

SB

231

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
APR 26 2004
SENATE FINANCE
COMMITTEE

DATE: 04/02/04

FURTHER:

DATE TURNED
IN TO OFFICE: 26 April 2004

Finance Committee considered

SENATE BILL NO. 231

SB 231 DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

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

and recommends:

- be replaced with _____ CS SB 231 (FIN)
- adopt previous _____ CS CS forthcoming (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#
REV.	3/29/04	60.0			#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			

changes to reflect
memo 4/26
Legal Services
Terry Barnister

CS FOR SENATE BILL NO. 231(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE 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) The following property distributable in the course of a
 17 demutualization or related reorganization of an insurance company is considered
 18 abandoned two years after the date of demutualization or reorganization as follows:

19 (1) money that remains unclaimed and the owner has not otherwise
 20 communicated with the holder or its agent regarding the property as evidenced by a
 21 memorandum or other record on file with the holder or its agent;

22 (2) stock or other equity interest if

23 (A) the instruments or statements reflecting the distribution are
 24 either mailed to the owner and returned by the post office as undeliverable, or
 25 not mailed to the owner because of an address on the books and records of the
 26 holder that is known to be incorrect; and

27 (B) the owner has not otherwise communicated with the holder
 28 or its agent regarding the property as evidenced by a memorandum or other
 29 record on file with the holder or agent.

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

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

Sec. 34.45.200. Stock and other intangible interests in business associations. ^[for financial organizations] (a) Stock or other equity interest in a business association is presumed abandoned five years after the earliest of

deleted language

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

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

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

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

deleted language

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (e) If an examination of the records of a person results in the disclosure of
30 property reportable under AS 34.45.110 - 34.45.780, the department may assess the
31 cost of the examination against the holder at the rate of \$200 a day for each examiner,

1 or a greater amount that is reasonable and was incurred, but the assessment may not
 2 exceed the value of the property found to be reportable under AS 34.45.110 -
 3 34.45.780. The cost of an examination made under (c) of this section may be assessed
 4 only against the business association. ~~for financial organization~~ *deleted language*

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

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

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

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

17 **Sec. 34.45.310. Notice and publication of lists of unclaimed property.** (a)
 18 The department shall notify apparent owners of unclaimed property under
 19 AS 34.45.110 - 34.45.780 in the manner and method set out in (b) of this section. In
 20 deciding whether to use an additional method specified in (b)(2) of this section, and
 21 which of those methods to use, the department shall employ the most cost-effective
 22 method available within its appropriations.

23 (b) The department

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

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

29 (A) publication in a newspaper of general circulation in the
 30 area of the state in which the last known address of a person to be named in the
 31 notice is located, or if the address is unknown, in the area in which the holder

1 has its principal place of business in the state;

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

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

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

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

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

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

15 (d) The holder of an equity [OWNERSHIP] interest under AS 34.45.200 shall
16 deliver a duplicate certificate, or other evidence of ownership if the holder does not
17 issue certificates of ownership, to the department. Upon delivery of a duplicate
18 certificate to the department, the holder and a transfer agent, registrar, or other person
19 acting for or on behalf of a holder in executing or delivering the duplicate certificate is
20 relieved of all liability, in accordance with the provisions of AS 34.45.330 to every
21 person, including a person acquiring the original certificate or the duplicate of the
22 certificate issued to the department, for loss or damage resulting to a person by the
23 issuance and delivery to the department of the duplicate certificate.

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

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

30 * Sec. 16. AS 34.45.760(10) is amended to read:

31 (10) "intangible property"

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(A) includes

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

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

(iii) stocks and other intangible equity [OWNERSHIP] interests in business associations, *[or financial organizations]*

deleted language

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

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

(vi) amounts 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; and

(vii) amounts due and payable as mineral proceeds;

(B) does not include

(i) unused airline tickets;

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

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

* Sec. 17. AS 34.45.760 is amended by adding new paragraphs to read:

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

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

6 (20) "mineral proceeds" means amounts payable for the extraction,
 7 production, or sale of minerals, or, upon the abandonment of those payments, all
 8 payments that become payable after the abandonment; "mineral proceeds" includes
 9 amounts payable

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

13 (B) for the extraction, production, or sale of minerals, including
 14 net revenue interests, royalties, overriding royalties, extraction payments, and
 15 production payments;

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

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

19 * Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to
 20 read:

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

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

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

27 * Sec. 20. This Act takes effect immediately under AS 01.10.070(c).

April 26, 2004

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 26, 2004

SUBJECT: CSSB 231(FIN) relating to unclaimed property
(Work Order No. 23-GS1151\H)

TO: Senator Lyda Green
Senator Gary Wilken
Co-chairs, Senate Finance Committee
Attn: Mindy

FROM: *TLB*
Theresa L. Bannister
Legislative Counsel

This memo accompanies the committee substitute described above.

1. Reference to financial institutions. I would like to bring your attention to a problem in the bill, which was carried over into amendment #3. 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 amendment #3 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,"

2. Last known address. Amendment #3 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), and in proposed secs. 34.45.200(e)(1), 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
04-460.med

Enclosure

April 26, 2004

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Co-chairs, Senate Finance Committee
Attn: Mindy

FROM: *TLB*
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2. Last known address. Amendment #3 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), and in proposed secs. 34.45.200(e)(1), 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
04-460.med

Enclosure

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SENATE FINANCE
COMMITTEE
Amendment Number: #3
Number: SB 231
Sponsor: Wilken Date: 4/26/04
Proposed In By: Robin

Adopted

23G-2
4/19/2004
(11:53 AM)

AMENDMENT

OFFERED IN THE SENATE
FINANCE COMMITTEE
TO: CSSB 231(STA)

BY Senator Wilken By Request

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 issue
6 certificates of ownership, to the department. Upon delivery of a duplicate certificate to
7 the department, the holder and a transfer agent, registrar, or other person acting for or on
8 behalf of a holder in executing or delivering the duplicate certificate is relieved of all
9 liability, in accordance with the provisions of AS 34.45.330 to every person, including a
10 person acquiring the original certificate or the duplicate of the certificate issued to the
11 department, for loss or damage resulting to a person by the issuance and delivery to the
12 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 OF
15 AN OWNERSHIP INTEREST IN A BUSINESS ASSOCIATION,] other than money to
16 the department under AS 34.45.110 - 34.45.430 [,] may reclaim the property if it is still in
17 the possession of the department, without payment of a fee or other charge, upon filing
18 proof that the owner has claimed the property from the holder."
19

20 Renumber the following bill sections accordingly.
21

- 1 Page 8, line 23:
- 2 Delete "ownership"
- 3 Insert "equity [OWNERSHIP]"
- 4
- 5 Page 8, line 24, following "associations":
- 6 Insert "or financial organizations"
- 7
- 8 Page 9, lines 11 - 18:
- 9 Delete all material.
- 10
- 11 Renumber the following bill sections accordingly
- 12
- 13 Page 10, following line 10:
- 14 Insert a new bill section to read:
- 15 "** Sec. 18. AS 34.45.760(11) is repealed."
- 16
- 17 Renumber the following bill sections accordingly.

SENATE FINANCE COMMITTEE
4/20/2003 COMMITTEE ACTION

Bill Number	SB 231		
Amendment	#3		
Motion	adpt		
<u>Motion by</u>	Wilkan		
<u>Objection by</u>	Wilkan		
<u>Removed</u>	.		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stevens			
Senator Bunde			
Cc Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

SENATE FINANCE
COMMITTEE
Amendment Number: # 2
Bill Number: SR 231
Sponsor: Wilken Date: 4/26/04
Logged In By: Robin

ADOPTED

23G-2
4/19/2004
(10:56 AM)

AMENDMENT

OFFERED IN THE SENATE
FINANCE COMMITTEE
TO: CSSB 231(STA)

BY Senator Wilken By Request

- 1 Page 3, lines 15 - 30:
2 Delete all material and insert the following:
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 deemed abandoned
6 two years after the date of demutualization or reorganization as follows:
7 (1) money that remains unclaimed and the owner has not otherwise
8 communicated with the holder or its agent regarding the property as evidenced by a
9 memorandum or other record on file with the holder or its agent;
10 (2) stock or other equity interest if
11 (A) the instruments or statements reflecting the distribution are
12 either mailed to the owner and returned by the post office as undeliverable, or not
13 mailed to the owner because of an address on the books and records of the holder
14 that is known to be incorrect; and
15 (B) the owner has not otherwise communicated with the holder or
16 its agent regarding the property as evidenced by a memorandum or other record
17 on file with the holder or its agent.
18 (b) Property that is not subject to (a) of this section is reportable as otherwise
19 provided in AS 34.45.110 - 34.45.780."

SENATE FINANCE COMMITTEE
4/29 2004 COMMITTEE ACTION

Bill Number	SB 231		
Amendment	#2		
Motion	adopt		
<u>Motion by</u>	Wilken		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stevens			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

CS FOR SENATE BILL NO. 231(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE 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

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

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

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

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

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

(1) money that remains unclaimed and the owner has not otherwise communicated with the holder or its agent regarding the property as evidenced by a memorandum or other record on file with the holder or its agent;

(2) stock or other equity interest if

(A) the instruments or statements reflecting the distribution are either mailed to the owner and returned by the post office as undeliverable, or not mailed to the owner because of an address on the books and records of the holder that is known to be incorrect; and

(B) the owner has not otherwise communicated with the holder or its agent regarding the property as evidenced by a memorandum or other record on file with the holder or agent.

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

Amend #2
changed from "deemed" to conform w/ statutory vocabulary

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

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

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

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

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

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

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

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

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

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

31 (2) published notice of the proposed reversion in the manner provided

1 by law or court rule for service of a summons by publication.

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

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

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

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

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

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

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

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

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

30 **Sec. 34.45.290. Requests for reports and examination of records.** (a) The
31 department may require a person who has not filed a report under AS 34.45.280 or a

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

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

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

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

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

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

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

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

31 (e) If an examination of the records of a person results in the disclosure of

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

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

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

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

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

19 **Sec. 34.45.310. Notice and publication of lists of unclaimed property.** (a)
 20 The department shall notify apparent owners of unclaimed property under
 21 AS 34.45.110 - 34.45.780 in the manner and method set out in (b) of this section. In
 22 deciding whether to use an additional method specified in (b)(2) of this section, and
 23 which of those methods to use, the department shall employ the most cost-effective
 24 method available within its appropriations.

25 (b) The department

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

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

31 (A) publication in a newspaper of general circulation in the

1 area of the state in which the last known address of a person to be named in the
2 notice is located, or if the address is unknown, in the area in which the holder
3 has its principal place of business in the state;

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

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

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

12 (d) The department is not required to publish in the notice an item of less than
13 \$100 in value.

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

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

17 (d) The holder of an equity [OWNERSHIP] interest under AS 34.45.200 shall
18 deliver a duplicate certificate, or other evidence of ownership if the holder does not
19 issue certificates of ownership, to the department. Upon delivery of a duplicate
20 certificate to the department, the holder and a transfer agent, registrar, or other person
21 acting for or on behalf of a holder in executing or delivering the duplicate certificate is
22 relieved of all liability, in accordance with the provisions of AS 34.45.330 to every
23 person, including a person acquiring the original certificate or the duplicate of the
24 certificate issued to the department, for loss or damage resulting to a person by the
25 issuance and delivery to the department of the duplicate certificate.

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

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

Amend
#3

1 * Sec. 16. AS 34.45.760(10) is amended to read:

2 (10) "intangible property"

3 (A) includes

4 (i) money, checks, drafts, warrants, deposits, interest,
5 dividends, and income;

6 (ii) credit balances, customer overpayments, gift
7 certificates, security deposits, refunds, credit memos, unpaid wages,
8 and unidentified remittances;

9 (iii) stocks and other intangible equity [OWNERSHIP] #3
10 interests in business associations or financial organizations;

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

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

15 (vi) amounts distributable from a trust or custodial fund
16 established under a plan to provide health, welfare, pension, vacation,
17 severance, retirement, death, stock purchase, profit-sharing, employee
18 savings, supplemental unemployment insurance, or similar benefits;

19 and

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

21 (B) does not include

22 (i) unused airline tickets;

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

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

28 * Sec. 17. AS 34.45.760 is amended by adding new paragraphs to read:

29 (18) "gift certificate" means an obligation of a business association
30 arising from a transaction between the business association and a consumer to provide
31 goods or services at a future date; "gift certificate" includes a gift certificate, stored

< #3
deleted
Sec. 15
AS 34.45.
760(11)

1 value card, gift card, on-line gift account, or other representation or evidence of the
2 obligation of a business association;

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

8 (20) "mineral proceeds" means amounts payable for the extraction,
9 production, or sale of minerals, or, upon the abandonment of those payments, all
10 payments that become payable after the abandonment; "mineral proceeds" includes
11 amounts payable

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

15 (B) for the extraction, production, or sale of minerals, including
16 net revenue interests, royalties, overriding royalties, extraction payments, and
17 production payments;

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

20 * Sec. 18. AS 34.45.760(11) is repealed.

21 * Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

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

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

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

29 * Sec. 20. This Act takes effect immediately under AS 01.10.070(c).

#3



Official Business

Alas 4/26 5:30 PM
Sen hold per Sheila

FINAL DRAFT "H"
replaced
with "I" 4/28/04
8 AM

DATE: 26 April 2004 TIME: 10:45 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 4

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
C.S SB 231 (FIN) 23-GS1151ND
plus 2 amendments - attached
amends. #2 & #3
Call if any questions

11:15 am call from Terry Bannister
Amund #2, line 5 - Will change "deemed" to "considered"
The Mundy

Amendment #1

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

Sec. 34.45.175 Certain property distributed in insurance company reorganizations.

Property distributable in the course of a demutualization or related reorganization of an insurance company shall be deemed abandoned as follows:

(A) any funds, two years after the date of the demutualization or reorganization, if the funds remain unclaimed, and the owner has not otherwise communicated with the holder or its agent regarding the property as evidenced by a memorandum or other record on file with the holder or its agent;

(B) any stock or other equity interest, two years after the date of the demutualization or reorganization if instruments or statements reflecting the distribution are either mailed to the owner and returned by the post office as undeliverable, or not mailed to the owner because of an address on the books and records of the holder that is known to be incorrect, and the owner has not otherwise communicated with the holder or its agent regarding the property as evidenced by a memorandum or other record on file with the holder or its agent.

(C) property not subject to subsection (A) or (B) above within two years of the distribution shall remain reportable under other sections of this chapter.

proposed by Sen. Bunde ?

Subject: Prudential Amendment to SB 231

From: todd.thakar@prudential.com

Date: Fri, 16 Apr 2004 07:54:33 -0700

To: rachel_lewis@revenue.state.ak.us

Good Morning Rachel -- thank you for getting back to me. As we discussed, I am forwarding Prudential's proposed amendment to SB 231 which will enable us to also escheat uncashed checks stemming from our demutualization. It is my understanding that this amendment will increase our initial demutualization escheatment to Alaska by about \$100,000. It is also my understanding that this language should be identical to the ACS language. Please let me know if you need anything further -- I could testify at the committee hearing if need be. Thanks again for your assistance and consideration.

Regards,

Todd Thakar

Vice President, Government Affairs

916-442-3423

----- Forwarded by Todd Thakar/LAW/Pru on 04/16/2004 07:49 AM -----

Juno Tralle

Shareholder Services

Todd Thakar/LAW/Pru@Prudential

Phone Number: 973-802-6348

Fax Number: 973-802-3544

language

To:

cc:

Subject: Model

Thurs. / April 8, 2004 03:36 PM

(See attached file: Model SG 122203v3.doc)

Provided by Dept of Revenue

Comparison Original Bill to Committee Substitute

SB 231 to CSSB231 (STA)

The main purpose for the CS is to bring Alaska's unclaimed property law more in conformity with the most current Uniform Unclaimed Property Act, which has been adopted by 13 states to date. The original bill addressed time periods for presumption of abandoned and did not address other Uniform Act language.

The CS deletes Section 2 AS 34.45.140(b) which had a proposed time period change from seven years to five years for money payable on a money order or similar written instrument. The CS revises Section 3 by deleting subsections (4) and (5) of AS 34.45.160(a). This change ensures that all property of an owner covered by the section, whether known or unknown by the owner, will fall under the protection of the Act. The CS revises Section 4 AS 34.45.170 (a) by deleting the second sentence. The first sentence covers the property referred to in the second sentence.

The CS adds a new section. AS 34.45.175 which deals with demutualization proceeds. This type of property interest was not addressed in the prior Uniform Acts and is a relatively new type of property.

The original bill made changes to AS 34.45.200(a), (b), (c) and (e) in Sections 6 – 9. However, the CS repeals and readopts AS 34.45.200 so that it more closely mirrors the Uniform Unclaimed Property Act dealing with stock and other intangible interests in business associations and financial organizations.

AS 34.45.270 which deals with burden of proof. is added for conformity to the Uniform Act.

Other statutes which are affected by the CS are AS 34.45.280(f) making the reporting requirement only applicable to holders of abandoned intangible property which has a total accumulative value in excess of \$750, AS 34.45.290 changes requests for reports and examination of records, AS 34.45.300(a) changes the retention of records, and AS 34.45.310 changes the notice and publication requirements. The CS makes changes to definitions listed under AS 34.45.760.

All other sections of the bills remain the same except for the effective date section which now provides that the Act becomes effectively immediately in accordance with AS 01.10.070(c).

STATE OF ALASKA

DEPARTMENT OF REVENUE

FRANK H. MURKOWSKI, GOVERNOR

April 21, 2004

OFFICE OF THE COMMISSIONER

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

The Honorable Gary Wilken,
Co-Chair – Senate Finance Committee
Alaska State Legislature
Juneau, Alaska

Re: SB 231 Shortening time unclaimed property presumed abandoned.

Dear Mr. Chair:

Thank you for hearing SB 231 in the Senate Finance Committee on April 16.

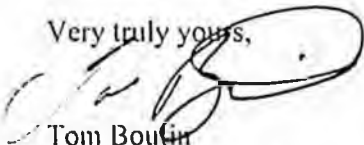
There are many benefits to the passage of SB 231. There will be a higher success rate in locating owners with a shorter abandonment period. The holders of property will be relieved of the liability of carrying old accounts and uncashed checks on their books. Alaskans will benefit because the funds are held and will accrue interest within the state's unclaimed property trust fund and in the general fund. These funds will then be available for legislative appropriations.

There are two more necessary amendments to SB 231: The committee considered an amendment requested by the insurance industry using the industry standard language for demutualization. Department of Law has prepared the necessary amendment for the industry demutualization language, to conform with Alaska statutory drafting style. Department of Revenue supports this amendment, and is attached for your review.

Legislative Affairs Legal Service has also requested an amendment, correcting punctuation and redundant language. Department of Revenue supports that amendment as well, and is attaching it for your review.

Your support for the passage of this legislation this legislative session is very much appreciated. If you have questions, please call me at 465-3669 or Rachel Lewis at 465-5885.

Very truly yours,



Tom Boutin
Deputy Commissioner

Attachments

cc: Members, Senate Finance Committee w/attachments

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
Deliverie to: 129 6th St., Rm. 329

MEMORANDUM

April 2, 2004

SUBJECT: CSSB 231(STA) relating to unclaimed property
(Work Order No. 23-GS1151ND)

TO: Senator Gary Stevens
Chair, State Affairs Committee
Attn: Katrina

FROM:  Theresa L. Bannister
Legislative Counsel

This memo accompanies the committee substitute described above. At your request the proposed language was not changed, except for a correction, two commas in sec. 34.45.200(d), one spelling change in the definition of "mineral", one stylistic and grammatical change in the definition of "mineral proceeds", and replacing "this chapter with "34.45.110 - 34.45.780" throughout the bill.

1. Definition. The new definition of "last known address" does not work where it occurs throughout the chapter. It appears in nine sections of the chapter. As an example, please look at AS 34.45.120, and, in particular, at paragraph (4) of that section. If the new definition was designed for a particular section, you could retain the current definition and define the term only for that particular section.

2. Conforming amendment. AS 34.45.320(d) contains a reference to "ownership interest under AS 34.45.200." AS 34.45.200 has been rewritten and now uses "equity interest." I recommend that AS 34.45.320(d) be amended to use the new term. AS 34.45.330(c) also uses the term "ownership interest," but it may be acceptable there.

TLB:med
04-364.med

Enclosure

COMMITTEE COPY



**Reasons for Proposed Unclaimed Property Legislative Changes
CSSB 231 (STA)**

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) Current last known address definition limits the identification of owners located in Alaska. Holders may have had addresses for owners and destroyed them or replaced them with comments such as "bad address." Many types of information can help determine an owner's reporting state, such as computer codes, branch locations, agent sales codes, etc.
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

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May 20, 2003

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would amend 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 custody of the state.

Alaska's current unclaimed property statutes are based on the 1981 version of the Uniform Unclaimed Property Act adopted by the National Conference of Commissioners on Uniform State Laws. That Act, and Alaska's Act, are intended to prevent people from losing their right to property that is justifiably theirs by requiring that unclaimed property be transferred to the state to act as custodian once the property is presumed abandoned. In 1995, the uniform law commissioners revised their Act to streamline the process by which states deal with unclaimed property and better protect property owners.

One of the changes proposed in the 1995 revision is a general shortening of the time periods after which most unclaimed property is presumed to be abandoned and must be transferred to the custody of the state. Shortening the time period benefits both the state and the owner of the unclaimed property. As the custodian for the unclaimed property, the property is available to the state as a source of revenue, pending the rightful owner's claim. The rightful owner benefits by having the property transferred at an earlier date to a perpetual custodian with the stability to assure that the property will be there when the owner comes forward to claim it.

I urge your early and favorable consideration of the bill.

Sincerely,

A handwritten signature in cursive script that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 5/21/03

FURTHER: Finance

Date of 5-Day Notice: 3/25/04
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/2/04

State Affairs Committee considered SENATE BILL NO. 231

SB 231 DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

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

and recommends:

- be replaced with _____ CS SB 231 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
<u>DOR</u>	<u>3/29/04</u>	<u>✓</u>		<u>2</u>

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

Cowder
Stedman

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>John J. Cowder</u>	<u>✓</u>			
<u>Bert K. Stedman</u>	<u>✓</u>			
CHAIR: <u>[Signature]</u>	<u>✓</u>			

F. Skains

SENATE FINANCE COMMITTEE

SIGN-IN

SB 231-DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

NAME: Rachel Lewis Subject/Bill No: SB 231
Co./Dept./Title: SOB, Revenue, ^{UP} Administrator Phone: 5885
Address: SOB 11th floor Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

SB 231-DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

NAME: Rachel Lewis & Tom Boutin Subject/Bill No: 231
Co./Dept./Title: Unclaimed Property Administrator - Revenue Commission Phone: 465 5885
Address: SDB 11th floor Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

