STATE OF NEW YORK

723

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

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

AN ACT to amend the abandoned property law, in relation to setting the statute of limitations at ten years and setting a penalty cap for small businesses

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

Section 1. Section 1400 of the abandoned property law is amended to read as follows:

§ 1400. Statutes of limitations [~~not a bar~~]. 1. The expiration [~~of any period of time specified by law~~] shall be ten years, during which an action or proceeding may be commenced or enforced to secure payment of a claim for money or recovery of property, and shall [~~not~~] prevent any such money or property from being deemed abandoned property, [~~nor affect~~] barring any duty to file a report required by this chapter or to pay or deliver to the state comptroller any such abandoned property; [~~and~~] if any action or proceeding is commenced beyond the ten year period, this statute of limitations shall [~~not~~] serve as a defense [~~in any action or proceeding by or~~] on behalf of the [~~state comptroller~~] entity for failure to [~~compel the filing of~~] file any report or the payment or delivery of any abandoned property required by this chapter [~~or to enforce or collect~~] and to bar any penalty provided by this chapter.

2. Notwithstanding the provisions of subdivision one of this section, the statute of limitations set forth therein shall not apply where there is evidence the property was withheld with the intent to defraud the rightful owner of the property.

§ 2. Subdivision 1 of section 1412 of the abandoned property law, as amended by chapter 669 of the laws of 1971, is amended to read as follows:

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

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1. **(a)** Any person wilfully failing to make any full and complete report or to file any affidavit required by this chapter **before the ten year period** shall forfeit to the people of the state the sum of one hundred dollars for each day such report or affidavit shall be wilfully delayed or withheld, except that the state comptroller may extend the time for making any such report or filing any such affidavit and may waive the payment of any penalty or part thereof provided for by this subdivision.

(b) The total sum of such penalty shall not exceed five thousand dollars for entities with gross revenues less than ten million dollars per annum.

§ 3. Section 1412 of the abandoned property law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding the provisions of paragraph (b) of subdivision one of this section, the penalty cap set forth therein shall not apply where there is evidence that such property was withheld with the intent to defraud the rightful owner of such property.

§ 4. This act shall take effect immediately.