

**SENATE . . . . . No. 1582**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act Relative to Certain Checks Not Cashed and Deemed Abandoned..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 9A of chapter 200A of the general laws is hereby repealed in its  
2 entirety and shall be replaced with the following:

3 Section 9A. Alternative procedure for handling abandoned funds held by cities, towns  
4 and districts.

5 (a) This section shall apply to abandoned funds, as determined herein, held in the custody  
6 of cities, towns or districts that have accepted the provisions of this section pursuant to section 4  
7 of chapter 4 of the general laws. In the case of such cities, towns or districts accepting the  
8 provisions of this section there shall be an alternative procedure for disposing of abandoned  
9 funds held in the custody of such cities, towns or districts as provided in this section, and only  
10 this section shall apply to the disposition of such funds.

11 (b) Any funds held in the custody of a city, town or district that has accepted this section  
12 may be presumed by the city, town or district treasurer to be abandoned unless claimed by the  
13 corporation, organization, beneficiary or person entitled thereto within one year after the date

14 prescribed for payment or delivery, provided the last instrument intended as payment bears upon  
15 its face the statement “void if not cashed within one year from date of issue.” Once a period of  
16 one year has elapsed from the date of any such instrument, the treasurer of any such city, town or  
17 district may cause the financial institution upon which the instrument was drawn to stop payment  
18 on the instrument, or otherwise cause the financial institution to decline payment on the  
19 instrument, and any claims made beyond this date may only be paid by the city, town or district  
20 through the issuance of a new instrument. Neither the city, town, district nor financial institution  
21 shall be liable for damages, consequential or otherwise, resulting from a refusal to honor an  
22 instrument of a city, town or district submitted for payment more than one year from its  
23 issuance.

24 (c) The treasurer of a city, town or district holding funds owed to a corporation,  
25 organization, beneficiary or person entitled thereto, that are presumed to be abandoned as  
26 aforementioned, shall post a notice, which notice shall be entitled “Notice of Names of Persons  
27 appearing to be Owners of funds held by (insert city, town or district name), and deemed  
28 abandoned.” The notice shall specify those who appear from available information to be entitled  
29 to such funds, shall provide a description of the appropriate method for claiming such funds, and  
30 shall state a deadline beyond which funds may no longer be claimed, provided such deadline is  
31 no earlier than sixty days from the date such notice was either postmarked or first posted on a  
32 website as herein provided. The treasurer of such city, town or district may post such notice  
33 using one or both of the following methods: (1) by mailing such notice postpaid to the last  
34 known address of the beneficiary or person entitled thereto, sent via first class mail, or (2) if the  
35 city, town or district maintains an official website the said treasurer may, as an alternative, post  
36 the notice conspicuously on said website for a period of not less than 60 days.

37 (d) In the event funds appearing to be owed to a corporation, organization, beneficiary or  
38 person amount to \$100 or more, and the deadline as provided in the aforementioned notice has  
39 passed, and no claim for the funds has been made, the treasurer shall cause an additional notice,  
40 in substantially the same form as the aforementioned notice, to be published in a newspaper of  
41 general circulation in the county (or counties) in which the city, town or district is located, except  
42 that this notice shall provide an extended deadline beyond which funds cannot be claimed, which  
43 shall be no earlier than one year from the date of publication of such notice.

44 (e) Once the final deadline of the aforementioned notice(s) has passed, the funds owed to  
45 such corporation, organization, beneficiary or person entitled thereto shall escheat to the city,  
46 town or district and the treasurer thereof shall record the funds as revenue in the general fund of  
47 the city, town or district, and the city, town or district shall not thereafter be liable to the  
48 corporation, organization, beneficiary or person for payment of those funds, nor for the  
49 underlying liability for which the funds were originally intended. These funds shall then be  
50 available to the city, town or district's appropriating authority for appropriation for any other  
51 public purpose. In addition to the notices herein provided for, the treasurer of the city, town or  
52 district may initiate any other notices or communications that are directed in good faith toward  
53 making final disbursement of the funds to the corporation, organization, beneficiary or person  
54 entitled thereto.

55 Prior to escheatment of the funds, the treasurer of the city, town or district shall hear all  
56 claims on funds that may arise, and if it is clear, based on a preponderance of the evidence  
57 available to the treasurer at the time the claim is made that the claimant is entitled to  
58 disbursement of the funds, the treasurer shall disburse funds to the claimant upon receipt by the  
59 treasurer of a written indemnification agreement from the claimant wherein the claimant agrees

60 to hold the city, town or district and the treasurer of the city, town or district harmless in the  
61 event it is later determined that the claimant was not entitled to receipt of the funds. If it is not  
62 clear, based on a preponderance of the evidence before the treasurer at the time of the claim that  
63 the claimant is entitled to disbursement of the funds, the treasurer shall segregate the funds into a  
64 separate, interest bearing, bank account and shall notify the claimant of such action within 10  
65 days. A claimant affected by this action may appeal within 20 days to the district, municipal or  
66 superior court of the county in which the city, town or district is located. The claimant shall have  
67 a trial de novo. An appeal shall be perfected by the claimant within 20 days after receiving notice  
68 of this action by the city, town or district treasurer. A party adversely affected by a decree or  
69 order of the district, municipal or superior court may appeal to the appeals court or the supreme  
70 judicial court within 20 days from the date of the decree.

71           If the validity of the claim shall be determined in favor of the claimant or another party,  
72 the treasurer shall disburse funds to the claimant in accordance with the order of the court,  
73 including interest accrued. If the validity of the claim is determined to be not in favor of the  
74 claimant or any other party, or if the treasurer does not receive notice that an appeal has been  
75 filed within one year from the date the claimant was notified that funds were being withheld,  
76 then the funds, plus accrued interest, shall escheat to the city, town or district in the manner  
77 herein provided.

78           If the claimant is domiciled in a country or state outside the United States or its territories  
79 and the city, town or district determines that there is no reasonable assurance that the claimant  
80 will actually receive the payment provided for in this section in substantially full value, the  
81 superior court, in its discretion or upon a petition by the city, town or district may order that the  
82 city, town or district retain such payment.

83           SECTION 2. The earlier Section 9A of chapter 200A herein repealed shall apply to funds  
84 wherein the final instrument of disbursement was issued prior to the effective date of this act.