STATE OF NEW YORK

5059--A

2017-2018 Regular Sessions

IN SENATE

March 6, 2017

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the abandoned property law, in relation to the definition of communication for purposes of abandoned property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph (iii) of paragraph (a) and subparagraph (iii) of paragraph (b) of subdivision 1 of section 300 of the abandoned property law, as amended by section 1 of part A of chapter 61 of the laws of 2011, are amended and a new subdivision 5 is added to read as follows:

(iii) any such amount with respect to which the banking organization has on file [~~written~~] evidence received within three years that the person or persons appearing to be entitled to such amounts had knowledge thereof, or

(iii) any such amount with respect to which the banking organization has on file [~~written~~] evidence received within three years that the person or persons appearing to be entitled to such amount had knowledge thereof.

5. For purposes of this section, "communication" shall include any written, electronic, or personal contact between an owner and a holder of record that can be documented and that reflects an owner's awareness of the existence of the property including, but not limited to, written correspondence, a telephonic or voice over internet protocol (VOIP) communication, a transaction effected through an automated clearing house (ACH) or similar electronic funds processing method, signing on to a password protected account in which the securities may be accessed by their owner, or effecting a transaction in the owner's account, including automated transactions that have been authorized by the owner.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 2. Subparagraph (ii) of paragraph (a) of subdivision 2 of section 501 of the abandoned property law, as amended by section 3 of part T of chapter 62 of the laws of 2006, is amended to read as follows:

(ii) no [~~written~~] communication has been received from such resident by the holder.

§ 3. Clause 2 of subparagraph (i) of paragraph (b) of subdivision 2 of section 501 of the abandoned property law, as amended by section 4 of part T of chapter 62 of the laws of 2006, is amended to read as follows:

(2) no [~~written~~] communication has been received from such resident by the holder, and

§ 4. Subparagraph (iii) of paragraph (b) of subdivision 2 of section 501 of the abandoned property law, as added by chapter 166 of the laws of 1991, is amended to read as follows:

(iii) Any corporation or fiduciary holding or evidencing on its books and records securities enrolled in a reinvestment plan shall notify the apparent owner by certified mail that such securities will be delivered to the state comptroller as abandoned property, pursuant to the provisions of section five hundred two of this article, unless such corporation or fiduciary receives [~~written~~] communication from the apparent owner of such securities indicating knowledge of such securities prior to the date that such securities are required to be delivered to the state comptroller. Such letter by certified mail shall be sent during the calendar year prior to the year in which such property would be required to be delivered to the state comptroller, but no later than the thirty-first day of December of such year. For purposes of this subdivision, a signed return receipt shall constitute written communication received by the holder from the apparent owner.

§ 5. Paragraph (b) of subdivision 3 of section 501 of the abandoned property law, as amended by chapter 61 of the laws of 1989, is amended and a new subdivision 6 is added to read as follows:

(b) No [~~written~~] communication has been received from such resident by the holder, and

6. For purposes of this section, "communication" shall include any written, electronic, or personal contact between an owner and a holder of record that can be documented and that reflects an owner's awareness of the existence of the property including, but not limited to, written correspondence, a telephonic or voice over internet protocol (VOIP) communication, a transaction effected through an automated clearing house (ACH) or similar electronic funds processing method, signing on to a password protected account in which the securities may be accessed by their owner, or effecting a transaction in the owner's account, including automated transactions that have been authorized by the owner.

§ 6. Subdivisions 3 and 4 of section 511 of the abandoned property law, as amended by chapter 617 of the laws of 1973, are amended to read as follows:

3. Any security held in this state by a broker or dealer, or nominee of such broker or dealer, as the holder of record of a security for a customer or for a person or persons unknown to such broker or dealer or nominee where, for three successive years, all amounts paid thereon or with respect thereto and received after June thirtieth, nineteen hundred forty-six by such broker or dealer or nominee have remained unclaimed. Provided, however, that if any amount or security specified in **this** subdivision **or subdivisions** one[~~,~~] **or** two [~~**or three**~~] of this section is reflected, recorded, or included in an account with respect to which such broker or dealer has on file evidence in writing received within the three years immediately preceding the thirty-first day of December

preceding the date such amount or security would otherwise be payable or deliverable pursuant to section five hundred twelve **of this article** that the person entitled thereto had knowledge of such account, then such amount or security shall not be deemed abandoned property.

4. Any security held by a broker or dealer or nominee of such broker or dealer reflected, recorded, or included in an account with respect to which, for three successive years, all statements of account or other communications which have been sent, via first class mail, to the customer at his last known address have been returned to such broker, dealer or nominee by the postal authorities for inability to locate the customer, and no [~~written~~] communication has been received from the customer by such broker, dealer or nominee, provided such security was received or is held in this state by such broker, dealer or nominee or the last known address of the customer is located in this state.

§ 7. Paragraph (b) of subdivision 5 of section 511 of the abandoned property law, as amended by chapter 767 of the laws of 1983, is amended and a new subdivision 7 is added to read as follows:

(b) No [~~written~~] communication has been received from such person by the holder, and

7. For purposes of this section, "communication" shall include any written, electronic, or personal contact between an owner and a holder of record that can be documented and that reflects an owner's awareness of the existence of the property including, but not limited to, written correspondence, a telephonic or voice over internet protocol (VOIP) communication, a transaction effected through an automated clearing house (ACH) or similar electronic funds processing method, signing on to a password protected account in which the securities may be accessed by their owner, or effecting a transaction in the owner's account, including automated transactions that have been authorized by the owner.

§ 8. Subparagraph (ii) of paragraph (b) of subdivision 1 of section 700 of the abandoned property law, as amended by section 13 of part A of chapter 61 of the laws of 2011, is amended to read as follows:

(ii) any policy with respect to which such corporation has on file written **or electronic** evidence received within three years that the person or persons apparently entitled to claim thereunder have knowledge thereof.

§ 9. Paragraph (f) of subdivision 1 of section 700 of the abandoned property law, as amended by chapter 61 of the laws of 1989, is amended to read as follows:

(f) If no address of the person or persons appearing to be entitled to the unclaimed funds pursuant to **paragraphs** (a), (b), (c), (d) or (e) of this subdivision is known to such corporation, or if it is not definite and certain from the records of such corporation what person is entitled to such funds, it shall be presumed that the last-known address of the person entitled to such funds is the same as the last-known address of the insured or annuitant according to the records of such corporation. Where no address can be ascertained, pursuant to this paragraph, for the insured, annuitant or person or persons entitled to the unclaimed funds, such person's last-known address shall be presumed to be within this state if the unclaimed funds are held or owing by life insurance corporation organized under the laws of this state.

§ 10. This act shall take effect immediately.