

VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 439

An Act to amend and reenact § 55-210.3:01 of the Code of Virginia, relating to the Uniform Disposition of Unclaimed Property Act; bank deposits and funds in financial organizations; charges on inactive accounts.

[H 686]

Approved March 23, 2018

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 five years:

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. 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 *and except as provided in this section*. 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~~ charges imposed on active accounts or cease to pay interest *due to dormancy or inactivity that differs from the cessation of payment of interest on active accounts* 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;

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

interest ceased before July 1, 1984; and

3. When the holder ~~imposes those charges or ceases payment of interest, it does not for any reason other than to correct a documented internal error~~ receives a request from the owner of the property to reverse or cancel those dormancy charges or retroactively credit interest with respect to such property, the holder may at its option either:

a. Reverse or cancel dormancy charges or retroactively credit interest with respect to any such property, in which event the holder shall reverse or cancel dormancy charges or retroactively credit interest for all such property that becomes subject to the reporting requirements in § 55-210.12 for the Department of the Treasury; or

b. Not reverse or cancel dormancy charges or retroactively credit interest with respect to any such property, in which event the holder shall not be required to reverse or cancel dormancy charges or retroactively credit interest for any such property that becomes subject to the reporting requirements in § 55-210.12 for the Department of the Treasury; and

4. The holder may at its option reverse or cancel dormancy charges or retroactively credit interest with respect to any or all such property to correct a documented internal error without becoming required to reverse or cancel dormancy charges or retroactively credit interest for all such property that becomes subject to the reporting requirements in § 55-210.12 for the Department of the Treasury.

Notwithstanding any provision of this subsection to the contrary, a holder that is a state-chartered credit union may refund charges or reverse or cancel those charges or retroactively credit interest with respect to such property to the same extent that a federally-chartered credit union is authorized so to do pursuant to applicable provisions of federal law.

D. Any automatically renewable property to which this section applies is matured upon the expiration of its initial time period. However, in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicates consent as specified in subsection A of this section, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in subsection D of § 55-210.12, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result. Notwithstanding any other provision of this section to the contrary, any automatically renewable time deposit that has matured 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 holder discontinued the mailings to the apparent owner, whichever is earlier. However, any automatically renewable time deposit for which no such statement or other notification or mailing is required to be sent by the banking or financial organization shall be presumed abandoned as otherwise provided in this section.

2. That the provisions of this act are declarative of existing law.