

46:30B-74

LEGISLATIVE HISTORY CHECKLIST
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(Unclaimed deposits and personal
property--county trust funds)

NJSA: 46:30B-74

LAWS OF: 1992 CHAPTER: 173

BILL NO: S48

SPONSOR(S) O'Connor

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: ---

SENATE: Judiciary; Budget

AMENDED DURING PASSAGE: No Senate committee
substitute enacted

DATE OF PASSAGE: ASSEMBLY: October 29, 1992

SENATE: October 19, 1992

DATE OF APPROVAL: December 10, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes 2-24-92 & 10-8-92

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 48

STATE OF NEW JERSEY

ADOPTED FEBRUARY 24, 1992

Sponsored by Senator O'CONNOR

1 AN ACT concerning certain unclaimed county deposits and
2 amending R.S.46:30B-74.

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4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. R.S.46:30B-74 is amended to read as follows:

7 46:30B-74. Deposits of funds by administrator. The
8 administrator shall establish and manage [a] two separate trust
9 [fund] funds to be known as the Unclaimed County Deposits Trust
10 Fund and the Unclaimed Personal Property Trust Fund.

11 a. All moneys received as unclaimed county deposits and the
12 accretions thereon shall be deposited into the Unclaimed County
13 Deposits Trust Fund. Each year, unless the administrator deems
14 it prudent and advisable to do otherwise, the administrator shall
15 pay to each county, within 45 days of the receipt of such funds,
16 75% of the unclaimed county deposits received from that county
17 by the administrator. The remaining portion shall be retained in
18 the trust fund, administered and invested by the State Treasurer,
19 and used to pay claims duly presented and allowed and all
20 expenses and costs incurred by the State of New Jersey. If the
21 Unclaimed County Deposit Trust Fund is insufficient to pay
22 specific claims against a county, the administrator shall report
23 the fact to the county governing body and the unpaid claim shall
24 become an affirmative obligation of that county.

25 Upon the effective date of this act, any county deposits paid to
26 the administrator between April 18, 1989 and the effective date
27 of this act shall be transferred from the Unclaimed Personal
28 Property Trust Fund to the Unclaimed County Deposits Trust
29 Fund.

30 b. All other moneys received as unclaimed property presumed
31 abandoned, the accretions thereon, and the proceeds of sale of
32 unclaimed property shall be deposited into [that fund] the
33 Unclaimed Personal Property Trust Fund. Unless the
34 administrator deems it prudent and advisable to do otherwise,
35 75% of all funds received shall be transferred to the General
36 State Fund. The remaining portion shall be retained in the trust
37 fund, administered and invested by the State Treasurer, and used
38 to pay claims duly presented and allowed and all expenses and
39 costs incurred by the State of New Jersey.

40 Upon the effective date of this act, all funds and assets of the
41 trust funds established pursuant to N.J.S.2A:37-41, section 8 of
42 P.L.1945, c.199 (C.17:9-25), and N.J.S.17B:31-7, shall be

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 transferred to and become part of the Unclaimed Personal
2 Property Trust Fund established by this act, which shall be
3 responsible for payment of any allowed claims for restitution of
4 unclaimed property paid into those three funds.

5 c. As used in this section, "county deposits" means: the
6 proceeds of a judgement received in favor of a minor and placed
7 under the control of a county surrogate, any devise or distribution
8 from an estate paid into the county surrogate's court prior to
9 April 14, 1989, and any money deposited with the county clerk as
10 bail.

11 (cf: R.S.46:30B-74)

12 3. This act shall take effect immediately.

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17 Provides that certain unclaimed funds shall be retained by the
18 counties.

SENATE, No. 48
STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Senator O'CONNOR

1 AN ACT concerning certain unclaimed personal property,
2 amending and supplementing Title 46 of the Revised Statutes
3 and repealing R.S.46:30B-41.1.

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5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. (New section) As used in this act, "unclaimed funds" means
8 any monies held pursuant to a court order either by the surrogate
9 of a county as a settlement for the benefit of a minor, or as
10 money due under a will or an administration to a known but
11 unlocatable heir, or by a county clerk as bail money, which have
12 remained unclaimed for a period of ten years.

13 2. (New section) Subject to the provisions of this act, upon the
14 termination of any period of ten years, any unclaimed funds shall
15 be deemed to be abandoned and shall be payable to the county
16 treasurer of the county for the general use of the county, free of
17 all limitations or conditions imposed at the time of the receipt or
18 deposit thereof or at any other time prior to such abandonment,
19 whenever proceedings are instituted by the county governing body
20 pursuant to this act. With regard to property held for the benefit
21 of a minor, the ten year period prescribed in this section shall
22 commence when the minor attains the age of 18 years.

23 3. (New section) The county governing body of any county may
24 at any time by duly adopted resolution elect to proceed under the
25 provisions of this act.

26 Not later than sixty days after notice of the adoption by the
27 county governing body of a resolution authorizing proceedings
28 under this act, the surrogate or county clerk having the custody
29 or control of any unclaimed funds shall prepare and present to the
30 county governing body a certified list of such unclaimed moneys,
31 computed as of the thirty-first day of December of the preceding
32 year, reciting the title of the cause or account and the purpose
33 and date of the original payment or deposit and the existing
34 balance of each item of such unclaimed moneys and shall also
35 mail a notice of the intention of the county governing body to
36 cause these unclaimed funds to be paid to the county treasurer,
37 pursuant to the provisions of this act, addressed to any person
38 having an interest in the unclaimed funds at the person's last
39 known address.

40 4. (New section) After notice has been given pursuant to
41 section 3 of this act, the county governing body shall bring an
42 action in the Superior Court to obtain an adjudication that the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 surrogate or county clerk having custody of the unclaimed funds
2 pay the amounts thereof to the treasurer of the county for the
3 use of the county in accordance with the provisions of this act.
4 The court may proceed in the action in a summary manner or
5 otherwise, and all persons having any interest in the unclaimed
6 funds shall be joined as defendants.

7 5. (New section) The process and complaint in an action
8 brought pursuant to this act may be served by posting a copy
9 thereof for at least thirty days before any further proceedings in
10 the action, in each of the following places: the office of the
11 clerk of the court in which the action is instituted and the offices
12 of the county clerk and the surrogate of the county. This posting
13 shall be deemed to be notice to all interested persons.

14 6. (New section) The court shall hear all persons making claim
15 to any unclaimed funds and if it shall be determined that any
16 claimant is entitled to any unclaimed funds the court shall order
17 payment made to the claimant. The court, upon being satisfied
18 that any of the unclaimed funds described in the complaint have
19 remained unclaimed for a period of ten years, shall order such
20 unclaimed moneys paid to the county treasurer for the use of the
21 county, in accordance with the provisions of this act.

22 7. (New section) At any time after any unclaimed funds shall
23 have been paid to any county treasurer, any person claiming an
24 interest in and a right to any unclaimed funds or any part thereof
25 may bring an action in the Superior Court to obtain payment by
26 the county treasurer of such amount as the court shall determine
27 the claimant is entitled to, which in no case shall include interest
28 on such deposit from the date of payment to the county
29 treasurer. The court may proceed in the action in a summary
30 manner or otherwise and shall order the county treasurer to pay
31 the amount to the claimant. The county treasurer, upon receipt
32 of a certified copy of the judgment or order in the action, shall
33 be authorized and required to pay the amount directed from any
34 available funds and if there are no available funds the county
35 treasurer shall report the fact to the county governing body and
36 an appropriate item for the payment thereof shall be included in
37 the next annual county budget.

38 8. (New section) A surrogate or county clerk who in good faith
39 delivers unclaimed funds to a county treasurer pursuant to the
40 provisions of this act is relieved of all liability for any claim then
41 existing or which thereafter may arise or be made in respect to
42 the funds.

43 9. (New section) The provisions of sections 1 through 8 of this
44 act shall apply to:

45 (a) any funds held by a surrogate or a county clerk on the
46 effective date of this act; and

47 (b) any funds deposited with a surrogate or a county clerk
48 between April 14, 1989 and the effective date of this act; and

49 (c) any funds turned over to the State of New Jersey by a
50 surrogate or county clerk between April 14, 1989 and the
51 effective date of this act; and

52 (d) any funds turned over to a county treasurer by a surrogate
53 or county clerk between April 14, 1989 and the effective date of
54 this act.

1 10. R.S.46:30B-41 is amended to read as follows:

2 46:30B-41. Presumption of abandonment: Superior Court and
3 surrogate. Intangible property deposited or paid into the Superior
4 Court [or to the surrogate of any county in this State] to the
5 credit of a specific cause or account under the provisions of any
6 law, order, rule, judgment, or decree and remaining unclaimed for
7 a period of 10 years, shall be presumed abandoned. This section
8 shall not apply to any monies held pursuant to a court order by
9 the surrogate of a county as a settlement for the benefit of a
10 minor or as money due under a will or an administration to a
11 known but unlocatable heir.

12 (cf: P.L.1989, c.58, s.1)

13 11. R.S.46:30B-41.2 is amended to read as follows:

14 46:30B-41.2. Presumption of abandonment: governmental
15 entity. Except as otherwise provided in this article, any
16 intangible property held by the executive, legislative, or judicial
17 branch of the United States Government, or a state, or a county
18 or municipal subdivision of a state, or any of their authorities,
19 agencies, instrumentalities, administrations, services or other
20 organizations, and remaining unclaimed for more than one year
21 after it became payable or distributable is presumed abandoned.
22 This section shall not apply to monies held pursuant to a court
23 order by a county clerk as bail money.

24 (cf: P.L.1989, c.58, s.1)

25 12. R.S.46:30B-41.1 is repealed.

26 13. This act shall take effect immediately.

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STATEMENT

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31 In Halpin v. Treasurer (decided July 31, 1991), the Superior
32 Court ruled that the provisions of New Jersey's Uniform
33 Unclaimed Property Act (N.J.S.A. 46:30B-109 et seq.) require
34 that certain unclaimed funds held by county clerks and surrogates
35 be delivered to the State Treasurer. The disputed funds in that
36 case were unclaimed monies held by a surrogate as a settlement
37 under a will or administration when the heir is known but
38 unlocatable and unclaimed bail monies held by a county clerk.
39 Prior to the enactment of U.U.P.A. in 1989, if these funds were
40 unclaimed for a period of ten years, a county could institute
41 proceedings to have these funds delivered to the county
42 treasurer. This bill would reestablish that settlement monies held
43 by surrogates and bail monies held by county clerks would become
44 available for use by the counties if those monies remain
45 unclaimed for ten years.

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49 Provides that certain unclaimed funds shall be retained by the
50 counties.

SENATE JUDICIARY COMMITTEE
STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 48
STATE OF NEW JERSEY

DATED: FEBRUARY 24, 1992

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill No. 48.

In Halpin v. Treasurer (decided July 31, 1991), the Superior Court ruled that the provisions of New Jersey's Uniform Property Act (N.J.S.A.46:30B-1 et seq.) require that certain unclaimed funds held by county clerks and surrogates be reported to the State Treasurer. The disputed funds in that case were unclaimed monies held by a surrogate as a settlement under a will or administration when the heir is known but unlocatable and unclaimed bail monies held by a county clerk. Prior to the enactment of U.U.P.A. in 1989, if these funds were unclaimed for a period of ten years, a county could institute proceedings to have these funds delivered to the county treasurer. This bill would establish a procedure under which unclaimed funds held by county clerks and surrogates would be deposited in a separate account to be known as the "Unclaimed County Deposits Trust Funds". Each year within 45 days of the deposit by the counties of funds into this account, 75% of the funds deposited would be returned to the counties. The remaining funds would be retained by the State Treasurer and used to pay claims.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 48

STATE OF NEW JERSEY

DATED: OCTOBER 8, 1992

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 48 SCS.

Senate Bill No. 48 SCS of 1992 establishes a procedure under which unclaimed funds held by county clerks and surrogates would be deposited into a single separate State account to be known as the Unclaimed County Deposits Trust Fund. Within 45 days of the deposit by the counties of funds into this account, 75 percent of the funds deposited would be returned to the counties. The remaining funds would be retained by the State Treasurer and used to pay claims.

In Halpin v. Treasurer (decided July 31, 1991), the Superior Court ruled that the provisions of New Jersey's Uniform Unclaimed Property Act (U.U.P.A.) (R.S.46:30B-1 et seq.) require that certain unclaimed funds held by county clerks and surrogates be reported to the State Treasurer. The disputed funds in that case were unclaimed monies held by a surrogate as a settlement under a will or administration when the heir is known but unlocatable and unclaimed bail monies held by a county clerk. Prior to the enactment of U.U.P.A. in 1989, if these funds were unclaimed for a period of ten years, a county could institute proceedings to have these funds delivered to the county treasurer. This bill would establish a procedure under which unclaimed funds held by county clerks and surrogates would be deposited in a separate account to be known as the "Unclaimed County Deposits Trust Funds". Each year within 45 days of the deposit by the counties of funds into this account, 75% of the funds deposited would be returned to the counties. The remaining funds would be retained by the State Treasurer and used to pay claims.

FISCAL IMPACT

The Director of the Division of Taxation in the Department of the Treasury estimates that approximately \$4.5 million is anticipated from these custodial funds. Approximately \$3.4 million, or 75 percent of these funds, would be returned to the counties annually. Since these funds are custodial in nature, they do not represent true revenue dollars to the State. The balance of the funds, or approximately \$1.1 million, would be held in a separate fund to pay claims for unclaimed property to verified owners. The department further notes that the counties are retaining \$7.0 million which they owe to the State for unclaimed funds back to April 14, 1989. Under the provisions of this bill, 75 percent, or approximately \$5.3 million, would be returned to counties and 25 percent would be held in trust by the State for claims.

The Office of Legislative Services concurs.

FISCAL NOTE TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 48

STATE OF NEW JERSEY

DATED: August 7, 1992

Senate Bill No. 48 SCS of 1992 establishes a procedure under which unclaimed funds held by county clerks and surrogates would be deposited into a single separate State account to be known as the Unclaimed County Deposits Trust Fund. Each year within 45 days of the deposit by the counties of funds into this account, 75 percent of the funds deposited would be returned to the counties. The remaining funds would be retained by the State Treasurer and used to pay claims.

The Director of the Division of Taxation in the Department of the Treasury estimates that approximately \$4.5 million is anticipated from these custodial funds. Approximately \$3.4 million, or 75 percent of these funds, would be returned to the counties annually. Since these funds are custodial in nature, they do not represent true revenue dollars to the State. The balance of the funds, or approximately \$1.1 million, would be held in a separate fund to pay claims for unclaimed property to verified owners. The department further notes that the counties are retaining \$7.0 million which they owe to the State for unclaimed funds back to April 14, 1989. Under the provisions of this bill, 75 percent, or approximately \$5.3 million, would be returned to counties and 25 percent would be held in trust by the State for claims.

The Office of Legislative Services concurs.

This fiscal note has been prepared pursuant to P.L.1980, c.67.