STATE OF NEW YORK

3858

2019-2020 Regular Sessions

IN ASSEMBLY

January 31, 2019

Introduced by M. of A. MAGNARELLI -- read once and referred to the Committee on Ways and Means

AN ACT to amend the abandoned property law, in relation to extending the term for claiming unclaimed property from three to five years

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

Section 1. Paragraphs (a), (b), (c), (d), (e), (f), (g), (i) and (k) of subdivision 1 of section 300 of the abandoned property law, paragraphs (a), (b) and (k) as amended by section 1 of part A of chapter 61 of the laws of 2011, paragraph (c) as amended by section 5 of part T of chapter 62 of the laws of 2006, paragraph (d) as amended by chapter 48 of the laws of 1978, paragraphs (e) and (f) as amended by chapter 41 of the laws of 1987 and paragraphs (g) and (i) as added by chapter 15 of the laws of 1983, are amended to read as follows:

(a) Any amounts due on deposits or any amounts to which a shareholder of a savings and loan association or a credit union is entitled, held or owing by a banking organization, which shall have remained unclaimed for [~~three~~] five years by the person or persons appearing to be entitled thereto, including any interest or dividends credited thereon, excepting

(i) any such amount which has been reduced or increased, exclusive of dividend or interest payment, within [~~three~~] five years, or

(ii) any such amount which is represented by a passbook not in the possession of the banking organization, which has been presented for entry of dividend or interest credit within [~~three~~] five years, or

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

(iv) any such amount payable only at or by a branch office located in a foreign country, or payable in currency other than United States currency, or

(v) any such amount that is separately identifiable and has been set aside to meet the burial and related expenses of an individual, provided however that said amount shall be deemed abandoned property where it

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

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remains unclaimed for [~~three~~] **five** years subsequent to the death of the individual for whom the amount was deposited.

(b) Any amounts, together with all accumulations of interest or other increment thereon, held or owing by a banking organization for the payment of an interest in a bond and mortgage apportioned or transferred by it pursuant to subdivision seven of former section one hundred eighty-eight of the banking law as it existed prior to July first, nineteen hundred thirty-seven, which shall have remained unclaimed by the person or persons appearing to be entitled thereto for [~~three~~] **five** years after the full and final liquidation of such mortgage, excepting

(i) any such amount which has been reduced by payment to the person or persons appearing to be entitled thereto within [~~three~~] **five** years, or

(ii) any such amount which is represented by a certificate of share ownership not in the possession of the banking organization, which certificate has been presented for transfer within [~~three~~] **five** years, or

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

(c) Any amount held or owing by a banking organization for the payment of a negotiable instrument under article three of the uniform commercial code or a certified check whether negotiable or not, on which such organization is directly liable, which instrument shall have been outstanding for more than [~~three~~] **five** years from the date it was payable or from the date of its issuance, if payable on demand; provided, however, the provisions of this paragraph shall not apply

(i) to any negotiable instrument payable outside the continental limits of the United States, or

(ii) to any instrument payable in currency other than United States currency.

(d) After the expiration of [~~three~~] **five** years from the opening of any vault, safe deposit box or other receptacle by a banking organization pursuant to the provisions of the banking law, any surplus amounts arising from a sale by such banking organization of the contents of such vault, safe deposit box or other receptacle pursuant to the provisions of the banking law, the balance remaining of any United States coin or currency among the contents of such vault, safe deposit box or other receptacle and the balance remaining of the proceeds of the principal of or interest or dividends on any securities among the contents of such vault, safe deposit box or other receptacle or the securities themselves which have remained unsold by the banking organization.

(e) Any amount or security representing a dividend or other payment received (i) after June thirtieth, nineteen hundred forty, by a banking organization or its nominee as the record holder of any stock, bond, or other security of any corporation, association or joint stock company to which amount or security an unknown person (except a person entitled to such dividend or other payment upon the surrender of other outstanding securities) is entitled or (ii) on or after July first, nineteen hundred seventy-four by a banking organization or its nominee other than as a holder of record or as holder of record for known persons on any stock, bond or other security of any corporation, association or joint stock company or (iii) on or after July first, nineteen hundred eighty-four by a banking organization or its nominee on any stock, bond, or other security of a governmental or other public issuer, (1) which shall have remained unclaimed by the person entitled thereto for [~~three~~] **five** years

after receipt thereof by such banking organization or its nominee, or (2) when the stock, bond or other security with respect to which such amount or security representing a dividend or other payment is payable has been deemed abandoned.

(f) Except as provided in paragraph (e) of this subdivision, any stock, bond or other security of any corporation, association or joint stock company received on or after July first, nineteen hundred seventy-seven or any stock, bond or other security of any governmental or other public issuer received on or after July first, nineteen hundred eighty-four by a banking organization or its nominee and held by such banking organization or its nominee (1) as holder of record of such stock, bond or other security, or (2) as custodian, trustee or fiduciary for a person other than the issuer with respect to such stock, bond or other security, or (3) for unknown persons where, for [~~three~~] **five** successive years, (i) all amounts payable upon such stocks, bonds, or other securities of any corporation, association or joint stock company and received by such banking organization or its nominee on or after July first, nineteen hundred seventy-seven or all amounts payable upon such stocks, bonds, or other securities of any governmental or other public issuer and received by such banking organization or its nominee on or after July first, nineteen hundred eighty-four have remained unclaimed by the person entitled thereto, and (ii) no written communication concerning such stock, bond or other security has been received from the person entitled thereto by such banking organization or its nominee.

(g) Any stock, bond, or other security held by a banking organization in any vault or other storage area in any capacity other than as set forth in paragraphs (d), (e) or (f) of this subdivision where, for [~~three~~] **five** successive years, (i) such stock, bond, or other security has remained unclaimed by the person entitled thereto, and (ii) no written communication concerning such stock, bond or other security has been received from the person entitled thereto by such banking organization.

(i) Any amount or security which shall have become payable or deliverable by a banking organization, as agent or trustee for a corporation, association or joint stock company which shall have discontinued the conduct of its business, or the corporate existence of which shall have terminated, without the right to receive such amount having passed to a successor or successors, and which shall have remained unpaid or undelivered to the person or persons entitled thereto for [~~three~~] **five** years.

(k) Lost property or instruments as defined in section two hundred fifty-one of the personal property law which shall have been held by a safe deposit company or bank for [~~three~~] **five** years pursuant to the provisions of section two hundred fifty-six of the personal property law.

§ 2. Subdivisions 1, 2 and 3 of section 501 of the abandoned property law, subdivisions 1 and 2 as added by chapter 166 of the laws of 1991, paragraph (b) of subdivision 1 as amended by section 2 of part T of chapter 62 of the laws of 2006, paragraph (a) of subdivision 2 as amended by section 3 of part T of chapter 62 of the laws of 2006, subparagraph (i) of paragraph (b) of subdivision 2 as amended by section 4 of part T of chapter 62 of the laws of 2006 and subdivision 3 as amended by chapter 61 of the laws of 1989, are amended to read as follows:

1. (a) Any amount which, on or after January first, nineteen hundred forty-seven, shall have become payable or distributable by a domestic,

foreign or public corporation or by a fiduciary to a resident as the owner or former owner of a security as defined in paragraph (a) of subdivision two of section five hundred of this article, shall be deemed abandoned when the security with respect to which such amount is payable or distributable has been deemed abandoned, or when such amount:

(i) is payable or distributable to such resident as the owner or former owner of such security; and

(ii) has, on the thirty-first day of December in any year, remained unpaid to or unclaimed by such resident for a period of [~~three~~] five years. For the purposes of this article, a security as defined in paragraph (a) of subdivision two of section five hundred of this article shall not be deemed abandoned until a period of [~~three~~] five years has elapsed from the earlier of the maturity date of such security or the date such security has been called for redemption.

(b) Any amount which, on or after January first, nineteen hundred forty-seven shall have become payable or distributable by a domestic or foreign corporation or a fiduciary to a resident as the owner or former owner of a security as defined in paragraph (b) of subdivision two of section five hundred of this article, shall be deemed abandoned when the security with respect to which such amount is payable or distributable has been deemed abandoned or when such amount:

(i) is payable or distributable to such resident as the owner or former owner of such security; and

(ii) has, on the thirty-first day of December in any year, remained unpaid to or unclaimed by such resident for a period of [~~three~~] five years.

2. (a) Except as provided in paragraph (b) of this subdivision, any security, as defined in paragraph (b) of subdivision two of section five hundred of this article, of any domestic corporation or foreign corporation owned by or formerly owned by a resident shall be deemed abandoned where, for [~~three~~] five successive years:

(i) all amounts, if any, payable or distributable thereon or with respect thereto have remained unpaid to or unclaimed by such resident, and

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

(b) (i) Any security, as defined in paragraph (b) of subdivision two of section five hundred of this article, of any domestic or foreign corporation in which a resident has an ownership interest and which is enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as the result of such interest shall be deemed abandoned when any security owned by such resident which is not enrolled in the plan has been deemed abandoned pursuant to paragraph (a) of this subdivision or when, for [~~three~~] five successive years:

(1) all amounts, if any, payable thereon or with respect thereto have remained unpaid to or unclaimed by such resident, and

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

(3) the holder does not know the location of such resident at the end of such [~~three~~] five year period.

(ii) For purposes of this paragraph, the reinvestment of any dividend, distribution or other sum payable shall not be considered as payment of an amount for the purpose of extending the statutory period of inactivity after the expiration of which securities enrolled in a reinvestment plan are deemed abandoned.

(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.

(iv) All corporations or fiduciaries holding or evidencing on its books and records securities enrolled in a reinvestment plan shall retain, for a period of five years following the thirty-first day of December of the year for which a report of abandoned property has been filed, a list of (1) the dates and nature of any and all corporate notices which have been sent via first class mail to owners of such securities during the period to which such report relates, and (2) the names and addresses of all owners of such securities for whom postal authorities have returned any first class mail sent by the holder during the period to which such report relates, and the dates on which such mail was returned for each such owner. Nothing contained herein or in any other provision of this chapter shall preclude the state comptroller, in the performance of his duties under this chapter, from verifying that all such notices have been sent and whether or not such notices have been returned to the holder by the postal authorities.

3. Any wages payable on or after July first, nineteen hundred sixty-three by a domestic or foreign corporation and held for a resident by such issuing corporation or held and payable by a fiduciary other than a broker or dealer as defined in section five hundred ten of this chapter for a resident shall be deemed to be abandoned property, where for [~~three~~] **five** successive years:

(a) All such wages have remained unpaid to such resident, and

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

(c) Notice regarding such wages has been sent by the corporation or fiduciary, via first class mail, to such resident at his last known address and such notice has been returned to the corporation or fiduciary by the postal authorities for inability to locate such resident.

§ 3. Subdivisions 1, 1-a, 2, 3, 4 and 5 of section 511 of the abandoned property law, subdivisions 1, 2, 3 and 4 as amended by chapter 617 of the laws of 1973 and subdivisions 1-a and 5 as amended by chapter 767 of the laws of 1983, are amended to read as follows:

1. Any amount (a) received in this state after June thirtieth, nineteen hundred forty-six by a broker or dealer or nominee of such broker or dealer as the holder of record of a security remaining unpaid to the person entitled thereto for [~~three~~] **five** years following the receipt thereof, or (b) when paid to such broker, dealer or nominee on or with respect to a security which has been deemed abandoned.

1-a. Any amount (a) received in this state on or after July first, nineteen hundred seventy-four by a broker or dealer or nominee of such broker or dealer other than as the holder of record of a security remaining unpaid to the person entitled thereto for [~~three~~] **five** years

following the receipt thereof, or (b) when paid to such broker, dealer or nominee on or with respect to a security which has been deemed abandoned.

2. Any amount (a) received in this state after June thirtieth, nineteen hundred forty-six due from a broker or dealer or nominee of such broker or dealer to a customer which has remained unpaid to the customer for [~~three~~] **five** years after the date of the last entry, other than the receipt of dividends or interest in the account of such broker, dealer or nominee with such customer, or (b) payable on or with respect to a security which has been deemed abandoned.

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~~] **five** 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 subdivision** one[~~,~~] **or subdivision** 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~~] **five** 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~~] **five** 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.

5. Any wages held and payable on or after July first, nineteen hundred sixty-six by a broker or dealer, as defined in section five hundred ten of this article, for the benefit of a person or persons, known or unknown shall be deemed to be abandoned property, where for [~~three~~] **five** successive years:

(a) All such wages have remained unpaid to such person, and

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

(c) Notice regarding such wages, if sent by the broker or dealer, via first class mail, to such person at his last known address has been returned to the broker or dealer by the postal authorities for inability to locate such person.

§ 4. Subdivision 1 of section 700 of the abandoned property law, as amended by chapter 695 of the laws of 1964, paragraphs (a) and (c) as amended by chapter 78 of the laws of 1976, paragraph (b) as amended by section 13 of part A of chapter 61 of the laws of 2011, paragraph (d) as amended by chapter 767 of the laws of 1983 and paragraph (e) as added and paragraph (f) as amended by chapter 61 of the laws of 1989, is amended to read as follows:

1. The following unclaimed property held or owing by life insurance corporations shall be deemed abandoned property:

(a) Any moneys held or owing by any life insurance corporation which shall have remained unclaimed for [~~three~~] five years by the person or persons appearing to be entitled thereto under matured life insurance policies on the endowment plan and which are payable to any person whose last-known address, according to the records of the corporation, is within this state.

(b) Any moneys held or owing by any life insurance corporation which are payable under other kinds of life insurance policies to any person whose last-known address, according to the records of the corporation, is within this state, where the insured, if living, would have attained the limiting age under the mortality table on which the reserves are based, exclusive of

(i) any policy which has within [~~three~~] five years been assigned, readjusted, kept in force by payment of premium, reinstated or subjected to loan, or

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

(c) Any moneys held or owing by any life insurance corporation due to beneficiaries or other persons entitled thereto under policies on the lives of persons who have died where the last-known address, according to the records of the corporation, of the person or persons appearing to be entitled thereto is within this state, which moneys shall have remained unclaimed by the person or persons entitled thereto for [~~three~~] five years.

(d) Any other moneys which are held or owing by any life insurance corporation on or after July first, nineteen hundred sixty-seven constituting or representing refunds of any kind due upon or in connection with life insurance policies payable to any person whose last known address, according to the records of the corporation, is within this state, which moneys shall have remained unclaimed by the person entitled thereto for [~~three~~] five years.

(e) Any moneys held or owing by any life insurance corporation on or after July first, nineteen hundred eighty-three upon or in connection with an annuity contract payable to any person whose last-known address, according to the records of the corporation, is within this state, which moneys shall have remained unclaimed by the person entitled thereto for [~~three~~] five years.

(f) If no address of the person or persons appearing to be entitled to the unclaimed funds pursuant to paragraph (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.

§ 5. This act shall take effect immediately.