

HOUSE BILL No. 2687

AN ACT concerning the distribution of unclaimed property act; relating to hearings; amending K.S.A. 58-3963 and 58-3967 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 58-3963 is hereby amended to read as follows: 58-3963. (a) 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 act.

(b) The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the provisions of this act. The provisions of this section shall not apply to any supervised commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company which provides a letter from an independent certified public accountant or a resolution of its board of directors certifying compliance with this act, unless there is notification of noncompliance by a supervising agency of such commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company.

(c) If a person is treated under K.S.A. ~~58-3945~~ 58-3935, and amendments thereto, as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection (b), may examine the records of the person if the administrator has given the notice required by subsection (b) to both the person and the business association at least 90 days before the examination.

(d) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this act, the administrator may assess the cost of the examination against the holder based upon the actual hourly salary rate for each examiner involved in the examination inclusive of travel to and from the place of the examination along with necessary and actual expenses for travel and subsistence as allowed under K.S.A. 75-3201 et seq., and amendments thereto, along with any consulting, data processing or other related expenses necessary to perform the examination. In no case may the examination charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to subsection (c) may be imposed only against the business association.

(e) If a holder fails after the effective date of this act to maintain the records required by K.S.A. 58-3964, and amendments thereto, and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay such amounts as may reasonably be estimated from any available records.

(f) *If there is a dispute in the results of the examination of the records regarding the disclosure of property reportable and deliverable pursuant to this act, the administrator may hold a hearing on the audit results in accordance with the provisions of the Kansas administrative procedure act. The presiding officer for the hearing shall be appointed by the office of administrative hearings pursuant to K.S.A. 77-561 et seq., and amendments thereto. Any decisions resulting from such hearings shall be public record.*

Sec. 2. K.S.A. 58-3967 is hereby amended to read as follows: 58-3967.

(a) A person who willfully fails to present a report to the administrator when due or to perform any other duty required by this act, other than payment or delivery of unclaimed property as required by this act, shall pay a civil penalty of \$100 for each day the report is not presented or the duty is not performed, except the total civil penalty shall not exceed \$5,000.

(b) A person who willfully fails to send written notice as required in K.S.A. 58-3950, and amendments thereto, shall pay a civil penalty not to exceed \$5 for each failure to send written notice to an apparent owner.

(c) A person who willfully fails to pay or deliver to the administrator any unclaimed property as required by this act shall pay a civil penalty equal to 25% of the value of the property that should have been paid or delivered.

(d) A person who fails to pay or deliver unclaimed property to the administrator within the time period required by this act shall pay to the administrator interest at the annual rate of 10% above the annual rate of

discount, in effect on the date the property should have been paid or delivered, for the most recent issue of ~~fifty-two week~~ *52-week* United States treasury bills, calculated upon the value of the unclaimed property from the date that property should have been paid or delivered. If the property remains unpaid or undelivered for more than one year after becoming payable or deliverable, the interest rate for each succeeding year shall be calculated at an annual rate of 10% above the discount rate on each succeeding anniversary of the date that the unclaimed property was payable or distributable. For the purposes of assessing and calculating the penalties and interest on unclaimed property that was discovered during an examination or audit and that was not paid or distributed, as required, the date upon which the unclaimed property should have been paid or delivered shall be used as the date upon or from which penalties and interest are assessed and calculated.

~~(e) A person who willfully refuses after written demand by the administrator to pay or deliver property to the administrator as required under this act is guilty of a class B misdemeanor.~~

~~(f)~~ The administrator shall have discretion to waive or reduce the payment of penalties and interest in an appropriate circumstance.

Sec. 3. K.S.A. 58-3963 and 58-3967 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

\_\_\_\_\_  
HOUSE concurred in  
SENATE amendments \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*