 is amended by adding a section to article 3 to read:

13 **Sec. 34.45.270. Burden of proof as to property evidenced by record of**
14 **check, draft, or similar instrument.** A record of the issuance of a check, draft, or
15 similar instrument is prima facie evidence of an obligation. In claiming property from
16 a holder who is also the issuer, the department's burden of proof as to the existence
17 and amount of the property and its abandonment is satisfied by showing issuance of
18 the instrument and passage of the requisite period of abandonment. Defenses of
19 payment, satisfaction, discharge, and want of consideration are affirmative defenses
20 that must be established by the holder.

21 * **Sec. 10.** AS 34.45.280(f) is repealed and reenacted to read:

22 (f) The requirements of this section apply to the holder of intangible property
23 with a total aggregate value greater than \$750 that is presumed abandoned under
24 AS 34.45.110 - 34.45.780 during the year preceding June 30 of each year. For
25 purposes of determining total aggregate value under this subsection, the holder shall
26 include all intangible property from prior years that was not reported under
27 AS 34.45.110 - 34.45.780.

28 * **Sec. 11.** AS 34.45.290 is repealed and reenacted to read:

29 **Sec. 34.45.290. Requests for reports and examination of records.** (a) The
30 department may require a person who has not filed a report under AS 34.45.280 or a
31 person who the department believes has filed an inaccurate, incomplete, or false

1 report, to file a verified report in a form specified by the department. The report must
2 state whether the person is holding property reportable under AS 34.45.110 -
3 34.45.780, describe property not previously reported or as to which the department has
4 made inquiry, and specifically identify and state the amounts of the property that may
5 be in issue.

6 (b) The department, at reasonable times and upon reasonable notice, may
7 examine the records of any person to determine whether the person has complied with
8 AS 34.45.110 - 34.45.780. The department may conduct the examination even if the
9 person believes it is not in possession of any property that must be reported, paid, or
10 delivered under AS 34.45.110 - 34.45.780. The department may contract with any
11 other person to conduct the examination on behalf of the department.

12 (c) The department at reasonable times may examine the records of an agent,
13 including a dividend disbursing agent or transfer agent, of a business association or
14 financial organization that is the holder of property presumed abandoned if the
15 department has given the notice required by (b) of this section to both the association
16 or organization and the agent at least 90 days before the examination.

17 (d) Documents and working papers obtained or compiled by the department,
18 or the department's agents, employees, contractors, or designated representatives in the
19 course of conducting an examination under AS 34.45.110 - 34.45.780 are confidential
20 and are not public records, but the documents and papers may be

21 (1) used by the department in the course of an action to collect
22 unclaimed property or otherwise enforce AS 34.45.110 - 34.45.780;

23 (2) used in joint examinations conducted with or under an agreement
24 with another state, the federal government, or any other governmental subdivision,
25 agency, or instrumentality;

26 (3) produced under subpoena or court order; or

27 (4) disclosed to the unclaimed property office of another state for that
28 state's use in circumstances equivalent to those described in this subsection, if the
29 other state is bound to keep the documents and papers confidential.

30 (e) If an examination of the records of a person results in the disclosure of
31 property reportable under AS 34.45.110 - 34.45.780, the department may assess the

1 cost of the examination against the holder at the rate of \$200 a day for each examiner,
 2 or a greater amount that is reasonable and was incurred, but the assessment may not
 3 exceed the value of the property found to be reportable under AS 34.45.110 -
 4 34.45.780. The cost of an examination made under (c) of this section may be assessed
 5 only against the business association or financial organization.

6 (f) If a holder does not maintain the records required by AS 34.45.300 and the
 7 records of the holder available for the periods subject to AS 34.45.110 - 34.45.780 are
 8 insufficient to permit the preparation of a report, the department may require the
 9 holder to report and pay to the department the amount the department reasonably
 10 estimates, on the basis of any available records of the holder or by any other
 11 reasonable method of estimation, should have been but was not reported.

12 * **Sec. 12.** AS 34.45.300(a) is repealed and reenacted to read:

13 (a) Except as otherwise provided in (b) of this section, a holder required to file
 14 a report under AS 34.45.280 shall maintain the records containing the information
 15 required to be included in the report for 10 years after the holder files the report,
 16 unless a shorter period is provided by regulations adopted by the department.

17 * **Sec. 13.** AS 34.45.310 is repealed and reenacted to read:

18 **Sec. 34.45.310. Notice and publication of lists of unclaimed property.** (a)

19 The department shall notify apparent owners of unclaimed property under
 20 AS 34.45.110 - 34.45.780 in the manner and method set out in (b) of this section. In
 21 deciding whether to use an additional method specified in (b)(2) of this section, and
 22 which of those methods to use, the department shall employ the most cost-effective
 23 method available within its appropriations.

24 (b) The department

25 (1) shall notify all apparent owners of the unclaimed property in
 26 accordance with this section by means of posting on the department's website on the
 27 Internet;

28 (2) may use any of the following to provide additional notice to the
 29 apparent owners:

30 (A) publication in a newspaper of general circulation in the
 31 area of the state in which the last known address of a person to be named in the

1 notice is located, or if the address is unknown, in the area in which the holder
2 has its principal place of business in the state;

3 (B) individual contact by regular or electronic mail, or by
4 telephone, if the department has current contact information on file under
5 AS 34.45.110 - 34.45.780;

6 (C) any other manner and method that the department considers
7 effective for providing notice and publication under AS 34.45.110 - 34.45.780.

8 (c) In its notice and publication under (b) of this section, the department shall
9 provide the names of the apparent owners of the property and information regarding
10 recovery of the unclaimed property.

11 (d) The department is not required to publish in the notice an item of less than
12 \$100 in value.

13 (e) This section does not apply to money payable on traveler's checks, money
14 orders, and other written instruments presumed abandoned under AS 34.45.140.

15 * Sec. 14. A: 34.45.760(10) is amended to read:

16 (10) "intangible property"

17 (A) includes

18 (i) money, checks, drafts, warrants, deposits, interest,
19 dividends, and income;

20 (ii) credit balances, customer overpayments, gift
21 certificates, security deposits, refunds, credit memos, unpaid wages,
22 and unidentified remittances;

23 (iii) stocks and other intangible ownership interests in
24 business associations;

25 (iv) money deposited to redeem stocks, bonds, coupons,
26 and other securities, or to make distributions;

27 (v) amounts due and payable under the terms of
28 insurance policies; [AND]

29 (vi) amounts distributable from a trust or custodial fund
30 established under a plan to provide health, welfare, pension, vacation,
31 severance, retirement, death, stock purchase, profit-sharing, employee

1 savings, supplemental unemployment insurance, or similar benefits;

2 and

3 (vii) amounts due and payable as mineral proceeds;

4 (B) does not include

5 (i) unused airline tickets;

6 (ii) shares of stock issued by a corporation organized
7 under 43 U.S.C. 1601 - 1629a (Alaska Native Claims Settlement Act)
8 or unclaimed dividends payable on the shares of stock; or

9 (iii) overpaid contributions by employers to the
10 unemployment compensation fund under AS 23.20.130;

11 * Sec. 15. AS 34.45.760(11) is repealed and reenacted to read:

12 (11) "last known address" means

13 (A) if the address is sufficient to direct the delivery of mail or
14 receipt of a communication by the means known to the holder, a description of
15 the location of the apparent owner's residence or business;

16 (B) if the address is not sufficient as described in (A) of this
17 paragraph, a description indicating that the apparent owner was located within
18 this state;

19 * Sec. 16. AS 34.45.760 is amended by adding new paragraphs to read:

20 (18) "gift certificate" means an obligation of a business association
21 arising from a transaction between the business association and a consumer to provide
22 goods or services at a future date; "gift certificate" includes a gift certificate, stored
23 value card, gift card, on-line gift account, or other representation or evidence of the
24 obligation of a business association;

25 (19) "mineral" means gas; oil; other gaseous, liquid, and solid
26 hydrocarbons; oil shale; cement material; sand and gravel; road material; building
27 stone; chemical raw material; gemstone; fissionable and nonfissionable ores; colloidal
28 and other clay; steam and other geothermal resources; or any other substance defined
29 as mineral by other state law;

30 (20) "mineral proceeds" means amounts payable for the extraction,
31 production, or sale of minerals, or, upon the abandonment of those payments, all

1 payments that become payable after the abandonment; "mineral proceeds" includes
2 amounts payable

3 (A) for the acquisition and retention of a mineral lease,
4 including bonuses, royalties, compensatory royalties, shut-in royalties,
5 minimum royalties, and delay rentals;

6 (B) for the extraction, production, or sale of minerals, including
7 net revenue interests, royalties, overriding royalties, extraction payments, and
8 production payments;

9 (C) under an agreement or option, including a joint operating
10 agreement, unit agreement, pooling agreement, and farm-out agreement.

11 * Sec. 17. The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 APPLICABILITY. The changes made by this Act apply to property that meets either
14 of the following:

15 (1) property that, on the effective date of this Act, already was subject to a
16 statutory provision amended by this Act;

17 (2) property that, on or after the effective date of this Act, becomes subject to
18 a statutory provision amended by this Act.

19 * Sec. 18. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB330(L&C)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Decrease Time to Report Unclaimed Property RDU Revenue Programs & Services
Component Treasury Management
Sponsor House Rules
Requester Governor Component No. 121

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	2010
Personal Services	50.0					
Travel						
Contractual	10.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	60.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	1,000.0	1,500.0	500.0			
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	60.0					
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	60.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary	0.75					

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 34.45, the Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state. Generally those properties presumed abandoned after five years will, under this bill, be presumed abandoned after three years. Those properties presumed abandoned after seven years will be presumed abandoned after five years. The first couple of years will see a strong increase in property reported due to the changes in dormancy requiring additional personal and contractual services. Subsequent years should not see major impacts.

Abandoned property transferred to the state averages around \$2.5 million per year. Changing the abandonment time by two years could increase revenue to the general fund for a few years for a total of \$1 to \$3 million. This bill will have no effect on revenue in subsequent years.

Prepared by: Betty Martin, State Comptroller Phone 465-2352
Division Treasury Date/Time 3/31/04 11:05 PM
Approved by: Steve Porter, Deputy Commissioner Date 3/31/2004
Agency Department of Revenue



**Reasons for Proposed Unclaimed Property Legislative Changes
HB 330**

1. This change to section AS 34.45.110(a) will make the general abandoned period for property not defined in other parts of the Act three years instead of five years.
2. This change will make section AS 34.45.150(a) consistent with the Uniform Unclaimed Property Act. Time period for money payable on a negotiable instrument is changed from seven years to five years.
3. The change will make section AS 34.45.160(a) consistent with the Uniform Unclaimed Property Act. Ensures all property regardless of known or unknown by the owner will fall under the protection of the Act.
4. This change will make section AS 34.45.170(a) consistent with the Uniform Unclaimed Property Act. When life endowment and annuity contracts do not mature by actual proof of death, but the insured or annuitant has reached the limiting age of mortality, they should be reported consistent with other forms of life and endowment insurance.
5. Adds a new section AS 34.45.175 for distributions in insurance company reorganizations. Mutual companies are owned by their policyholders. In order to create capital or enhance financial strength mutual companies demutualize and convert to a stock form of ownership. Policyholders are entitled to receive compensation in the form of cash or stock.

Mutual companies do not have reoccurring contact with fully paid policyholders. Contact only occurs when a policyholder's estate files a claim for benefits.

Alaska's current statutes do not take into consideration the fact that virtually all policyholders were lost as of the date of the demutualization and have in fact been lost for decades prior.

6. Deleting AS 34.45.200 (b) allows companies to report unclaimed property based on inactivity or lack of owner contact. Alaska's current language requires the company to make seven distributions before property is considered unclaimed. E.g. a company may issue stock splits every two or three years. In that case, it could take fourteen to twenty-one years before it would become reportable as unclaimed property.
7. This change will make section AS 34.45.220(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.
8. This change will make section AS 34.45.240(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.

9. Adds a new section, AS 34.45.270 Burden of Proof consistent with the Uniform Unclaimed Property Act. This language clearly specifies an obligation exists between a Holder and an Owner as evidenced by a check or draft. The Holder must defend satisfaction, discharge or want by the owner of the consideration in order to exclude the item as an outstanding obligation.
10. This change to AS 34.45.280(f) allows holders of unclaimed property to aggregate and report property with a value greater than \$750.
11. This change makes AS 34.45.290 consistent with the Uniform Unclaimed Property Act. The new language allows the department to examine company records to verify compliance. Current statute allows examination if there is a reason to believe based on reporting discrepancies.
12. AS 34.45.300 (a) increases the record retention period to 10 years. Holder's records are vital to verifying an owner's claim.
13. Replacing AS 34.45.310 allows the department to evaluate technological advancements, promotional resources and cost effective methods to notify owners of unclaimed property. Current statute mandates publishing a notice in newspapers throughout the state. Last year's publication cost was \$30,000. Publication costs are expected to continually increase in the future.
14. AS 34.45.760 (10) Alaska has natural resources yet the unclaimed property statute does not clearly define mineral and mineral proceeds. These types of property are often missed during a Holder's reporting process. These definitions are consistent with the Uniform Unclaimed Property Act.
15. AS 34.45.760(11) Repeal
16. AS 34.45.760 (18) Gift certificates are no longer just a piece of paper. Gift obligations are in many forms such as electronic cards, on-line gift accounts, stored-value cards, etc. This description helps define a gift obligation as any commitment between a holder and a purchaser where an exchange of money for future goods or services has transpired. (19) adds definition for mineral, section (20) adds definition for mineral proceeds consistent with Uniform Act.
17. Standard transition language
18. Effective date

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

April 27, 2004

The Honorable Bruce Weyhrauch,
Chair – House State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Re: HB 330; Shortening time periods after which certain unclaimed property is presumed to be abandoned.

Dear Mr. Chair:

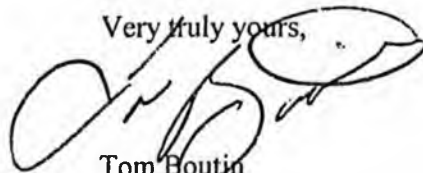
HB 330 was scheduled for a hearing in the House State Affairs Committee, and postponed. This legislation amends AS 34.45, Alaska's Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state.

I am enclosing a copy of necessary amendments. One amendment is responsive to the insurance industry to incorporate the industry standard language for demutualization. The other amendment corrects punctuation and redundant language.

The department has already provided you with backup materials in support of HB 330. If you need further information, please do not hesitate to contact me at 465-3669.

Your rescheduling HB 330 for a hearing in the House State Affairs Committee at your earliest convenience will be appreciated.

Very truly yours,



Tom Boutin
Deputy Commissioner

Enclosure

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 23, 2004

SUBJECT: Amendments to CSHB 330(L&C) relating to unclaimed property
(Work Order No. 23-GH1151D)

TO: Representative Bruce Weyhrauch
Chair, House State Affairs Committee
Attn: Ginny

FROM: *JB*
Theresa L. Bannister
Legislative Counsel

This memo accompanies the amendments requested for this bill.

Reference to financial institutions. I would like to bring your attention to a problem in the bill, which is carried over into amendment D.2. Since "financial institution" is included in the definition of "business association" (AS 34.45.760(3)), it is not necessary to mention it when referring to business associations in the bill. In AS 34.45.200, as amended in the bill, financial institutions are referred to as an alternate to "business association." See the title, subsection (a), and subsection (b) of AS 34.45.200 in the bill. This also occurs in amended AS 34.45.290(e) and in the proposed amendment (D.2) to the definition of "intangible property." This approach is not technically correct, and may cause a problem with interpreting "business association" when "business association" appears by itself. I recommend that the references to "financial institutions" either be removed or drafted something like "business associations, including financial institutions,"

Last known address. Amendment D.2 repeals the definition of "last known address" in AS 34.45.760(11). As a result, the term, which is used in AS 34.45.120, 34.45.170(b) and (e), 34.45.280(b) and (e), 34.45.370(a), and 34.45.390(a), will not have any special meaning. This is not a problem if you are willing to have the term be given its common meaning in those statutes.

If I may be of further assistance, please advise.

TLB:med:mdr
04-445.med

Enclosure

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 330(L&C)

1 Page 8, following line 14:

2 Insert new bill sections to read:

3 **** Sec. 14.** AS 34.45.320(d) is amended to read:

4 (d) The holder of an equity [OWNERSHIP] interest under AS 34.45.200 shall
5 deliver a duplicate certificate, or other evidence of ownership if the holder does not
6 issue certificates of ownership, to the department. Upon delivery of a duplicate
7 certificate to the department, the holder and a transfer agent, registrar, or other person
8 acting for or on behalf of a holder in executing or delivering the duplicate certificate is
9 relieved of all liability, in accordance with the provisions of AS 34.45.330 to every
10 person, including a person acquiring the original certificate or the duplicate of the
11 certificate issued to the department, for loss or damage resulting to a person by the
12 issuance and delivery to the department of the duplicate certificate.

13 *** Sec. 15.** AS 34.45.330(c) is amended to read:

14 (c) A holder who has delivered property [, INCLUDING A CERTIFICATE
15 OF AN OWNERSHIP INTEREST IN A BUSINESS ASSOCIATION,] other than
16 money to the department under AS 34.45.110 - 34.45.430 [,] may reclaim the property
17 if it is still in the possession of the department, without payment of a fee or other
18 charge, upon filing proof that the owner has claimed the property from the holder."
19

20 Renumber the following bill sections accordingly.

21

22 Page 8, line 23:

23 Delete "ownership"

1 Insert "equity [OWNERSHIP]"

2

3 Page 8, line 24, following "associations":

4 Insert "or financial organizations"

5

6 Page 9, lines 11 - 18:

7 Delete all material.

8

9 Renumber the following bill sections accordingly.

10

11 Page 10, following line 10:

12 Insert a new bill section to read:

13 "* Sec. 18. AS 34.45.760(11) is repealed."

14

15 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 330(L&C)

1 Page 3, lines 15 - 30:

2 Delete all material and insert:

3 "Sec. 34.45.175. **Certain property distributed in insurance company**
4 **reorganizations.** (a) The following property distributable in the course of a
5 demutualization or related reorganization of an insurance company is considered
6 abandoned two years after the date of the demutualization or reorganization:

7 (1) money that remains unclaimed, if the owner has not otherwise
8 communicated with the holder or the holder's agent regarding the property, as
9 evidenced by a memorandum or other record on file with the holder or the holder's
10 agent;

11 (2) stock or other equity interest if

12 (A) the instrument or statement reflecting the distribution has
13 been

14 (i) mailed to the owner and returned by the post office
15 as undeliverable; or

16 (ii) not mailed to the owner because the owner's address
17 on the holder's books and records is known to be incorrect; and

18 (B) the owner has not otherwise communicated with the holder
19 or the holder's agent regarding the property, as evidenced by a memorandum or
20 other record on file with the holder or the holder's agent.

21 (b) Property that is not subject to (a) of this section is reportable as otherwise
22 provided in AS 34.45.110 - 34.45.780."

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

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April 18, 2004

The Honorable Bruce Weyhrauch,
Chair – House State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Re: HB 330; Shortening time periods after which certain unclaimed property is presumed to be abandoned.

Dear Mr. Chair:

HB 330 is presently in the House State Affairs Committee. This legislation amends AS 34.45, Alaska's Uniform Unclaimed Property Act, to shorten the time periods after which certain unclaimed property is presumed to be abandoned and must be transferred to the state. Generally, those properties presumed abandoned after five years will, under HB 330, be presumed abandoned after three years; property presently presumed abandoned after seven years will be presumed to be abandoned after five years. The first year will see a strong increase in property reported because of the changes in dormancy, requiring additional personal and contractual services. During the following two years there will be additional reporting of property as holders compress their records into the shortened dormancy periods. After the third year, reporting will be at a consistent level. The small fiscal impact to this legislation will outweigh the increase in FY 2005 revenues, and Alaska's Uniform Unclaimed Property Act will be more up to date.

There is no opposition to this legislation, and there are several benefits of this legislation, including protection to consumers. The Department of Revenue will have a higher success rate of locating owners during shorter abandonment periods, and the holder is relieved of the liability of carrying old accounts on their books. Additionally, Alaskans will benefit because revenues will be held by the state and used for various projects until the owners come forward, and because the state will earn interest on the accounts.

I have attached a sectional analysis explaining the bill, and the need for its passage.

Your scheduling HB 330 for a hearing in the House State Affairs Committee at your earliest convenience will be appreciated.

Very truly yours,



Landa B. Baily
Special Assistant to
Commissioner Corbus

Enclosure

State of Alaska

Department of Revenue

Treasury Division Unclaimed Property Unit



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Reasons for Proposed Unclaimed Property Legislative Changes HB 330

1. This change to section AS 34.45.110(a) will make the general abandoned period for property not defined in other parts of the Act three years instead of five years.
2. This change will make section AS 34.45.150(a) consistent with the Uniform Unclaimed Property Act. Time period for money payable on a negotiable instrument is changed from seven years to five years.
3. The change will make section AS 34.45.160(a) consistent with the Uniform Unclaimed Property Act. Ensures all property regardless of known or unknown by the owner will fall under the protection of the Act.
4. This change will make section AS 34.45.170(a) consistent with the Uniform Unclaimed Property Act. When life endowment and annuity contracts do not mature by actual proof of death, but the insured or annuitant has reached the limiting age of mortality, they should be reported consistent with other forms of life and endowment insurance.
5. Adds a new section AS 34.45.175 for distributions in insurance company reorganizations. Mutual companies are owned by their policyholders. In order to create capital or enhance financial strength mutual companies demutualize and convert to a stock form of ownership. Policyholders are entitled to receive compensation in the form of cash or stock.

Mutual companies do not have reoccurring contact with fully paid policyholders. Contact only occurs when a policyholder's estate files a claim for benefits.

Alaska's current statutes do not take into consideration the fact that virtually all policyholders were lost as of the date of the demutualization and have in fact been lost for decades prior.

6. Deleting AS 34.45.200 (b) allows companies to report unclaimed property based on inactivity or lack of owner contact. Alaska's current language requires the company to make seven distributions before property is considered unclaimed. E.g. a company may issue stock splits every two or three years. In that case, it could take fourteen to twenty-one years before it would become reportable as unclaimed property.
7. This change will make section AS 34.45.220(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.
8. This change will make section AS 34.45.240(a) consistent with the Uniform Unclaimed Property Act by shortening the dormancy period from five years to three years.

9. Adds a new section, AS 34.45.270 Burden of Proof consistent with the Uniform Unclaimed Property Act. This language clearly specifies an obligation exists between a Holder and an Owner as evidenced by a check or draft. The Holder must defend satisfaction, discharge or want by the owner of the consideration in order to exclude the item as an outstanding obligation.
10. This change to AS 34.45.280(f) allows holders of unclaimed property to aggregate and report property with a value greater than \$750.
11. This change makes AS 34.45.290 consistent with the Uniform Unclaimed Property Act. The new language allows the department to examine company records to verify compliance. Current statute allows examination if there is a reason to believe based on reporting discrepancies.
12. AS 34.45.300 (a) increases the record retention period to 10 years. Holder's records are vital to verifying an owner's claim.
13. Replacing AS 34.45.310 allows the department to evaluate technological advancements, promotional resources and cost effective methods to notify owners of unclaimed property. Current statute mandates publishing a notice in newspapers throughout the state. Last year's publication cost was \$30,000. Publication costs are expected to continually increase in the future.
14. AS 34.45.760 (10) Alaska has natural resources yet the unclaimed property statute does not clearly define mineral and mineral proceeds. These types of property are often missed during a Holder's reporting process. These definitions are consistent with the Uniform Unclaimed Property Act.
15. AS 34.45.760(11) Repeal
16. AS 34.45.760 (18) Gift certificates are no longer just a piece of paper. Gift obligations are in many forms such as electronic cards, on-line gift accounts, stored-value cards, etc. This description helps define a gift obligation as any commitment between a holder and a purchaser where an exchange of money for future goods or services has transpired. (19) adds definition for mineral, section (20) adds definition for mineral proceeds consistent with Uniform Act.
17. Standard transition language
18. Effective date