

# Senate Study Bill 1019

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED TREASURER OF  
STATE BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the procedures for handling abandoned property  
2 and property presumed to be abandoned.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1255XD 80  
5 mg/pj/5

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1 1 Section 1. Section 556.11, subsection 2, paragraphs a and  
1 2 c, Code 2003, are amended to read as follows:

1 3 a. Except with respect to traveler's checks ~~and~~ money  
1 4 orders, ~~cashier's checks, official checks, or similar~~  
1 5 ~~instruments~~, the name, if known, and last known address, if  
1 6 any, of each person appearing from the records of the holder  
1 7 to be the owner of any property of the value of ~~twenty-five~~  
1 8 ~~fifty~~ dollars or more presumed abandoned under this chapter.

1 9 c. The nature and identifying number, if any, or  
1 10 description of the property and the amount appearing from the  
1 11 records to be due, except that items of value under ~~twenty-~~  
1 12 ~~five fifty~~ dollars each may be reported in aggregate.

1 13 Sec. 2. Section 556.11, subsection 5, Code 2003, is  
1 14 amended to read as follows:

1 15 5. If the holder of property presumed abandoned under this  
1 16 chapter knows the whereabouts of the owner and if the owner's  
1 17 claim has not been barred by the statute of limitations, the  
1 18 holder shall, before filing the annual report, communicate  
1 19 with the owner and take necessary steps to prevent abandonment  
1 20 from being presumed. The holder shall exercise due diligence  
1 21 to ascertain the whereabouts of the owner. A holder is not  
1 22 required to make a due diligence mailing to owners whose  
1 23 property has an aggregate value of less than fifty dollars.  
1 24 The treasurer of state may charge a holder that fails to  
1 25 timely exercise due diligence, as required in this subsection,  
1 26 five dollars for each name and address account reported if  
1 27 thirty-five percent of more of the accounts are claimed within  
1 28 the twenty-four months immediately following the filing of the  
1 29 holder report.

1 30 Sec. 3. Section 556.11, Code 2003, is amended by adding  
1 31 the following new subsection after subsection 8:

1 32 NEW SUBSECTION. 9. Other than the notice to owners  
1 33 required by subsection 5, published notice required by section  
1 34 556.12, subsection 1, and other discretionary means employed  
1 35 by the treasurer of state for notifying owners of the  
2 1 existence of abandoned property, all information provided in  
2 2 reports shall be confidential, unless written consent from the  
2 3 person entitled to the property is obtained by the treasurer  
2 4 of state, and may be disclosed only to governmental agencies  
2 5 for the purposes of returning abandoned property to its owners  
2 6 or to those individuals who appear to be the owner of the  
2 7 property or otherwise have a valid claim to the property.

2 8 Sec. 4. Section 556.11, unnumbered paragraph 1, Code 2003,  
2 9 is amended to read as follows:

2 10 10. All agreements to pay compensation to recover or  
2 11 assist in the recovery of property reported under this  
2 12 section, made within twenty-four months after the date payment  
2 13 or delivery is made under section 556.13 are unenforceable.  
2 14 However, such agreements made after twenty-four months from  
2 15 the date of payment or delivery are valid if the fee or  
2 16 compensation agreed upon is not more than fifteen percent of  
2 17 the recoverable property, the agreement is in writing and  
2 18 signed by the owner, and the writing discloses the nature and  
2 19 value of the property and the name and address of the person  
2 20 in possession. A person shall not attempt to collect or  
2 21 collect a fee or compensation for discovering property  
2 22 presumed abandoned under this chapter unless the person is  
2 23 licensed as a private investigation business pursuant to

2 24 chapter 80A. This section does not prevent an owner from  
2 25 asserting, at any time, that an agreement to locate property  
2 26 is based upon excessive or unjust consideration. This section  
2 27 does not apply to an owner who has a bona fide fee contract  
2 28 with a practicing attorney and counselor as described in  
2 29 chapter 602, article 10.

2 30 Sec. 5. Section 556.12, subsection 2, paragraph c, Code  
2 31 2003, is amended by striking the paragraph.

2 32 Sec. 6. Section 556.12, subsections 3, 4, 5, and 6, Code  
2 33 2003, are amended to read as follows:

2 34 3. The ~~state~~ state treasurer of state is not required to publish  
2 35 in such notice any item of less than ~~twenty-five~~ fifty dollars  
3 1 unless the treasurer deems ~~such the~~ the publication to be in the  
3 2 public interest.

3 3 4. Within one hundred twenty days from the receipt of the  
3 4 report required by section 556.11, the ~~state~~ state treasurer of  
3 5 state shall mail a notice to each person having an address  
3 6 listed therein who appears to be entitled to property of the  
3 7 value of ~~twenty-five~~ fifty dollars or more presumed abandoned  
3 8 under this chapter.

3 9 5. The mailed notice shall contain+

3 10 ~~a. A~~ a statement that, according to a report filed with  
3 11 the ~~state~~ state treasurer of state, property is being held to which  
3 12 the addressee appears entitled.

3 13 ~~b. The name and address of the person holding the property~~  
3 14 ~~and any necessary information regarding changes of name and~~  
3 15 ~~address of the holder.~~

3 16 ~~c. A statement that, if satisfactory proof of claim is not~~  
3 17 ~~presented by the owner to the holder by the date specified in~~  
3 18 ~~the published notice, the property will be placed in the~~  
3 19 ~~custody of the state treasurer to whom all further claims must~~  
3 20 ~~be directed.~~

3 21 6. This section is not applicable to sums payable on  
3 22 traveler's checks, ~~or~~ money orders, cashier's checks, official  
3 23 checks, or similar instruments presumed abandoned under  
3 24 section 556.2.

3 25 Sec. 7. Section 556.17, subsections 1 and 5, Code 2003,  
3 26 are amended to read as follows:

3 27 1. All abandoned property other than money delivered to  
3 28 the ~~state~~ state treasurer of state under this chapter which remains  
3 29 unclaimed one year after the delivery to the treasurer may be  
3 30 sold to the highest bidder at public sale in any city in the  
3 31 state that affords in the treasurer's judgment the most  
3 32 favorable market for the property involved. The ~~state~~  
3 33 state treasurer of state may decline the highest bid and reoffer the  
3 34 property for sale if the treasurer considers the price bid  
3 35 insufficient. The treasurer need not offer any property for  
4 1 sale if, in the treasurer's opinion, the probable cost of sale  
4 2 exceeds the value of the property. The treasurer may order  
4 3 destruction of the property when the treasurer has determined  
4 4 that the probable cost of offering the property for sale  
4 5 exceeds the value of the property. If the treasurer  
4 6 determines that the property delivered does not have any  
4 7 substantial commercial value, the treasurer may destroy or  
4 8 otherwise dispose of the property at any time. An action or  
4 9 proceeding may not be maintained against the treasurer or any  
4 10 officer or against the holder for or on account of an act the  
4 11 treasurer made under this section, except for intentional  
4 12 misconduct or malfeasance.

4 13 5. Unless the treasurer of state considers it to be in the  
4 14 best interest of the state to do otherwise, all securities  
4 15 presumed abandoned under section 556.5 and delivered to the  
4 16 treasurer of state must be held for at least ~~three years~~ one  
4 17 year before the treasurer of state may sell them. If the  
4 18 treasurer of state sells any securities delivered pursuant to  
4 19 section 556.5 before the expiration of the ~~three-year~~ one-year  
4 20 period, any person making a claim pursuant to this chapter  
4 21 before the end of the ~~three-year~~ one-year period is entitled  
4 22 to either the proceeds of the sale of the securities or the  
4 23 market value of the securities at the time the claim is made,  
4 24 whichever amount is greater, less any deduction for fees  
4 25 pursuant to section 556.18, subsection 2. A person making a  
4 26 claim under this chapter after the expiration of this period  
4 27 is entitled to receive either the securities delivered to the  
4 28 treasurer of state by the holder, if they still remain in the  
4 29 hands of the treasurer of state, or the proceeds received from  
4 30 the sale, less any amounts deducted pursuant to section  
4 31 556.18, subsection 2, but no person has any claim under this  
4 32 chapter against the state, the holder, any transfer agent,  
4 33 registrar, or other person acting for or on behalf of a holder  
4 34 for any appreciation in the value of the property occurring

4 35 after delivery by the holder to the treasurer of state.

5 1 EXPLANATION

5 2 This bill makes changes in the procedures for handling  
5 3 property that is presumed abandoned.

5 4 Code sections 556.11(2) and 556.12(3) and (4) are amended  
5 5 to increase from \$25 to \$50 the value of presumed abandoned  
5 6 property for which a report must be submitted to the treasurer  
5 7 of state and for which the treasurer must publish notice.

5 8 Code sections 556.11(2) and 556.12(6) are amended to  
5 9 provide that the reporting requirements of Code section 556.11  
5 10 and the notice requirements of Code section 556.12 do not  
5 11 apply to cashier's checks, official checks, and similar  
5 12 instruments.

5 13 Code section 556.11(5) is amended to specify that a holder  
5 14 of presumed abandoned property is not required to use due  
5 15 diligence to notify owners of such property if the aggregate  
5 16 value is less than \$50. The treasurer of state is authorized  
5 17 to charge the holder a fee for failure to exercise due  
5 18 diligence in notifying the owners if 35 percent or more of the  
5 19 owner accounts are claimed within 24 months following the  
5 20 filing of the holder report.

5 21 Code section 556.11, unnumbered paragraph 1, is amended to  
5 22 require that a person attempting to collect or to collect a  
5 23 fee or compensation for discovering presumed abandoned  
5 24 property be licensed as a private investigator.

5 25 New Code subsection 556.11(9) is added and provides that  
5 26 information provided in reports is confidential except for  
5 27 that used pursuant to the notice requirements or if consent is  
5 28 obtained from the owner of the property.

5 29 Code sections 556.12(2) and 556.12(5) are amended by  
5 30 striking obsolete language.

5 31 Code section 556.17(1) is amended to authorize the  
5 32 treasurer of state to destroy or otherwise dispose of presumed  
5 33 abandoned property at any time if the property has no  
5 34 commercial value.

5 35 Code section 556.17(5) is amended to reduce from three  
6 1 years to one year the time period that the treasurer of state  
6 2 has to wait before selling stocks and other intangible  
6 3 interests in business associations that are presumed  
6 4 abandoned.

6 5 LSB 1255XD 80

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