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HOUSE BILL NO. 763**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Appropriations
on February 15, 2000)

(Patron Prior to Substitute—Delegate Cantor)

A BILL to amend and reenact §§ 55-210.2, 55-210.2:1, 55-210.2:2, 55-210.3:01, 55-210.8, 55-210.8:1, 55-210.9, 55-210.9:1, 55-210.9:2, 55-210.10:1, 55-210.11, 55-210.12, 55-210.13, 55-210.17, 55-210.21, 55-210.22, 55-210.24, 55-210.24:1, 55-210.25, 55-210.26:1, and 55-210.27 of the Code of Virginia, relating to Uniform Disposition of Unclaimed Property Act.

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-210.2, 55-210.2:1, 55-210.2:2, 55-210.3:01, 55-210.8, 55-210.8:1, 55-210.9, 55-210.9:1, 55-210.9:2, 55-210.10:1, 55-210.11, 55-210.12, 55-210.13, 55-210.17, 55-210.21, 55-210.22, 55-210.24, 55-210.24:1, 55-210.25, 55-210.26:1, and 55-210.27 of the Code of Virginia are amended and reenacted as follows:

§ 55-210.2. Definitions.

As used in this chapter, unless the context otherwise requires:

"Administrator" means the State Treasurer or his designee.

"Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

"Banking organization" means any bank, trust company, savings bank (industrial bank, land bank, safe deposit company), or a private banker, or any other organization defined by law as a bank or banking organization.

"Business association" means any corporation (~~other than a public corporation~~), joint-stock company, investment company, business trust, partnership, *limited liability company*, *cooperative*, or association for business purposes of two or more individuals whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

"Credit balance" means an item of intangible property resulting from or attributable to the sale of goods or services, which includes, by way of illustration, an overpayment, credit memo, refund, discount, rebate, unidentified remittance, or deposit.

"Domicile" means (i) the state of incorporation, in the case of a corporation incorporated under the laws of a state, and (ii) the state of the principal place of business organization, in the case of a person ~~not incorporated~~ an unincorporated business association formed under the laws of a state, (iii) the state of the principal place of business, in the case of a non-natural person not incorporated or formed under the laws of a state, and (iv) the state of principal residency, in the case of a natural person.

"Due diligence" shall include, but not be limited to, the mailing of a letter by first-class mail to the last known address of the owner as indicated on the records of the holder.

"Financial organization" means any savings and loan association (cooperative bank), building and loan association, or credit union.

"Gift certificate" means a certificate, electronic card or other medium that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card or other medium for goods, food, services, credit or money of an equal value.

"Holder" means a person, wherever organized or domiciled, who is (i) in possession of property belonging to another, (ii) a trustee in case of a trust, or (iii) indebted to another on an obligation.

"Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including, by way of illustration, accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.

"Intangible property" includes, by way of illustration, (i) moneys, checks, drafts, deposits, interest, dividend income; (ii) ~~credit balances~~ credits, customer overpayments, gift certificates, security deposits, refunds, ~~credit memos~~, unpaid wages, ~~unused airline tickets~~, and unidentified remittances; (iii) stocks and other intangible ownership interests in business associations; (iv) moneys 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 any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefit.

"Last known address" means a description of the location of the apparent owner sufficient to identify the state of residence of the apparent owner for the purpose of the delivery of mail.

"Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust, other than a

60 deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person
61 having a legal or equitable interest in property subject to this chapter or his legal representative.

62 "Payable" means the earliest date upon which the owner of property could become entitled to the
63 payments, possession, delivery, or distribution of such property from a holder.

64 "Person" means an individual, business association, government or governmental subdivision or
65 agency, public corporation, public authority, estate, trust, two or more persons having a joint or common
66 interest, or any other legal or commercial entity.

67 "*Promotional incentive*" means a coupon, rebate or other promotional device offered to induce a
68 consumer to purchase goods, food or services and for which (i) no direct consideration is given by the
69 consumer or (ii) the consideration given is less than the value of the goods, food or services to be
70 received.

71 "State," when applied to a part of the United States, includes any state, district, commonwealth,
72 territory, insular possession, and any other area subject to the legislative authority of the United States.

73 "Unclaimed property" means property for which the owner, as shown by the records of the holder of
74 his property, has ceased, failed or neglected, within the times provided in this chapter, to make
75 presentment and demand for payment and satisfaction or to do any other act in relation to or concerning
76 such property. This definition shall be construed as excluding any act of a holder of unclaimed property
77 not done at the express request or authorization of the owner.

78 "Utility" means a person who owns or operates, for public use, any plant, equipment, property,
79 franchise, or license for the transmission of communications or the production, storage, transmission,
80 sale, delivery, or furnishing of electricity, water, steam, or gas.

81 § 55-210.2:1. Property presumed abandoned; general rule.

82 All tangible and intangible property, including any income or increment thereon, less any lawful
83 charges, that is held, issued or owing in the ordinary course of the holder's business and has remained
84 unclaimed by the owner for more than five years after it became payable ~~or distributable~~ is presumed
85 abandoned, except as otherwise provided by this chapter. Property is payable ~~or distributable~~ for the
86 purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument
87 or document required to receive payment.

88 § 55-210.2:2. General rules for taking custody of intangible unclaimed property.

89 Unless otherwise provided in this chapter or by other law of this Commonwealth, intangible property
90 is subject to the custody of this Commonwealth as unclaimed property if the conditions leading to a
91 presumption of abandonment as described in §§ 55-210.2:1, 55-210.3:01 and 55-210.3:2 through
92 55-210.10:2 are satisfied, and:

93 1. The last known address, as shown on the records of the holder, of the apparent owner is in this
94 Commonwealth;

95 2. The records of the holder do not reflect the identity of the person entitled to the property and it is
96 established that the last known address of the person entitled to the property is in this Commonwealth;

97 3. The records of the holder do not reflect the last known address of the apparent owner, and it is
98 established that (i) the last known address of the person entitled to the property is in this
99 Commonwealth, or (ii) the holder is a domiciliary or a government or governmental subdivision or
100 agency of this Commonwealth and has not previously paid the property to the ~~Commonwealth~~ state of
101 the last known address of the apparent owner or other person entitled to the property;

102 4. The last known address, as shown on the records of the holder, of the apparent owner or other
103 person entitled to the property is in a state that does not provide by law for the escheat or custodial
104 taking of the property or its escheat or unclaimed property law is not applicable to the property and the
105 holder is a domiciliary or a government or governmental subdivision or agency of this Commonwealth;

106 5. The last known address, as shown on the records of the holder, of the apparent owner is in a
107 foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of
108 this Commonwealth; or

109 6. (i) The transaction out of which the property arose occurred in this Commonwealth, and the last
110 known address of the apparent owner or other person entitled to the property is unknown, or the last
111 known address of the apparent owner or other person entitled to the property is in a state that does not
112 provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property
113 law is not applicable to the property, and (ii) the holder is a domiciliary of a state that does not provide
114 by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not
115 applicable to the property.

116 § 55-210.3:01. Bank deposits and funds in financial organizations.

117 A. Any demand, savings, or matured time deposit with a banking or financial organization, including
118 deposits that are automatically renewable, and any funds paid toward the purchase of shares, a mutual
119 investment certificate, or any other interest in a banking or financial organization is presumed abandoned
120 unless the owner has, within five years:

121 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. 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

2. For property in excess of ~~fifty dollars~~\$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 reverse or cancel those charges or retroactively credit interest with respect to such property.

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 § 55-210.14, 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.

§ 55-210.8. When intangible personal property held in fiduciary capacity presumed abandoned.

183 All intangible personal property and any income or increment thereon, held in a fiduciary capacity
184 for the benefit of another person is presumed abandoned unless the owner has, within five years after it
185 becomes payable ~~or distributable~~, increased or decreased the principal, accepted payment of principal or
186 income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced
187 by a memorandum or other record on file with and prepared by the fiduciary or an employee of the
188 fiduciary.

189 (a) through (d) [Repealed.]

190 Funds in an individual retirement account, a retirement plan for self-employed individuals or a
191 similar account or plan established pursuant to the Internal Revenue laws of the United States are not
192 payable ~~or distributable~~ within the meaning of this section unless, under the terms of the account or
193 plan, distribution of all or part of the funds would then be mandatory.

194 For the purpose of this section, a person who holds property as an agent for a business association is
195 deemed to hold the property in a fiduciary capacity for that business association alone, unless such
196 person's agreement with the business association provides otherwise. A person who is so deemed to hold
197 property in a fiduciary capacity for a business association alone is the holder of the property only
198 insofar as the interest of the business association in the property is concerned, and the business
199 association is the holder of the property insofar as the interest of any other person in the property is
200 concerned.

201 § 55-210.8:1. Gift certificates and credit memos.

202 *AA. Except as described in subsection B, a gift certificate or a credit ~~memo~~ balance issued in the*
203 *ordinary course of the issuer's business that has remained unclaimed by the owner for more than three*
204 *five years after becoming payable ~~or distributable~~ is presumed abandoned.*

205 *In the case of a gift certificate or credit memo, the amount presumed abandoned is equal to the face*
206 *value of the gift certificate or credit memo, less a fee of five dollars.*

207 *B. The following property is exempt from the provisions of this chapter and shall not be assessed by*
208 *the administrator as unclaimed property: (i) credit balances payable to a business association, (ii)*
209 *outstanding checks resulting from or attributable to the sale of goods or services to a business*
210 *association, (iii) promotional incentives, and (iv) credits, gift certificates, coupons, layaways, and similar*
211 *items, provided such credits, gift certificates, coupons, layaways, and similar items are redeemable in*
212 *merchandise, in services, or through future purchases.*

213 § 55-210.9. When intangible property held for owner by public agency presumed abandoned.

214 All intangible property held for the owner by any government or governmental subdivision or
215 agency, public corporation, or public authority that has remained unclaimed by the owner for more than
216 one year after it became payable ~~or distributable~~ is presumed abandoned.

217 § 55-210.9:1. Property held by courts.

218 All intangible property held for the owner by any state or federal court that has remained unclaimed
219 by the owner for more than one year after it became payable ~~or distributable~~ is presumed abandoned.

220 § 55-210.9:2. Responsibilities of general receiver and clerk.

221 The general receiver, if one has been appointed, and the clerk of each circuit court shall be
222 responsible for identifying moneys held by them in their respective accounts which have remained
223 unclaimed by the owner for more than one year after such moneys became payable ~~or distributable~~ and
224 for petitioning the court to remit such money to the State Treasurer. There shall be no obligation to
225 report or remit funds deposited as compensation and damages in condemnation proceedings pursuant to
226 § 25-46.24 prior to a final court order or pursuant to § 33.1-120.

227 § 55-210.10:1. Employee benefit trust distribution.

228 A. All employee benefit trust distributions and any income or other increment thereon are abandoned
229 to this Commonwealth under the provisions of this chapter if the owner has not, within ten years after it
230 becomes payable ~~or distributable~~, accepted such distribution, corresponded in writing concerning such
231 distribution, or otherwise indicated an interest as evidenced by a memorandum or other record on file
232 with the fiduciary of the trust or custodial fund or administrator of the plan under which such trust or
233 fund is established.

234 B. An employee benefit trust distribution and any income or other increment thereon shall not be
235 presumed abandoned to this Commonwealth under the provisions of this chapter if, at the time such
236 distribution shall become payable to a participant in an employee benefit plan, such plan contains a
237 provision for forfeiture or expressly authorizes the trustee to declare a forfeiture of a distribution to a
238 beneficiary thereof who cannot be found after a period of time specified in such plan, and the trust or
239 fund established under the plan has not terminated prior to the date on which such distribution would
240 become forfeitable in accordance with such provision.

241 § 55-210.11. When certain property not presumed abandoned in this Commonwealth.

242 If specific property which is subject to the provisions of §§ 55-210.2:1, 55-210.3:01, 55-210.4:01,
243 ~~55-210.6, 55-210.6:1, 55-210.7, 55-210.8, 55-210.10:1, and 55-210.10:2~~ is held ~~for or owed or~~
244 ~~distributable~~ payable to an owner whose last known address is in another state by a holder who is

subject to the jurisdiction of that state, the specific property is not presumed abandoned in this Commonwealth and subject to this chapter if:

- (a) It may be claimed as abandoned or escheated under the laws of such other state; and
- (b) The laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such other state when held for or owed or distributable payable to an owner whose last known address is within this Commonwealth by a holder who is subject to the jurisdiction of this Commonwealth.

§ 55-210.12. Report and remittance to be made by holder of funds or property presumed abandoned; holder to exercise due diligence to locate owner.

A. Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report and remit to the administrator with respect to the property as hereinafter provided.

B. The report shall be verified and shall include:

1. The name and social security or federal identification number, if known, and last known address, including ZIP code, if any, of each person appearing from the records of the holder to be the owner of any property of the value of ~~fifty dollars~~ \$100 or more presumed abandoned under this chapter;

2. In case of unclaimed funds of insurance corporations, the full name of the insured or annuitant and any beneficiary, if known, and the last known address according to the insurance corporation's records;

3. In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator, and any amounts owing to the holder;

4. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under ~~fifty dollars~~ \$100 each may be reported in aggregate;

5. The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

6. Other information which the administrator prescribes by rule as *reasonably* necessary for the administration of this chapter.

C. If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

D. The report and remittance shall be filed before November 1 of each year as of June 30 next preceding, but the report and remittance of insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. When property is evidenced by certificate of ownership as set forth in § 55-210.6:1, the holder shall deliver to the State Treasurer a duplicate of any such certificate registered in the name "Treasurer of Virginia" or the Treasurer's designated nominee at the time of report and remittance. The administrator may postpone the reporting and remittance date upon written request by any person required to file a report.

E. If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. All holders shall exercise due diligence, as defined in § 55-210.2, at least ~~60 days but no more than 120~~ sixty days prior to the submission of the report to ascertain the whereabouts of the owner if (i) the holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate, and (ii) the property has a value of ~~fifty dollars~~ \$100 or more.

F. Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

G. The initial report and remittance filed under this chapter shall include all items of property that would have been presumed abandoned if this chapter had been in effect during the ten-year period preceding January 1, 1961.

§ 55-210.13. Notices to be published by State Treasurer.

A. The State Treasurer shall cause to be published notice of the report filed under subsection D of § 55-210.12 once each year in an English language newspaper of general circulation in the area in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside of the Commonwealth, the notice shall be published in the area in which the holder of the abandoned property has his principal place of business.

B. The published notice shall be titled "Commonwealth of Virginia Unclaimed Property List" and shall contain:

1. The names in alphabetical order and account numbers of persons listed in the report and entitled to notice within the area as hereinbefore specified.

2. A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the State Treasurer.

C. The administrator is not required to publish in such notice any item of less than ~~fifty dollars~~\$100 unless he deems such publication to be in the public interest.

§ 55-210.17. Periods of limitation.

A. The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this chapter or to pay or deliver abandoned property to the State Treasurer.

B. *Except as provided in subsection C of this section, an action or proceeding shall not be maintained by the administrator to enforce this chapter more than five years after the earlier of (i) the date on which the holder identified the property on a report filed with the administrator, (ii) the date on which the holder first filed a report with the administrator wherein the holder should have but failed to report the property, or (iii) the date on which the holder filed a report with the administrator giving reasonable notice to the administrator of a dispute regarding the property.*

C. *An action or proceeding shall not be maintained by the administrator to enforce this chapter with respect to any property more than ten years following the date on which such property first became reportable if the holder (i) filed a materially false or fraudulent report with the intent to evade delivery of property otherwise subject to this chapter, or (ii) failed to file a report with the administrator.*

§ 55-210.21. Consideration of and hearing on claim by State Treasurer; payment; interest.

(a)A. The State Treasurer shall consider any claim *for property held by the State Treasurer pursuant to the provisions of this chapter that is* filed under this chapter and may hold a hearing and receive evidence concerning ~~it~~ *such claim*. If a hearing is held, he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.

(b)B. If the claim is allowed, the State Treasurer shall make payment forthwith. The claim shall be paid without deduction for costs of notices or sale or for service charges.

(c)C. The State Treasurer shall add interest at the rate of five percent or such lesser rate as the property earned while in the possession of the holder, compounded annually, to the amount of any claim paid to the owner, if the property claimed was interest-bearing to the owner while in the possession of the holder. Such interest shall begin to accumulate on the date the property is delivered to the State Treasurer and shall cease on the date on which payment is made to the owner. No interest shall be payable for any period prior to July 1, 1981.

§ 55-210.22. Judicial review of decision of State Treasurer.

Any person aggrieved by ~~an act or~~ *an act or* decision of the State Treasurer ~~or as with respect to whose a claim for property held by the State Treasurer has failed to act within ninety days after the filing of the claim, pursuant to the provisions of this chapter~~ may commence an action in the circuit or corporation court of the county or city wherein the property claimed is situated to establish his claim. The proceeding shall be brought within ~~90 days~~ *three years* after the decision of the State Treasurer, or within ~~180 days~~ *three years* from the filing of the claim if the State Treasurer fails to act.

§ 55-210.24. Requests for verified reports and examinations of records.

A. ~~The~~ *Except as otherwise provided in this chapter,* the administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.

B. ~~The~~ *Except as otherwise provided in this chapter,* the administrator may at reasonable times and upon reasonable notice examine the records of any person to determine whether the person has complied with the provisions of this chapter. The administrator may conduct the examination even if the person believes it is not in possession of any property reportable or deliverable under this chapter. *The administrator may examine all necessary records to determine the amount, if any, of property that would have been reportable or deliverable under this chapter for the ten years prior to the fiscal year end preceding the opening of the examination; provided, however, for any holder that has not previously filed any report under this chapter, the administrator may examine property presumed abandoned for report year 1985 and subsequent years.*

C. If a holder fails to maintain the records required by § 55-210.24:1 and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the holder shall be required to report and pay such amounts as may reasonably be estimated from any available records.

D. *The Treasurer may contract with a person who is not an employee of the Commonwealth to*

perform an audit or examination under this article; provided, however, with respect to any holder that is domiciled in the Commonwealth or that maintains its principal place of business in the Commonwealth, no such contract shall (i) be on a contingency fee basis or (ii) permit statistical estimation without the consent of the holder.

§ 55-210.24:1. Retention of records.

A. Every financial institution, banking organization and every business association with annual sales of at least ten million dollars and all other holdersholder required to file a report under § 55-210.12, shall retain all books, records and documents necessary to establish the accuracy and compliance of such report for five years after the report is filed pursuant to subsection B of § 55-210.12. If no report is filed, the holder shall retain such books, records and documents for ten years after the property becomes reportable, except to the extent that shorter time is provided in accordance with the Virginia Public Records Act (§ 42.1-76 et seq.), or in subsection B of this section or by rule of the administrator. As to any property for which it has obtained the last known address of the owner, the holder shall maintain a record of the name and last known address of the owner for the same ten-year retention period.

B. Any business association that sells in this Commonwealth its travelers checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this Commonwealth, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

§ 55-210.25. Enforcement of chapter.

The administrator may bring an action in a court of competent jurisdiction to enforce this chapter. The administrator shall commence enforcement for compliance with the provisions of this chapter within seven years, unless the holder has failed to file a report required under § 55-210.12the period specified in § 55-210.17. The holder may waive in writing the protection of this section.

§ 55-210.26:1. Interest and penalties.

A. Any person who fails to pay or deliver property within the time prescribed by this chapter shall be required to pay to the administrator interest at the same annual rate as is applicable to delinquent taxes under § 58.1-1812 on the property or value thereof from the date the property should have been paid or delivered. Such interest rate shall vary with the rate specified in § 58.1-1812.

B. Any person who does not exercise due diligence as defined in § 55-210.2 shall pay a civil penalty not to exceed five fifty dollars for each account upon which due diligence was not performed.

C. Any person who refuses after written demand by the administrator to render any report and remittance in accordance with this chapter within thirty days after such demand shall pay a civil penalty equal to the lesser Except as otherwise provided in subsection D, a holder who (i) fails to report, pay or deliver property within the time prescribed by this chapter, (ii) files a false report, or (iii) fails to perform other duties imposed by this chapter without good cause, shall pay to the administrator, in addition to interest as provided in subsection A, a civil penalty of \$100 for each day the report and remittance, payment or delivery is withheld or an amount equal to the duty is not performed, up to a maximum of the lesser of \$10,000 or twenty-five percent of the value of the property which that should have been paid or delivered but was not reported.

D. Any person A holder who refuses to perform any other duty as required under this chapter within thirty days from the date of written demand by the administrator shall pay a civil penalty equal to \$100 for each day (i) willfully fails to report, pay or deliver property within the time prescribed by this chapter, (ii) willfully fails to perform other duties imposed by this chapter without good cause, or (iii) makes a fraudulent report to the administrator shall pay to the administrator, in addition to interest as provided in subsection A, a civil penalty of \$1,000 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of the lesser of \$50,000 or 100 percent of the value of the property that should have been but was not reported.

E. The State Treasurer administrator for good cause may waive all or a part of the interest and penalties for good cause, in whole or in part, interest under subsection A and penalties under subsections B, C, and D. All civil penalties shall be payable to the State Treasurer.

§ 55-210.27. Determinations; appeal procedures; rules and regulations of State Treasurer.

A. The State Treasurer may make necessary rules and regulations to carry out the provisions of this chapter.

B. If the State Treasurer ascertains that any person has failed to pay or deliver abandoned property in accordance with the provisions of this chapter, he shall issue a written notice to such person demanding remittance of the property and payment of any penalties and interest prescribed by law. Every such notice shall be accompanied by a detailed explanation of the holder's right to secure an administrative or judicial review. The abandoned property, together with penalties and interest, if any, shall be remitted to the State Treasurer within ninety days from the date notice is received by the holder unless the holder requests (i) an administrative review in accordance with regulations promulgated

429 pursuant to subsection C or (ii) a judicial review in accordance with § 55-210.22.

430 C. The State Treasurer shall promulgate regulations pursuant to which any person (i) asserting
431 ownership of property remitted to the Commonwealth under this chapter, (ii) required to pay or deliver
432 abandoned property pursuant to this chapter, or (iii) otherwise aggrieved by a decision of the
433 administrator, may file an application for administrative appeal and correction of the administrator's
434 determination.

435 D. On receipt of the application as provided in regulations promulgated pursuant to subsection C, or
436 if regulations promulgated thereunder are not in effect, on receipt of an application requesting an
437 administrative review by the State Treasurer, the administrator shall suspend collection activity until a
438 final determination is issued by the State Treasurer, unless the administrator determines that collection
439 would be jeopardized by delay. Interest shall continue to accrue in accordance with the provisions of
440 § 55-210.26:1, but no further penalty shall be imposed while collection activity is suspended. The term
441 "jeopardized by delay" means a finding that the applicant intends to undertake a wrongful act with the
442 intent to prejudice, or to render ineffectual, future proceedings to enforce this chapter.

443 E. If the State Treasurer is satisfied, by evidence submitted or otherwise, that there has been an
444 erroneous or improper demand for the remittance of property, the State Treasurer shall order that the
445 applicant be exonerated from the remittance of so much as is erroneously or improperly demanded, if
446 not already collected, and, if collected, that it be returned or refunded to the applicant. The State
447 Treasurer shall refrain from collecting a contested charge until he has made a final determination under
448 this section unless he determines that collection may be jeopardized by delay. The term "jeopardized by
449 delay" shall have the meaning set forth in subsection D.

450 F. Except as otherwise provided in regulations promulgated pursuant to subsection C, the State
451 Treasurer shall issue a written determination to the applicant within ninety days of receipt of an
452 application for correction, unless the applicant and the administrator are notified that a longer period
453 will be required. All determinations of the State Treasurer shall include a written finding of fact and
454 supporting law, and all such determinations shall be publicly reported.

455 G. Following a determination by the State Treasurer, either the applicant or the administrator may
456 apply (i) in the case of a claim for property by a purported owner, to the appropriate circuit court
457 pursuant to § 55-210.22 and (ii) in the case of a dispute between a holder and the State Treasurer, to
458 the Circuit Court for the City of Richmond, within the time period established in § 55-210.22.