
LEGISLATURE OF PENNSYLVANIA.

FILE OF THE HOUSE OF REPRESENTATIVES.

No. 924 Session of 1919.

INTRODUCED BY MR. DAWSON, MARCH 17, 1919.

REFERRED TO COMMITTEE ON WAYS AND MEANS,
MARCH 17, 1919.

AN ACT

Providing for and regulating the payment into the State Treasury without escheat of certain unclaimed moneys in the hands of depositories fiduciaries prothonotaries and clerks of orphans' courts defining the terms "depositories" and "fiduciaries" as used in the act providing for the refund of such moneys with interest thereon when claimed by persons entitled thereto making an appropriation for such refunds and imposing penalties

1 Section 1 *Be it enacted by the Senate and House of Repre-*
2 *sentatives of the Commonwealth of Pennsylvania in General Assembly*
3 *met and it is hereby enacted by the authority of the same That*
4 the term "depository" as used in this act shall include
5 every person firm co-partnership association limited partner-
6 ship association bank national bank trust company or
7 corporation whatsoever engaged in the business in Penn-
8 sylvania of receiving money on deposit except saving funds
9 savings institutions or savings banks subject to the pro-

1 visions of an act entitled "An act relating to unclaimed
2 deposits in savings banks and transfer of stock" approved
3 the seventeenth day of April one thousand eight hundred
4 seventy-two (Pamphlet Laws page sixty-two)

5 The term "fiduciary" as used in this act shall in-
6 clude every receiver executor administrator guardian com-
7 mittee trustee assignee and all other persons associations
8 or corporations acting in any fiduciary capacity whatsoever
9 subject to the jurisdiction of any court of any county
10 in this Commonwealth

11 The words "deposits" "money" and "moneys" as used
12 in this act shall include profits accretions and interest
13 thereon as well as interest thereon accrued or which
14 should have accrued between the fixing of the amount of
15 such property money or estate by the award of any
16 court and the actual distribution thereof or at any other
17 time

18 The term "he" as used in this act shall mean he
19 she it or they The term "his" as used in this act
20 shall mean his hers its or theirs and the term "him"
21 as used in this act shall mean him her it or them
22 according to whether the fiduciary is a male or female
23 a corporation or association or two or more individuals

24 Section 2 It shall be the duty of every depository
25 to annually ascertain in the month of November what
26 if any deposits of money made with him have remained
27 neither increased nor decreased for a period of fourteen
28 years next preceding the first day of said month or on
29 which no interest shall have been credited in the pass

1 book of certificate of deposit of the depositor at his
2 request during the said period Upon the ascertainment of
3 such deposits the depository shall if possible communicate
4 with the depositors thereof or their legal representatives
5 and request them to either increase or decrease their
6 said deposits or to submit their pass books or certifi-
7 cates of deposit to the depository for the purpose of
8 having interest on such deposits credited thereupon which
9 interest it shall be the duty of the depository to so
10 credit

11 It shall be the further duty of each depository to
12 annually report under oath to the Auditor General in
13 the following month of January all such deposits which
14 shall remain on the first day of said month neither in-
15 creased nor decreased or on which interest shall not have
16 been credited in the manner hereinbefore required but
17 such deposits which have theretofore been reported to the
18 Auditor General by the depository under the provisions of
19 any act of the General Assembly shall not be again re-
20 ported

21 Section 3 It shall be the duty of every fiduciary
22 to make a report to the Auditor General in the month
23 of January in each year of all moneys or other estate held
24 by him under a non-active trust due and payable to the
25 beneficiaries under such trust which beneficial owners or
26 their whereabouts or that of their legal representatives
27 have been unknown for the period of seven years next
28 preceding the first day of said month

29 Section 4 Every prothonotary of a court of common

1 pleas and every clerk of an orphans' court shall annually
2 make a report under oath to the Auditor General in
3 the month of January in each year of any estate or
4 effects which shall have been paid into and deposited in
5 the court of which he is an officer or shall be in the
6 custody of any depositary receiver or other officer of said
7 court the rightful owner or owners of which estate or
8 effects have been unknown or the whereabouts of such
9 owner or owners or that of his or their legal repre-
10 sentatives shall have been unknown for the period of
11 seven or more successive years next preceding the first
12 day of said month

13 Section 5 Such reports shall show the names and
14 last known addresses of depositors and beneficiaries to
15 whom moneys are due and payable and the amounts due
16 thereto respectively shall be in the form prescribed by
17 the Auditor General and be verified by the affidavits of
18 the persons making the same and in the case of a
19 corporation or other person not a natural person shall
20 be made and verified by affidavit of the treasurer thereof
21 or chief financial officer if there be no treasurer said
22 affidavit to declare that the report is true and contains
23 all the facts required by law to be reported

24 Section 6 The Auditor General shall prepare and keep
25 an alphabetical index of the names of all persons which
26 shall appear upon such reports which index shall contain
27 a reference to the reports from which said names are
28 derived and the Auditor General shall open said index
29 and reports to public inspection and shall furnish a search

1 of said index when requested upon payment of a fee of
2 twenty-five cents and ten cents additional for each item
3 shown by the search for the use of the Commonwealth

4 Section 7 When any moneys shall be reported to the
5 Auditor General under the provisions of this act he shall
6 notify the person entitled thereto of such fact by mail
7 so far as possible and shall publish once a week for
8 two successive weeks during the month of July in each
9 year in one or more general newspapers having the largest
10 circulation published in the city or county in which such
11 depositories fiduciaries prothonotaries or clerks of orphans'
12 courts may be located respectively a true and accurate
13 statement containing the name addresses and amount of
14 money belonging to such persons or for whose benefit the
15 same is held He shall also give a similar notice of
16 and similarly advertise any moneys returned to him as
17 escheatable under the provisions of any act of the Gen-
18 eral Assembly which may have been declared unconstitu-
19 tional which moneys are payable into the State treasury
20 under the provisions of this act

21 The Auditor General if he deems it to the best in-
22 terests of the Commonwealth may make such publication in
23 a legal periodical designated by rules of court for the
24 publication of legal notices in addition to publication in
25 a general newspaper

26 This section does not require the publication by the
27 Auditor General of any item containing the name address
28 and amount of money belonging to any person where the
29 amount involved is less than ten dollars but publication

1 of any such item may be made when the Auditor Gen-
2 eral deems such publication for the best interests of the
3 Commonwealth

4 The publication required by this section shall not be
5 considered a condition precedent to the institution of pro-
6 ceedings to procure the payment of said moneys into the
7 State Treasury as provided by this act

8 Section 7. When notice shall have been given to the
9 owners of moneys returnable under the provisions of this
10 act and advertisement made as hereinbefore required the
11 Attorney General shall at the suggestion of the Auditor
12 General apply by petition to the proper court for an
13 order upon the depositary fiduciary prothonotary or clerk
14 of orphans' court directing the payment of such moneys
15 into the State Treasury

16 If said moneys are held by a fiduciary the said ap-
17 plication shall be made to the court having jurisdiction
18 of his accounts If the said moneys are held by a pro-
19 thonotary or clerk of an orphans' court then the applica-
20 tion shall be made to the court of which he is an
21 officer In all other cases the application shall be made
22 to the court of common pleas of the county in which
23 the person holding or possessed of such items has his
24 residence or the depositary prothonotary or clerk of or-
25 phans' court possessed of such items has his principal
26 office

27 Thereupon the Attorney General shall file a petition for
28 said order in the proper court and serve a copy thereof upon
29 the depositary fiduciary prothonotary or clerk of orphans' court

1 holding or possessed of such items whereupon the court shall
2 on proof of the service of the copy as aforesaid set
3 a day for the hearing of the cause and direct notice
4 thereof to be given to said depository fiduciary prothono-
5 tary or clerk of orphans' court If at said hearing it
6 shall appear to the said court that since the reporting
7 of or the ascertainment of said items by the Auditor
8 General any such items have been claimed by persons
9 lawfully entitled thereto or any other items are so
10 claimed at said hearing or that any of said items were
11 not properly subject be reported under the provisions of
12 this act the court shall order said items or the amounts
13 thereof to be delivered or paid to said claimants or to
14 remain in the possession of the depository fiduciary pro-
15 thonotary or clerk of orphans' court as the facts shall
16 warrant and shall order the amounts of all items not
17 so claimed to be paid into the State Treasury to the
18 credit of the Commonwealth

19 Upon the payment of the amounts of such items or
20 the proceeds thereof into the State Treasury in compliance
21 with said order the said depository fiduciary prothonotary
22 or clerk of orphans' court shall be relieved from all
23 liability for the amounts so paid

24 Section 8 The owner or person entitled to the pos-
25 session of any such moneys so paid into the State
26 Treasury or his legal representatives may at any time
27 apply to the State Treasurer for a refund of the same
28 and upon his making proof of his ownership or right
29 of possession to the satisfaction of the State Treasurer

1 Auditor General and Attorney General constituting the
2 Board of Public Accounts such moneys shall be paid him
3 on the requisition of said board and the warrant of the
4 Auditor General drawn on the State Treasury in con-
5 formity therewith out of any moneys in the State Treas-
6 ury not otherwise appropriated with interest thereon at
7 the rate of two per centum per annum from the date
8 when said moneys were paid into the State Treasury to
9 the date of the refund thereof and an appropriation
10 sufficient to make such refunds is hereby made

11 Any claimant for any such refund may appeal by
12 petition to the court of common pleas of Dauphin county
13 from an adverse decision of said board which court shall
14 thereupon hear such testimony as may be offered in
15 support of the claim and determine whether or not the
16 claimant is entitled to any refund and if so the amount
17 thereof If the court find that he is so entitled it
18 shall report its finding to the said board and order the
19 making of a refund of the proper amount Thereupon the
20 refund shall be made in the manner hereinbefore provided
21 with interest as aforesaid No such appeal shall be en-
22 tertained however unless the claimant shall file with his
23 petition an affidavit that all the proof which he proposes
24 to offer in support of his claim had been presented to
25 the said Board of Public Accounts before that board
26 acted adversely upon his claim

27 Section 9 Any depositary fiduciary prothonotary or
28 clerk of court who shall fail to make a report to the
29 Auditor General when and as required by the provisions

1 of this act or who shall knowingly fail to insert any
2 item which should have been contained in his report
3 shall be subject to a penalty of five hundred (\$500)
4 dollars to be recovered in an action of assumpsit by
5 the Attorney General to the use of the Commonwealth
6 but if the fiduciary or depository be other than a
7 natural person then the treasurer or chief financial officer
8 thereof so failing to report shall be subject to said
9 penalty

10 The making of a wilful false oath in any report
11 required by this act shall be perjury and punishable as
12 such according to law

13 Section 10 Every person liable to make such report
14 shall permit the Auditor General or any deputy clerk
15 accountant or attorney designated by him for that pur-
16 pose to inspect the records books and papers of such
17 person relating to the subject-matter of this act and when
18 required by the Auditor General by subpoena signed by
19 him designating a certain time and place any person
20 whether liable to make such report or not shall attend
21 as a witness before him or any deputy clerk accountant
22 or attorney designated by him for that purpose with such
23 records books and papers as the Auditor General may
24 require and shall answer such questions as may then be
25 put to him concerning the subject-matter of this act and
26 permit full inspection of such records books and papers
27 Any person who shall neglect or refuse to attend and
28 testify or to answer any lawful question or to produce or
29 permit the inspection of books papers and records if in

1 his power to do so in obedience to such subpoena shall
2 be guilty of a misdemeanor and upon conviction thereof
3 shall be punished by a fine not exceeding ten thousand
4 dollars or imprisonment not exceeding one year either or
5 both in the discretion of the court

6 Section 11 No person shall be excused from answer-
7 ing or from attending and testifying or from producing
8 books papers and records in any proceeding under the
9 provisions of this act or in any proceeding criminal or
10 otherwise relating to the subject-matter of this act for
11 the reason that the answer or testimony or evidence
12 documentary or otherwise required of him may tend to
13 criminate him or subject him to a penalty or forfeiture
14 but no person shall be prosecuted or subjected to any
15 penalty or forfeiture for or on account of any transac-
16 tion matter or thing concerning which he may answer or
17 testify or produce evidence documentary or otherwise in
18 any such proceedings Provided That no person so testify-
19 ing shall be exempt from prosecution and punishment for
20 perjury committed in so testifying

21 Section 12 No fee or reward shall be paid to any
22 person which shall result in the payment of moneys into
23 the State Treasury under the provisions of this act

24 Section 13 All acts and parts of acts supplied by
25 or inconsistent with the terms of this act be and the
26 same are hereby repealed—particularly the following

27 An act entitled "An act requiring banks and other
28 corporations to give notice of unclaimed dividends deposits
29 and balances in certain cases" approved March six one

1 thousand eight hundred and forty-seven (Pamphlet Laws
2 two hundred and twenty-two)

3 Section fifty-two of an act entitled "An act regulating
4 banks" approved April sixteen one thousand eight hundred
5 and fifty (Pamphlet Laws four hundred seventy-seven)

6 An act entitled "An act relating to the return of
7 moneys escheated to the Commonwealth" approved June
8 four one thousand eight hundred and eighty-five (Pam-
9 phlet Laws seventy-three)

10 An act entitled "An act to amend the first section
11 of an act entitled 'An act relating to the return of
12 moneys escheated to the Commonwealth' approved the fourth
13 day of June Anno Domini one thousand eight hundred
14 and eighty-five extending the same to certain other cases
15 of escheat" approved June twenty-five one thousand eight
16 hundred and ninety-five (Pamphlet Laws two hundred
17 eighty-three)