

No. 1982-248

AN ACT

HB 1649

Amending the act of April 9, 1929 (P.L.343, No.176), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," further providing for the powers and duties of the Board of Finance and Revenue, clarifying certain language, making repeals and making technical changes and providing for the disposition of abandoned and unclaimed property.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 503, act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," is amended by adding a subsection to read:

Section 503. Refunds of State Taxes, License Fees, Et Cetera.—The Board of Finance and Revenue shall have the power, and its duty shall be,

* * *

(i) Notwithstanding any provisions to the contrary, the Board of Finance and Revenue shall not be required to make any refund which the Department of Revenue is empowered to make under section 1108.

Section 2. Section 806 of the act, amended April 8, 1982 (P.L.258, No.78), is amended to read:

Section 806. Interest on Taxes Due the Commonwealth.—All taxes due the Commonwealth[, as provided by law] shall bear *simple* interest [at the rate established by law upon] *from* the date they become due and payable until paid. [From and after the effective date hereof, all such taxes which become due and payable shall bear] *The* interest [at the] rate *per annum during each calendar year shall be the interest rate* established by the Secretary of the Treasury of the United States under the provi-

sions of [section 6621 of] the Internal Revenue Code [as amended by section 711 of the Economic Recovery Tax Act of 1981 per annum from the date they are due and payable until paid: **Provided, That no**] of 1954, effective January 1 of such calendar year without regard to any change or changes in said Federal interest rate during such calendar year. No penalties shall bear any interest whatsoever. The payment of interest, as aforesaid, shall not relieve any person[, association, or corporation,] from any of the penalties, commissions or additional tax prescribed by law for neglect or refusal to furnish timely returns or reports to the Department of Revenue, or to pay any claim due to the Commonwealth from such person[, association, or corporation]. The Secretary of Revenue shall[, from time to time,] publish the rate of interest [and the commencement date thereof] for each calendar year in the Pennsylvania Bulletin. In the case of any tentative tax, *estimated tax* or installment payment, interest shall run on any unpaid amount from the last day the payment is due to the date paid. *In the case of tax which is resettled as a result of a final change or correction of taxable income by the Commissioner of Internal Revenue or any other agency or court of the United States, interest shall be computed on any additional tax due from thirty (30) days after the corporation receives notice of such final change or correction until paid.*

Whenever the tax liability of a [taxpayer] person is so affected by any payment or credit, settlement or resettlement, assessment or reassessment or determination or redetermination as to change the interest liability of such [taxpayer] person, such interest liability shall be recomputed and adjusted by the Department of Revenue and *approved by the Department of the Auditor General in cases in which said latter department is required to approve settlements and resettlements*, so as to correspond to the tax liability as changed, without the necessity for the filing of any petition or request by [the taxpayer] such person or by said departments.

Section 3. Section 806.1 of the act, added April 8, 1982 (P.L.258, No.78), is amended to read:

Section 806.1. Interest on Overpayments.—(a) [Interest] “*Overpayment*” shall mean any payment of tax which is determined in the manner provided by law not to be legally due. Simple interest shall be allowed and paid by the Commonwealth upon any overpayment to the Commonwealth of any tax. The interest shall be allowed and paid for the period during which the Commonwealth retained the overpayment, beginning with the date of the overpayment, except that:

(1) Any tax actually deducted and withheld at the source shall be deemed to have been overpaid on the last day prescribed for filing the return or report for the taxable year (determined without regard to any extension of time for filing){;};

(2) Any amount overpaid as estimated [or] tax, tentative tax or installment payment for a taxable year shall be deemed to have been overpaid on the last day prescribed for filing the final return or report for

the taxable year (determined without regard to any extension of time for filing);**l**.

(3) Any overpayment made before the last day prescribed for payment shall be considered made on the last day; **and**].

(4) Any amount claimed to be overpaid with respect to which an administrative review or appellate procedure is initiated in the manner provided by law by the taxpayer shall be deemed to have been overpaid sixty (60) days following the date of initiation of said review or procedure.

(5) If any overpayment of tax is refunded or credited within six (6) months after the last date prescribed for filing the final return or report of the tax (determined without regard to any extension of time for filing) or, in case the final return or report is filed after the last day, and is refunded or credited within six (6) months after the date the final return or report is filed, no interest shall be allowed on the overpayment.

(6) Any tax paid to an officer, licensee or collector shall be deemed to have been overpaid no earlier than the first date that the tax is required by law to be reported and transmitted to the department by the officer, licensee or collector.

(7) No overpayment of interest or penalty shall bear any interest whatsoever.

(b) Interest *on overpayments* shall be **[computed at a] allowed and paid at the same rate [which is equal to the rate of interest imposed by the Commonwealth on underpayments of the same tax for the same period during which the Commonwealth retained the overpayment] as is prescribed for underpayments under section 806.**

(c) Interest *on overpayments* shall be allowed and paid as follows:

(1) In the case of a cash refund, from the date of the overpayment to a date preceding the date of the Commonwealth's refund check by not more than thirty (30) days.

(2) In the case of a credit for an overpayment, from the date of the overpayment to:

(i) The date of the Commonwealth's notice to the taxpayer of the final determination of the credit; or

(ii) The date as of which the credit is applied, whichever first occurs: Provided, however, That in the case of a cash refund of a previously determined credit, interest shall be allowed and paid on the amount of the credit from a date ninety (90) days after the filing of a petition for a cash refund to a date preceding the date of the refund check by not more than thirty (30) days whether or not the refund check is accepted by the taxpayer after tender to the taxpayer.

(3) The taxpayer's acceptance of the Commonwealth's check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check shall be deemed acceptance thereof for the purposes of this section.

Section 4. Section 1108 of the act, amended April 8, 1982 (P.L.258, No.78), is amended to read:

Section 1108. **Payment [of Accounts] or Credit; Effect Upon Right of Resettlement, Review, and Appeal.**—(a) Any person, [association, corporation,] public officer, or other debtor who [or which] is required to make to the Department of Revenue a return or report upon the basis of which any tax, or other charge is or will be settled, determined or assessed, shall have the right at any time, to pay to the Department of Revenue all or any part of the amount of any tax, penalty, additional tax, or other charge due or deemed by him[, it, or them] to be due, with interest, if any, as is then due and payable for the purpose of stopping the running of further interest thereon, without prejudice to his[, its, or their] right to present and prosecute a petition for review, resettlement, reassessment or redetermination to the Department of Revenue, a petition [for review] to the Board of Finance and Revenue, [a petition for credit or refund,] or an appeal to [the Commonwealth Court of Pennsylvania,] a court of competent jurisdiction, in the manner and within the times provided by law.

(b) (1) Whenever the [principal] amount due upon a settlement, assessment, determination[, resettlement, reassessment, or redetermination, or the principal amount determined to be due upon a petition to] or decision by the department, the Board of Finance and Revenue[, or any other department, administrative board, agency or court of competent jurisdiction] is less than the [principal] amount paid to the Department of Revenue[, on account thereof, and the person, [association, corporation,] public officer, or other debtor against whom such settlement, assessment or determination has been made is satisfied therewith, or whenever the [principal] amount[, due upon the final judgment entered on any appeal,] is less than the [principal] amount paid to the Department of Revenue on account thereof, the Department of Revenue shall enter a credit in the amount of such difference to the account of [such] the person, [association, corporation,] public officer, or other debtor entitled thereto.

[Such] (2) The credit may be applied by the Commonwealth or used by the person, [association, corporation,] public officer, or other debtor[, to whose account it is entered,] in payment of any tax or other claim which may be or become due from him[, it, or them,] to the Commonwealth; and if all such charges].

(3) If all obligations due the Commonwealth have been fully paid, any [remaining] credit may be assigned by the person, public officer or other debtor to whose account it is entered to any other person, [association, corporation,] public officer, or [other] debtor, and [such] the assignee may use it in payment of any [such] obligation [to] due the Commonwealth [or the remaining].

(4) If all obligations due the Commonwealth have been fully paid, any credit shall be refunded in cash by the Department of Revenue upon application of the person, [association, corporation,] public officer or other [person] debtor entitled thereto.

(5) The Department of Revenue is authorized to prescribe regulations providing for the payment of refunds. So much of the proceeds of the various taxes, as shall be necessary for the payment of refunds out of the general or special funds shall be authorized by the Governor.

Section 5. The act is amended by adding an article to read:

ARTICLE XIII.1
DISPOSITION OF ABANDONED AND UNCLAIMED
PROPERTY

Section 1301.1. Definitions.—As used in this article, unless the context otherwise requires:

“Business association” shall include any corporation (other than a public corporation), joint stock company, business trust, partnership or any association of two (2) or more individuals for business purposes, whether organized or operated under State or Federal law.

“Financial institution” shall include a bank, a private bank, a bank and trust company, a savings association, a savings bank, a trust company, a savings and loan association, a building and loan association, a credit union and any issuer of travelers checks, money orders or similar monetary obligations or commitments, whether organized or operated under State or Federal law.

“Holder” shall include any person in possession of property subject to this article belonging to another, or who is a trustee in case of a trust, or is indebted to another on an obligation subject to this article or any financial institution which has paid amounts and sums to the secretary under subsection (c) of section 1301.13 of this article.

“Insurer” shall include any person authorized to conduct an insurance business under the laws of this Commonwealth or under the laws of any other jurisdiction.

“Owner” shall include a depositor in case of a deposit, a creditor, claimant or payee in case of other choses in action, or any other person having a legal or equitable interest in property subject to this article, or his legal representative.

“Person” shall include any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest or any other legal or commercial entity.

“Property” shall include all real and personal property, tangible or intangible, all legal and equitable interests therein, together with any income, accretions or profits thereof and thereon, and all other rights to property, subject to all legal demands on the same.

“Secretary” shall mean the Secretary of Revenue of the Commonwealth of Pennsylvania.

“Utility” shall include any person who owns or operates, for public use, any plant, equipment, property, franchise or license for the transmission of communications, or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas.

Section 1301.2. Abandoned and Unclaimed Property Subject to Custody and Control of the Commonwealth.—(a) All abandoned and unclaimed property as hereafter set forth is subject to the custody and control of the Commonwealth:

1. If it is tangible and physically located within the Commonwealth;
or

2. If it is intangible, and (i) the last known address of the owner, as shown by the records of the holder, is within the Commonwealth; or (ii) the last known address of the owner as shown by the records of the holder is within a jurisdiction, the laws of which do not provide for the escheat or custodial taking of such property, and the domicile of the holder is within the Commonwealth; or (iii) no address of the owner appears on the records of the holder and the domicile of the holder is within the Commonwealth. Where the records of the holder do not show a last known address of the owner of a travelers check or money order, it shall be presumed that the state in which the travelers check or money order was issued is the state of the last known address of the owner; or (iv) no address of the owner appears on the records of the holder and the domicile of the holder is not within the Commonwealth, but it is proved that the last known address of the owner is in the Commonwealth.

(b) Property is payable or distributable for the purpose of this article notwithstanding the owner's failure to make demand or to present any instrument or document otherwise required to receive payment.

Section 1301.3. Property Held by Financial Institutions.—The following property held or owing by a financial institution is presumed abandoned and unclaimed:

1. Any demand, saving or matured time deposit in a financial institution, or any funds paid toward the purchase of shares or other interest in a savings association, savings and loan or building and loan association, excluding any charges that may lawfully be withheld, unless within the preceding seven (7) years the owner has:

(i) Increased the amount of the deposit, shares or claim, otherwise than by the crediting of accrued interest, or decreased it, or presented to the holder evidence of the deposit, shares or claim; or

(ii) Corresponded in writing with the holder concerning the deposit, shares or claim; or

(iii) Otherwise indicated an interest in the deposit, shares or claim as evidenced by a writing on file with the holder; or

(iv) Received tax reports or regular statements of the deposits, shares or claim by certified mail or other method of communication that will provide the financial institution with a record that such report or statement was transmitted and received; or

(v) Owned other property held by the financial institution to which subclause (i), (ii), (iii) or (iv) applies.

2. A deposit under clause 1 shall include any interest or dividend which the financial institution would pay to the owner upon claim therefor. The charges which may be excluded hereunder shall not include any

charge due to inactivity imposed, directly or indirectly, after December 31, 1981 unless there is a valid and enforceable written contract between the financial institution and the owner of the deposit pursuant to which the financial institution may impose said charge.

3. *Any sum payable on checks or on written instruments including, but not limited to, drafts, money orders and travelers checks, on which a financial institution is directly liable, and (i) which have been outstanding for more than seven (7) years, or in the case of travelers checks, fifteen (15) years, from the date payable, or from the date of issuance if payable on demand; and (ii) the owner of which has not written to the financial institution concerning it, nor otherwise indicated an interest as evidenced by a writing on file with the financial institution.*

4. *Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository in the Commonwealth on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, if the same has not been claimed by the owner for more than seven (7) years from the date on which the rental period expired.*

Section 1301.4. Property Held by Insurers.—(a) In the case of life insurance, the following property held or owing by an insurer is presumed abandoned and unclaimed:

1. *Any moneys held or owing by an insurer as established by its records under any contract of annuity or policy of life insurance including premiums returnable or dividends payable, unclaimed and unpaid for more than seven (7) years after the moneys have or shall become due and payable under the provisions of such contract of annuity or policy of insurance. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding seven (7) years, (i) assigned, readjusted or paid premiums on the policy, or subjected the policy to loan, or (ii) corresponded in writing with the insurer concerning the policy.*

2. *If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the insurer or if it is not definite and certain from the records of the insurer what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the insurer.*

3. *Moneys otherwise payable according to the records of the insurer are deemed due and payable although the policy or contract has not been surrendered as required.*

(b) In the case of insurance other than life insurance, the following property held or owing by an insurer is presumed abandoned and unclaimed:

1. Any moneys held or owing by an insurer as established by its records under any contract of insurance other than annuity or life insurance, including premiums or deposits returnable or dividends payable to policy or contract holders or other persons entitled thereto, unclaimed and unpaid for more than seven (7) years after the moneys have or shall become due and payable under the provisions of such contracts of insurance.

2. If a person other than the insured, the principal or the claimant is entitled to the funds and no address of such person is known to the insurer or if it is not definite and certain from the records of the insurer what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured, the principal or the claimant according to the records of the insurer.

Section 1301.5. Property Held by Utilities.—The following funds held or owing by any utility are presumed abandoned and unclaimed:

1. Any customer advance, toll, deposit or collateral security or any other property held by any utility if under the terms of an agreement the advance, toll, deposit, collateral security or other property is due to or demandable by the owner and has remained unclaimed for seven (7) years or more from the date when it first became due to or demandable by the owner under the agreement.

2. Any sum which a utility has been ordered to refund, less any lawful deductions, and which has remained unclaimed by the person appearing on the records of the utility entitled thereto for two (2) years or more after the date it became payable in accordance with the final order providing for the refund.

Section 1301.6. Property Held by Business Associations.—The following property held or owing by a business association is presumed abandoned and unclaimed:

1. The consideration paid for a gift certificate which has remained unredeemed for two (2) years or more after its redemption period has expired or for seven (7) years or more from the date of issuance if no redemption period is specified.

2. Any certificate of stock or participating right in a business association, for which a certificate has been issued or is issuable but has not been delivered, whenever the owner thereof has not claimed such property, or corresponded in writing with the business association concerning it, within seven (7) years after the date prescribed for delivery of the property to the owner.

3. Any sum due as a dividend, profit, distribution, payment or distributive share of principal held or owing by a business association, whenever the owner has not claimed such sum or corresponded in writing with the business association concerning it within seven (7) years after the date prescribed for payment or delivery.

4. Any sum due as principal or interest on the business association's bonds or debentures, or coupons attached thereto, whenever the owner

has not claimed such sum or corresponded in writing with the business association concerning it within seven (7) years after the date prescribed for payment.

5. Any sum or certificate or participating right due by a cooperative to a participating patron, whenever the owner has not claimed such property, or corresponded with the cooperative concerning the same within seven (7) years after the date prescribed for payment or delivery.

Section 1301.7. Property Held in the Course of Dissolution of Business Associations, Financial Institutions, Insurers and Utilities.—The following property held in the course of dissolution of a business association, financial institution, insurer or utility is presumed abandoned and unclaimed:

Any property distributable in the course of dissolution of a business association, financial institution, insurer or utility organized under the laws of or created in the Commonwealth, unclaimed by the owner within two (2) years after the date for final distribution.

Section 1301.8. Property Held by Fiduciaries.—The following property held by fiduciaries is presumed abandoned and unclaimed:

All property held in a fiduciary capacity for the benefit of another person, unless the owner within seven (7) years after it has or shall become payable or distributable has increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property or otherwise indicated an interest therein as evidenced by a writing on file with the fiduciary.

Section 1301.9. Property Held by Courts and Public Officers and Agencies.—The following property is presumed abandoned and unclaimed:

1. Except as provided in clause 2, all property held for the owner by any court, public corporation, public authority or instrumentality of the United States, the Commonwealth, or any other state, or by a public officer or political subdivision thereof, unclaimed by the owner for more than seven (7) years from the date it first became demandable or distributable.

2. Bicycles held for the owner by a municipality unclaimed by the owner for more than ninety (90) days from the date it first became demandable or distributable.

3. The bicycles held pursuant to clause 2 may be disposed of by the municipality at public auction at such time and place as may be designated by the municipality or the governing body may, by resolution, donate the bicycles to a charitable organization. Any proceeds from the sale of the bicycles shall be retained by the municipality and used for municipal purposes.

4. Bicycles held by or acquired by the Commonwealth for ninety (90) days may be disposed of at public auction at such time and place as may be designated by the Secretary of Revenue. Proceeds of such sale or sales shall be deposited in the General Fund.

Section 1301.10. Miscellaneous Property Held for or Owing to Another.—*The following property, held or owing to any owner, is presumed abandoned and unclaimed:*

All property, not otherwise covered by this article, that is admitted in writing by the holder and adjudicated to be due, that is held or owing in the ordinary course of the holder's business, and that has remained unclaimed by the owner for more than seven (7) years after it became payable or distributable is presumed abandoned and unclaimed.

Section 1301.11. Report of Property Subject to Custody and Control of the Commonwealth under this Article.—*(a) Every person holding property which became subject to custody and control of the Commonwealth under this article during the preceding year shall report to the secretary as hereinafter provided.*

(b) The report shall be verified and shall include:

1. Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of twenty-five dollars (\$25) or more;

2. 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 twenty-five dollars (\$25) each may be reported in the aggregate;

3. 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

4. Other information which the secretary prescribes by rules or regulations as necessary for administration of this article.

(c) If the person holding property subject to custody and control of the Commonwealth under this article 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 shall be filed on or before April 15 of the year following the year in which the property first became subject to custody and control of the Commonwealth under this article. The secretary may postpone for a period not exceeding six (6) months the reporting date upon written request by any person required to file a report.

(e) 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.

Section 1301.12. Notice and Publication of Lists of Property Subject to Custody and Control of the Commonwealth under this Article.—

(a) Within nine (9) months from the filing of the report required by section 1301.11, the secretary shall cause notice to be published at least once each week for two (2) successive weeks in an English language newspaper of general circulation in the county in which the holder of the

property has his principal place of business in the Commonwealth or, if there is no such place, then at least one time in the Pennsylvania Bulletin.

(b) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned and Unclaimed Property," and shall contain:

1. The names and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified and the name and address of the holder;

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 holder;

3. A statement that a proof of claim should be presented by the owner to the holder within three (3) months from the date of the second published notice, and that thereafter claims should be filed with the secretary.

(c) The secretary is not required to publish in such notice any item of less than one hundred dollars (\$100) unless he deems such publication to be in the public interest.

(d) Within six (6) months from the receipt of the report required by section 1301.11, the secretary shall mail a notice to each person having an address listed who appears to be entitled to property of the value of one hundred dollars (\$100) or more subject to custody and control of the Commonwealth under this article. The mailed notice shall contain:

1. A statement that, according to a report filed with the secretary, property is being held to which the addressee appears entitled;

2. The name and address of the holder of the property and any necessary information regarding changes of name and address of the holder;

3. A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, claims should thereafter be filed with the secretary.

(e) This section is not applicable to sums payable on travelers checks and money orders.

Section 1301.13. Payment or Delivery.—(a) Every person who holds property subject to the custody and control of the Commonwealth shall, within sixty (60) days after receipt of written demand from the secretary and after compliance with section 1301.12, where required, pay or deliver to the secretary all property subject to custody and control of the Commonwealth under this article, except that, if the owner establishes his right to receive the property to the satisfaction of the holder, or if it appears that for some other reason the property is not then subject to custody and control of the Commonwealth under this article, the holder need not pay or deliver the property to the secretary, but in lieu thereof shall file a verified written explanation of the proof of claim or as to the reason the property is not subject to custody and control of the Commonwealth.

(b) A receipt shall be issued, on behalf of the Commonwealth, for all property received under this article.

(c) Notwithstanding subsection (a) of this section, in the case of the deposits and the sums payable under clauses 1 and 3 of section 1301.3 the amount of such deposits and such sums shall be paid to the secretary on or before the final date for filing the report required by section 1301.11.

Section 1301.14. Relief from Liability by Payment or Delivery.— Upon the payment or delivery of the property to the secretary, the Commonwealth shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers property to the secretary under this article is relieved of all liability with respect to the safekeeping of such property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to such property. Any holder who has paid moneys to the secretary pursuant to this article may make payment to any person appearing to such holder to be entitled thereto. In the case of deposits and sums paid to the secretary under subsection (c) of section 1301.13, financial institutions shall make payment to any person appearing to such financial institution to be entitled thereto. Upon proof of such payment by a holder and proof that the payee was entitled thereto, the secretary shall forthwith reimburse the holder for such payment together with interest from the date of receipt of such proofs by the secretary to a date within thirty (30) days of the date of mailing of the reimbursement. Interest under this section shall be at the rate prevailing for tax over payments on the date of receipt of the proofs by the secretary as provided for in section 806 of this act.

Section 1301.15. Income Accruing After Payment or Delivery.— When property is paid or delivered to the secretary under this article, the owner is entitled to receive income or other increments actually received by the secretary.

Section 1301.16. Periods of Limitation.— Except as hereinbelow set forth, the expiration of any period of time specified by statute or court order, during which an action may be commenced or maintained, or could have been commenced or maintained, by the owner against the holder of the property, shall not prevent such property from being subject to the custody and control of the Commonwealth under this article, nor affect the duty to file a report or to pay or deliver the property to the secretary, as required by this article, nor bar any action by the secretary under this article, provided that:

1. If any holder required to file a report under any act in effect prior to the effective date of this article, or under this article, has filed or files a report, no action shall be commenced or maintained against such holder unless it has been or is commenced within fifteen (15) years after such report has been or is filed.

2. If any holder was not required to file a report under any act in effect prior to the effective date hereof, no action shall be commenced or maintained unless it has been or is commenced within fifteen (15) years after the property first became escheatable or payable into the State Treasury without escheat.

Section 1301.17. Sale of Property.—(a) *Within a reasonable time after delivery to him of any property under this article, the secretary shall sell it to the highest bidder at public sale in whatever city in the Commonwealth affords, in his judgment, the most favorable market for the property involved. The secretary may decline the highest bid or reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale, if, in his opinion, the probable cost of sale exceeds the value of the property.*

(b) *If the property is of a type customarily sold on a recognized market or of a type which is subjected to widely distributed standard price quotations, the secretary may sell the property without notice by publication or otherwise. Any sale of other property held under this section shall be preceded by a single publication of notice thereof, at least three (3) weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold.*

(c) *The purchaser at any sale conducted by the secretary pursuant to this article shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The secretary shall execute all documents necessary to complete the transfer of title.*

Section 1301.18. Deposit of Funds.—(a) *All funds received under this article, including the proceeds from the sale of property under section 1301.17, shall forthwith be deposited by the secretary in the General Fund of the Commonwealth, except that the secretary shall retain in a separate trust fund an amount not exceeding twenty-five thousand dollars (\$25,000) plus twenty per centum of deposits and sums paid to the secretary under subsection (c) of section 1301.13 during the preceding twelve (12) months from which he shall make reimbursements under section 1301.14 and prompt payment of claims duly allowed under section 1301.19. Before making the deposit he shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of an insurer, its number, the name of the insurer and the amount due. The record with respect to any specific claim shall be available to the claimant at all regular business hours.*

(b) *Before making any deposit to the credit of the General Fund, the secretary may deduct:*

- (i) *Reasonable costs in connection with sale of the property,*
- (ii) *Reasonable costs of mailing and publication in connection with any property, and*
- (iii) *Reasonable service charges.*

Section 1301.19. Claim for Property Paid or Delivered.—*Any person claiming an interest in any property paid or delivered to the Commonwealth under this article may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the secretary.*

Section 1301.20. Determination of Claims.—(a) *The secretary shall consider any claim filed under this article and may hold a hearing and receive evidence concerning it. 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) *If the claim is allowed, the secretary shall make payment forthwith.*

Section 1301.21. Judicial Action upon Determinations.—*Any person aggrieved by a decision of the secretary, or as to whose claim the secretary has failed to act within ninety (90) days after the filing of the claim, may commence an action in the Commonwealth Court to establish his claim. The proceeding shall be brought within thirty (30) days after the decision of the secretary or within one hundred twenty (120) days from the filing of the claim if the secretary fails to act. The action shall be tried de novo without a jury.*

Section 1301.22. Election to Take Payment or Delivery.—*The secretary may decline to receive any item of property reported which he deems to have a value less than the cost of giving notice and holding sale, in which event the holder thereof is discharged of any liability to the Commonwealth with respect thereto. Unless the holder of the property is notified to the contrary within one hundred twenty (120) days after filing the report required under section 1301.11, the secretary shall be deemed to have elected to receive the custody of the property.*

Section 1301.23. Examination of Records.—*If the secretary has reason to believe that any holder has failed to report property that should have been reported pursuant to this article, the secretary may, at reasonable times and upon reasonable notice, examine the records of such person with respect to such property.*

Section 1301.24. Proceeding to Compel Reporting or Delivery.—(a) *If any person refuses to report or deliver property to the secretary as required under this article, the Commonwealth shall bring an action in a court of appropriate jurisdiction to enforce reporting or delivery. In any such action the Pennsylvania Rules of Civil Procedure shall apply, including without limitation those pertaining to discovery.*

(b) *If any holder fails, without proper cause, (i) to report or (ii) to pay and deliver to the secretary property subject to custody and control of the Commonwealth under this article, such holder shall be liable to pay to the secretary interest at the rate of twelve per centum per annum from the time such report should have been filed, to be computed on the value of such property as established in an action by the secretary under subsection (a), and such interest shall be recoverable in the same action.*

Section 1301.25. Penalties.—(a) *Any person who, without proper cause, fails to render any report or perform other duties required under this article, shall, upon conviction in a summary proceeding be sentenced to pay a fine of ten dollars (\$10) for each day such report is withheld, but not more than one thousand dollars (\$1,000).*

(b) Any person who, without proper cause, refuses to pay or deliver property to the secretary as required under this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisonment for not more than twelve (12) months, or both.

Section 1301.26. Rules and Regulations.—The secretary is hereby authorized to make necessary rules and regulations to carry out the provisions of this article.

Section 1301.27. Effect of Laws of Other States.—This article shall not apply to any property that has been presumed abandoned, escheated, or subject to custody and control of another jurisdiction under the laws of such other jurisdiction prior to the effective date of this article.

Section 1301.28. Exclusions.—The provisions of this article shall not apply to nonprofit hospitalization corporations or nonprofit medical service corporations.

Section 1301.29. Repeal.—The act of August 9, 1971 (P.L.286, No.74), known as the “Disposition of Abandoned and Unclaimed Property Act,” is repealed.

Section 6. The act of April 8, 1982 (P.L.258, No.78), is repealed insofar as it relates to underpayments and overpayments of tax due and payable prior to January 1, 1982. The second and fifth sentences of section 5 of said act are repealed absolutely.

Section 7. All other acts and parts of acts are hereby repealed insofar as they are inconsistent herewith.

Section 8. This act shall not apply to any underpayments or overpayments of tax due and payable prior to January 1, 1982. Nothing contained herein shall affect or impair litigation pending on the effective date of this act. This act shall not be construed to indicate the intent of the General Assembly with regard to the status of the law of the Commonwealth's payment of interest prior to the effective date of this act. Notwithstanding any other provision of this act, the rate of interest for the calendar year commencing January 1, 1982 shall be 20% and the rate of interest for the calendar year commencing January 1, 1983 shall be 16%.

Section 9. This act shall take effect immediately and shall apply retroactively to January 1, 1982.

APPROVED—The 9th day of December, A. D. 1982.

DICK THORNBURGH