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SENATE BILL NO. 583

Offered January 9, 2008

Prefiled January 9, 2008

A *BILL to amend and reenact § 55-210.3:01 of the Code of Virginia, relating to the disposition of unclaimed property; bank deposits and funds in financial organizations.*

Patron—Colgan

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 55-210.3:01 of the Code of Virginia is amended and reenacted as follows:

§ 55-210.3:01. Bank deposits and funds in financial organizations.

A. Any demand, savings, or matured time deposit with a banking or financial organization, including deposits that are automatically renewable, and any funds paid toward the purchase of shares, a mutual investment certificate, or any other interest in a banking or financial organization is presumed abandoned unless the owner has, *within two years if the banking or financial organization deducts a charge or ceases to accrue interest because of dormancy or inactivity, or within five years if the banking or financial organization does not deduct a charge or cease to accrue interest for dormancy or inactivity:*

1. In the case of a deposit or ownership of shares, increased or decreased the amount of the deposit or the number of shares owned, or presented the passbook or other similar evidence of the deposit or ownership of shares for the crediting of interest or dividends, or negotiated a check in payment of interest or dividends on a time deposit or ownership of shares;

2. Communicated in writing with the banking or financial organization concerning the property;

3. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;

4. Owned other property to which subdivision A 1, A 2, or A 3 is applicable if the banking or financial organization communicated in writing with the owner with regard to the property that would otherwise be presumed abandoned under this paragraph at the address to which communications regarding the other property regularly are sent;

5. Had another relationship with the banking or financial organization concerning which the owner has (i) communicated in writing with the banking or financial organization, or (ii) otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this paragraph at the address to which communications regarding the other relationship regularly are sent; or

6. A deposit made with or purchase of shares in a banking or financial organization by a court or by a guardian pursuant to order of a court or by any other person for the benefit of a person who was an infant at the time of the making of such deposit or purchase of shares, which deposit or ownership of shares is subject to withdrawal or transfer only upon the further order of such court or such guardian or other person, shall not be subject to the provisions of this chapter until one year after such infant attains the age of eighteen years or until one year after the death of such infant, whichever occurs sooner. These accounts are not subject to dormant service charges.

B. Notwithstanding any other provision of this section, share accounts of a member of a state or federally chartered credit union that is subject to or covered by life savings insurance provided by the credit union at no additional charge to the member shall be presumed abandoned five years after the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable, or after the date the credit union discontinued the mailings to the member, whichever is earlier. Funds held or owing under the life savings insurance policy are presumed abandoned pursuant to § 55-210.4:01.

C. For purposes of this section, "property" includes any interest or dividends thereon. *Notwithstanding any other provision of this section, no banking or financial organization may deduct any service charge or cease to accrue interest on any account, from the date the account is declared dormant or inactive by such organization except in conformity with cessation of interest or service charges generally assessed upon active accounts. With respect to any property described in this section, a holder may not impose any charges due to dormancy or inactivity which differ from those imposed on active accounts or cease to pay interest unless:*

1. There is an enforceable contract between the holder and the owner of the property pursuant to which the holder may impose those charges or cease payment of interest; and

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59 2. For property in excess of \$100, the holder, no more than three months prior to the initial
60 imposition of those charges or cessation of interest, has given written notice to the owner of the amount
61 of those charges at the last known address of the owner stating that those charges will be imposed or
62 that interest will cease; however, such notice need not be given with respect to charges imposed or
63 interest ceased before July 1, 1984; and

64 3. When the holder imposes those charges or ceases payment of interest, it does not for any reason
65 other than to correct a documented internal error reverse or cancel those charges or retroactively credit
66 interest with respect to such property. *If the holder does reverse or cancel the charges or retroactively*
67 *credit interest with respect to such property for a reason other than to correct a documented internal*
68 *error, then the holder is deemed to have waived its right to impose those charges or cease to accrue*
69 *interest on the accounts reported to the Treasurer and the holder shall reverse or cancel the charges or*
70 *retroactively credit interest with respect to such property that is reported to the Treasurer pursuant to*
71 *this section.*

72 D. Any automatically renewable property to which this section applies is matured upon the expiration
73 of its initial time period. However, in the case of any renewal to which the owner consents at or about
74 the time of renewal by communicating in writing with the banking or financial organization or otherwise
75 indicates consent as specified in subsection A of this section, the property is matured upon the
76 expiration of the last time period for which consent was given. If, at the time provided for delivery in
77 § 55-210.14, a penalty or forfeiture in the payment of interest would result from the delivery of the
78 property, the time for delivery is extended until the time when no penalty or forfeiture would result.
79 Notwithstanding any other provision of this section to the contrary, any automatically renewable time
80 deposit that has matured shall be presumed abandoned five years after the date of the second mailing of
81 a statement of account or other notification or communication that was returned as undeliverable, or
82 after the date the holder discontinued the mailings to the apparent owner, whichever is earlier. However,
83 any automatically renewable time deposit for which no such statement or other notification or mailing is
84 required to be sent by the banking or financial organization shall be presumed abandoned as otherwise
85 provided in this section.

86 **2. That the provisions of this act amending subdivision C 3 of § 55-210.3:01 of the Code of Virginia**
87 **are declarative of existing law.**