

SECOND REGULAR SESSION

# HOUSE BILL NO. 2035

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CUNNINGHAM (145).

Read 1st time March 16, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5636L.01I

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### AN ACT

To repeal sections 447.505, 447.510, 447.517, 447.520, 447.530, 447.533, 447.535, 447.536, and 447.543, RSMo, and to enact in lieu thereof nine new sections relating to lost and unclaimed property.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 447.505, 447.510, 447.517, 447.520, 447.530, 447.533, 447.535, 447.536, and 447.543, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 447.505, 447.510, 447.517, 447.520, 447.530, 447.533, 447.535, 447.536, and 447.543, to read as follows:

447.505. The following property held or owing by a banking or financial organization or by a business association is presumed abandoned; provided, however, that neither this section nor any other provision of sections 447.500 to 447.595 shall apply to an instrument issued as an offer to settle a claim when failure to present the instrument for payment may be deemed a refusal of the offer to settle:

(1) Any deposit held in this state with a banking **or financial** organization, **where deposit accounts are defined as savings accounts, checking accounts, certificates of deposit, and money market accounts**, together with any interest or dividend thereon that would be due had the owner not abandoned the account, excluding any charges that may lawfully be withheld, unless the owner has, within [seven years or] five years [as provided in section 447.536]:

(a) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 (b) Corresponded in writing with, or accepted mail from, the banking organization  
14 concerning the deposit; and the term "accepted mail from the banking organization" shall mean  
15 the banking organization did send correspondence in writing to the owner by first class mail  
16 postage prepaid, marked "Address Correction Requested", and such correspondence was not  
17 returned by the post office; or

18 (c) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file  
19 with the banking organization;

20 (2) Any funds paid in this state toward the purchase of shares or other interest in a  
21 financial organization, or any deposit made therewith in this state, and any interest or dividends  
22 thereon that would be due had the owner not abandoned the account, excluding any charges that  
23 may lawfully be withheld, unless the owner has within [seven] **five** years or [five] **three** years  
24 as provided in section 447.536:

25 (a) Increased or decreased the amount of the funds or deposit, or presented an  
26 appropriate record for the crediting of interest or dividends; or

27 (b) Corresponded in writing with, or accepted mail from, the financial organization  
28 concerning the funds or deposit; and the term "accepted mail from the financial organization"  
29 shall mean the financial organization did send correspondence in writing to the owner by first  
30 class mail postage prepaid, marked "Address Correction Requested", and such correspondence  
31 was not returned by the post office; or

32 (c) Otherwise indicated an interest in the funds or deposit as evidenced by a  
33 memorandum on file with the financial organization;

34 (3) Any sum payable on checks certified in this state or on written instruments issued  
35 in this state on which a banking or financial organization or business association is directly  
36 liable, including, by way of illustration but not of limitation, [certificates of deposit,] drafts,  
37 money orders, and traveler's checks, that, with the exception of traveler's checks [and money  
38 orders], has been outstanding for more than [seven] **five** years or [five] **three** years as provided  
39 in section 447.536 from the date it was payable, or from the date of its issuance if payable on  
40 demand, or, in the case of traveler's checks, that has been outstanding for more than fifteen years  
41 from the date of its issuance, unless the owner has within seven years or five years as provided  
42 in section 447.536, or within fifteen years in the case of traveler's checks, corresponded in  
43 writing with the banking or financial organization or business association concerning it, or  
44 otherwise indicated an interest as evidenced by a memorandum on file with the banking or  
45 financial organization or business association;

46 (a) No holder may deduct from the amount of any money order any charges imposed by  
47 reason of the failure to present those instruments for payment unless there is a valid and  
48 enforceable written contract between the issuer and the owner of the property pursuant to which

49 the issuer may impose those charges and the issuer regularly imposes those charges and does not  
50 regularly reverse or otherwise cancel those charges with respect to the property. Disclosure of  
51 the amount of any such charges shall be deemed adequate if set forth on the money order;

52 (b) No sum payable on a traveler's check, money order, or similar written instrument  
53 (other than a third-party bank check) described in this subdivision may be subjected to the  
54 custody of this state as unclaimed property unless:

55 a. The records of the issuer show that the traveler's check, money order, or similar  
56 written instrument was purchased in this state;

57 b. The issuer has its principal place of business in this state and the records of the issuer  
58 do not show the state in which the traveler's check, money order, or similar written instrument  
59 was purchased; or

60 c. The issuer has its principal place of business in this state, the records of the issuer  
61 show the state in which the traveler's check, money order, or similar written instrument was  
62 purchased and the laws of the state of purchase do not provide for the escheat or custodial taking  
63 of the property or its escheat or unclaimed property law is not applicable to the property;

64 (4) Any funds or other personal property, tangible or intangible, removed from a safe  
65 deposit box or any other safekeeping repository or agency or collateral deposit box in this state  
66 on which the lease or rental period has expired due to nonpayment of rental charges or other  
67 reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been  
68 unclaimed by the owner for more than seven years or five years as provided in section 447.536  
69 from the date on which the lease or rental period expired;

70 (5) Gift certificates, **gift cards**, credit memos and credit balances that are redeemable  
71 in merchandise only shall be reportable at a rate equal to sixty percent of their respective face  
72 value. **No deductions can be taken from the value in excess of forty percent.** The state  
73 treasurer shall reimburse the owner the full face value.

447.510. 1. Unclaimed funds, as defined in this section, held and owing by an insurance  
2 corporation shall be presumed abandoned if the last known address, according to the records of  
3 the corporation, of the person entitled to the funds is within this state. If a person other than the  
4 insured or annuitant is entitled to the funds and no address of such person is known to the  
5 corporation or if it is not definite and certain from the records of the corporation what person is  
6 entitled to the funds, it is presumed that the last known address of the person entitled to the funds  
7 is the same as the last known address of the insured or annuitant according to the records of the  
8 corporation.

9 2. "Unclaimed funds", as used in this section, means all moneys held and owing by any  
10 insurance corporation unclaimed and unpaid for more than [seven] **five** years or [five] **three**  
11 years as provided in section 447.536 after the moneys became due and payable as established

12 from the records of the corporation under any property insurance or casualty insurance policy or  
13 any life or endowment insurance policy or annuity contract which has matured or terminated,  
14 including all unpaid drafts, except drafts issued for the purpose of an offer of settlement. It shall  
15 be the responsibility of the issuing company to establish that an unpaid draft was tendered as a  
16 settlement offer. A life insurance policy not matured by actual proof of the death of the insured  
17 is deemed to be matured and the proceeds thereof are deemed to be due and payable if such  
18 policy was in force when the insured attained the limiting age under the mortality table on which  
19 the reserve is based, unless the person appearing entitled thereto has within the preceding [seven]  
20 **five** years or [five] **three** years as provided in section 447.536:

21 (1) Assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan;  
22 or

23 (2) Corresponded in writing with the life insurance corporation concerning the policy.  
24

25 Moneys otherwise payable according to the records of the corporation are deemed due and  
26 payable although the policy or contract has not been surrendered as required.

27 3. (1) Property distributable in the course of a demutualization, rehabilitation, or related  
28 reorganization of an insurance company is deemed abandoned two years after the date the  
29 property is first distributable if at the time of the first distribution the last known address of the  
30 owner on the books and records of the holder is known to be incorrect, or the distribution or  
31 statements are returned by the post office as undeliverable; and the owner:

32 (a) Has not communicated in writing with the holder or its agent regarding the property;  
33 or

34 (b) Otherwise communicated with the holder regarding the property as evidenced by a  
35 memorandum or other record on file with the holder or its agent.

36 (2) Property distributable in the course of demutualization, rehabilitation, or related  
37 reorganization of a mutual insurance company that is not subject to subsection 1 of this section  
38 shall be reportable as otherwise provided in section 447.536.

39 (3) The initial report for December 31, 2002, required pursuant to this subsection shall  
40 be filed no later than November 1, 2003. Any additional reports of property subject to subsection  
41 1 of this section shall be reported and delivered no later than May first of each year for all  
42 property to be reported pursuant to this subsection for December of the preceding year.

447.517. 1. The following funds held or owing by any utility are presumed abandoned:

2 (1) Any deposit made by a subscriber with a utility to secure payment for, or any sum  
3 paid in advance for, utility services to be furnished in this state, less any lawful deductions, that  
4 has remained unclaimed by the person appearing on the records of the utility entitled thereto for

5 more than [seven] **five** years or [five] **three** years as provided in section 447.536 after the  
6 termination of the services for which the deposit or advance payment was made;

7 (2) Any sum which a utility has been ordered to refund and which was received for  
8 utility services rendered in this state, together with any interest thereon, less any lawful  
9 deductions, that has remained unclaimed by the person appearing on the records of the utility  
10 entitled thereto for more than [seven] **five** years or [five] **three** years as provided in section  
11 447.536 after the date it became payable in accordance with the final determination or order  
12 providing for the refund.

13 2. For purposes of corporations organized pursuant to chapter 274, RSMo, corporations  
14 organized pursuant to chapter 357, RSMo, corporations organized pursuant to chapter 394,  
15 RSMo, and electric service corporations organized pursuant to chapter 351, RSMo, which have  
16 received a loan or loans pursuant to the Rural Electrification Act of 1936, Title VII, U.S. Code  
17 as amended, sections 447.500 to 447.595 shall only apply to property and funds which become  
18 held or owing and for which the period of time which must expire before such property or funds  
19 are presumed abandoned has begun after August 13, 1984.

447.520. 1. Any stock or other certificate of ownership, or any dividend, profit,  
2 distribution, interest, payment on principal, or other sum held or owing by a business association  
3 for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a  
4 participating patron of a cooperative, who has not claimed it, or corresponded in writing with the  
5 business association concerning it, within seven years or five years as provided in section  
6 447.536 after the date prescribed for payment or delivery, is presumed abandoned if:

7 (1) It is held or owing by a business association organized pursuant to the laws of or  
8 created in this state; or

9 (2) It is held or owing by a business association doing business in this state, but not  
10 organized pursuant to the laws of or created in this state, and the records of the business  
11 association indicate that the last known address of the person entitled thereto is in this state.

12 2. Any intangible interest in a business association, as evidenced by the stock records  
13 or membership records of the association, is presumed abandoned if:

14 (1) The interest in the association is owned by a person who for more than [seven] **five**  
15 years or [five] **three** years as provided in section 447.536 has neither claimed a dividend or other  
16 sum nor corresponded in writing with the association or otherwise indicated an interest as  
17 evidenced by a memorandum or other record on file with the association; and

18 (2) The association does not know the location of the owner at the end of such  
19 [seven-year period or five-year] period as provided in section 447.536.

20

21 With respect to such interest, the business association shall be deemed the holder.

22           3. Any dividend or other distribution held for or owing to a person at the time the stock  
23 or other security to which such dividend or other distribution attaches is considered abandoned  
24 at the same time.

          447.530. All intangible personal property, and any income or increment thereon that  
2 would be due had the owner not abandoned the account, held in a fiduciary capacity for the  
3 benefit of another person and including property held by an attorney in fact or an agent, except  
4 a trust defined in section 456.500, RSMo, subject to escheat pursuant to the provisions of  
5 sections 456.220 or 456.640 to 456.660, RSMo, is presumed abandoned unless the owner has,  
6 within [seven] **five** years or [five] **three** years as provided in section 447.536 after it becomes  
7 payable or distributable, increased or decreased the principal, accepted payment of principal or  
8 income, corresponded in writing concerning the property, or otherwise indicated an interest as  
9 evidenced by a memorandum on file with the fiduciary. If unclaimed property in a trust defined  
10 in section 456.500, RSMo, has not escheated within the time periods specified in section  
11 456.640, RSMo, then such property is subject to the provisions of sections 447.500 to 447.595:

12           (1) If the property is held by a banking organization or a financial organization, or by a  
13 business association organized pursuant to the laws of or created in this state; or

14           (2) If it is held by a business association, doing business in this state, but not organized  
15 pursuant to the laws of or created in this state, and the records of the business association  
16 indicate that the last known address of the person entitled thereto is in this state; or

17           (3) If it is held in this state by any other person; or

18           (4) Except any property that is held for the benefit of another whether absolute or  
19 contingent where the owner has not reached the age of twenty-one and such property is in a trust  
20 or agency account, or is not subject to a trust as permitted by section 456.012 or 456.013, RSMo.

          447.533. 1. All intangible property, including but not limited to any interest, dividend,  
2 or other earnings thereon that would be due had the owner not abandoned the account, less any  
3 lawful charges, held by a business association, federal, state or local government or  
4 governmental subdivision, agency or entity, or any other person or entity, regardless of where  
5 the holder may be found, if the owner has not claimed or corresponded in writing concerning the  
6 property within [seven] **five** years or [five] **three** years as provided in section 447.536 after the  
7 date prescribed for payment or delivery, is presumed abandoned and subject to the custody of this  
8 state as unclaimed property if:

9           (1) The last address of the owner is unknown; and

10           (2) The person or entity originating or issuing the intangible property is this state or any  
11 political subdivision of this state, or is incorporated, organized, created or otherwise located in  
12 this state.

13           2. The provisions of subsection 1 of this section shall not apply to property which is or  
14 may be presumed abandoned and subject to the custody of this state pursuant to any other  
15 provision of law containing a dormancy period different than that prescribed in subsection 1 of  
16 this section.

17           3. The provisions of subsection 1 of this section shall apply to all property held as of  
18 August 28, 1990, or at any time thereafter, regardless of when such property became or becomes  
19 presumptively abandoned.

20           4. The provisions of subsection 1 of this section shall not apply to any property held in  
21 this state where the holder is a banking organization or financial organization which has a  
22 principal place of business in this state.

          447.535. All intangible personal property, not otherwise covered by sections 447.500 to  
2 447.595, including any income or increment thereon, and deducting any lawful charges, that is  
3 held or owing in this state in the ordinary course of the holder's business and has remained  
4 unclaimed by the owner for more than [seven] **five** years or [five] **three** years as provided in  
5 section 447.536 after it became payable or distributable is presumed abandoned. Intangible  
6 personal property where the property is held in a jurisdiction in which the abandonment  
7 presumption is less than seven years or five years as provided in section 447.536 shall be  
8 accepted by the state of Missouri.

          447.536. Except for the abandonment period for travelers checks [and money orders]  
2 provided for in subdivision (3) of section 447.505; the abandonment period for dissolution of  
3 business associations, banking organizations and financial organizations as provided for in  
4 section 447.527; and the abandonment period for court-related bond proceeds as provided for  
5 in section 447.595; **and the abandonment period for deposit accounts in banking**  
6 **organizations and financial organizations as defined in subdivisions (1) and (4) of section**  
7 **447.503 and subdivision (1) of section 447.505; and the abandonment period for safe**  
8 **deposit boxes and other safekeeping repositories as defined in subdivision (4) of section**  
9 **447.505;** all other abandonment periods referenced in sections 447.505 to 447.595, shall change  
10 from [seven to] five **to three** years beginning January 1, [2000] **2007**. The abandonment periods  
11 provision of this section shall not apply to property which is held pursuant to any resolution,  
12 order or trust indenture entered into prior to August 28, 1998, by a city, county, school district,  
13 authority, agency or other political subdivision where the abandonment period or other  
14 abandonment provision specified in the resolution, order or trust indenture is different than the  
15 abandonment period specified in this section.

          447.543. 1. Every person who has filed a report pursuant to section 447.539 shall pay  
2 all moneys to the treasurer and deliver to the treasurer all other abandoned property specified in  
3 the report at the time of filing the report, provided the holder may retain from any such moneys

4 the reasonable costs of complying with sections 447.500 to 447.595, which costs shall be  
5 approved by the treasurer. The treasurer shall approve such costs provided such costs are not  
6 unreasonable given the facts and circumstances of each case. The holder may recover the total  
7 bona fide costs for compliance with sections 447.500 to 447.595. If the owner establishes his  
8 or her right to receive the abandoned property to the satisfaction of the holder before such report  
9 is filed, or if it appears that for some other reason the presumption of abandonment is erroneous,  
10 the holder need not pay or deliver the property as required in this subsection, which will no  
11 longer be presumed abandoned, but in lieu thereof shall file a verified written explanation of the  
12 proof of claim or of the error in the presumption of abandonment with the treasurer.

13       2. The treasurer shall record the name and the last known address of each person  
14 appearing from the holders' reports to be entitled to the abandoned funds and cause such funds  
15 to be deposited in the special account known as the "Abandoned Fund Account", which is hereby  
16 created. The abandoned fund account created by this section shall be the successor account to  
17 the abandoned fund account previously in the state treasury and all funds in such accounts on  
18 August 13, 1984, shall be transferred to the abandoned fund account created by this section.  
19 Records made herein, and open for public inspection pursuant to section 447.560, shall be  
20 available for public inspection at all reasonable business hours; except that, the records shall not  
21 be subject to public inspection or available for copying, reproduction, or scrutiny by commercial  
22 or professional locators of property presumed abandoned who charge any service or finder's fee  
23 until ninety days after the names of the people to whom property is owed have been published  
24 or officially disclosed. From this account the treasurer shall make prompt payment of claims  
25 duly allowed by the treasurer. At any time when the balance of the account exceeds one-twelfth  
26 of the previous fiscal year's total disbursement from the abandoned property fund, the treasurer  
27 may, and at least once every fiscal year shall, transfer to the general revenue of the state of  
28 Missouri the balance of the abandoned fund account which exceeds one-twelfth of the previous  
29 fiscal year's total disbursement from the abandoned property fund, and, notwithstanding the  
30 provisions of section 33.080, RSMo, to the contrary, no other moneys in the **abandoned fund**  
31 **or the Missouri legacy trust fund** shall lapse at the end of the biennium. **Beginning July 1,**  
32 **2006, and each fiscal year thereafter, the first twenty million dollars of net transfers from**  
33 **the abandoned fund shall be transferred to general revenue. In each fiscal year, any**  
34 **amounts available for transfer from the abandoned fund in excess of twenty million dollars**  
35 **shall be transferred from the abandoned fund to the Missouri legacy trust fund.** Should  
36 any claims be allowed or refunds ordered which reduce the balance to less than  
37 one-twenty-fourth of the previous fiscal year's total disbursement from the abandoned property  
38 fund, the treasurer shall transfer from the general funds of the state an amount which is sufficient



39 to restore the balance to one-twelfth of the previous fiscal year's total disbursement from the  
40 abandoned property fund.

41       **3. There is hereby created in the state treasury the "Missouri Legacy Trust" which**  
42 **shall be administered by the state treasurer's office in accordance with rules promulgated**  
43 **by the state treasurer under the provisions of chapter 536, RSMo, including emergency**  
44 **rules issued pursuant to section 536.025, RSMo. The fund may receive moneys from**  
45 **appropriations by the general assembly, transfers from the abandoned fund in accordance**  
46 **with this section, interest receipts, donations, or any other payments made by any public**  
47 **or private entity for use in carrying out the purposes of this section. Any money in the**  
48 **funds not required for immediate disbursement in accordance with the provisions of this**  
49 **section shall be invested only in those investments which a prudent person acting in a like**  
50 **capacity and familiar with such matters would use in the conduct of an enterprise of a like**  
51 **character and with like aims, as provided in section 105.688, RSMo. Interest accrued by**  
52 **the fund shall be used solely for the purpose of college financial assistance to those**  
53 **participating in Missouri's 529 college savings plan and the administration of the trust.**  
54 **Notwithstanding the provision of section 33.080, RSMo, to the contrary, moneys in the**  
55 **fund shall not revert to the credit of the general revenue fund at the end of the biennium.**  
56 **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is**  
57 **created under the authority delegated in this section shall become effective only if it**  
58 **complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
59 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
60 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
61 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
62 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
63 **adopted after August 28, 2006, shall be invalid and void.**

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