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Testimony on AB 325/SB 370 by Peter Barca
Senate Committee on Financial Institutions and Revenue
October 14, 2021

Chairman Kooyenga, Ranking Member Ringhand, and members of the Senate Committee on Financial Institutions and Revenue: I am honored that you have brought SB 370/AB 325 forward today, as this bill represents an important and necessary modernization of our unclaimed property law.

Wisconsin's unclaimed property law dates to when Wisconsin passed a version of the Uniform Unclaimed Property Act of 1981 in 1983 Wis. Act 408. Since first enacted, it has gone mostly unchanged, with one key exception, which I will highlight. However, business practices and technology have changed significantly since 1983, and our unclaimed property law needs to be updated to allow the Department of Revenue (DOR) to utilize best practices now made available by technology.

The one exception I would like to highlight is Representative August's bill, 2013 WI Act 308, which enabled more proactive outreach and streamlined return methods to property owners. In 2020 alone, the updates from that bill enabled \$5.8M to be automatically returned to owners.

We believe those changes were among the main drivers behind Wisconsin's having the 3rd highest state rate in the country for returning unclaimed property for the years 2013-2017 by the Unclaimed Property Professionals Organization. During those years, we returned \$156M of the \$240M, or 65% of the property received.

Our goal with this legislation is similar – to use tools that technology has facilitated, modernize our business processes to identify unclaimed property more effectively, and reunite owners with their property more efficiently.

The National Conference of Commissioners on Uniform State Laws, which oversees Uniform Unclaimed Property Laws, created a Revised Uniform Unclaimed Property Act (RUUPA) of 2016. AB 752 conforms Wisconsin law to many provisions of RUUPA, which provides clarity to businesses and protection for individuals.

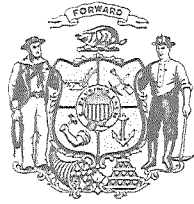
SB 370/AB 325 modernizes Wisconsin Chapter 177 in the following ways:

- Creates a voluntary disclosure program for holders.
- Prescribes confidentiality provisions for information obtained from holders and claimants.
- Eliminates interest and revises penalties for holders that do not report or deliver property.

- Authorizes DOR to use any tax records to identify owners of unclaimed property and process claims.
- Explains what is required of a holder to contact owner (due diligence) before turning property over to DOR.
- Clarifies examination authority of holder records and provides audit appeal rights.
- Requires holders to report tax ID numbers, if known, so that owners can be better identified for return of property.
- Clarifies/Expands the current "business to business" exemption.
- Clarifies existing law with respect to a claimant's requirement to substantiate or prove their claim.
- Provides for setoffs for other state and municipal debts prior to paying claims.
- Provides authority for DOR to collect amounts paid to a wrongful owner.
- Decreases the abandonment period for money orders from 7 years to 5 years.
- Decreases the abandonment period for certain insurance policies from 5 years to 3 years.
- Clarifies that virtual currency is property subject to unclaimed property laws, but only if the holder can convert to U.S. currency prior to delivery to DOR.
- Clarifies the information a holder must provide in a notice to an apparent owner prior to reporting and delivery of the property to this state.
- Reduces the maximum fee a locator service may charge from 20% to 10% of the actual value of the property recovered, to be consistent with other states.

As you can clearly see, SB 370/AB 325 is a commonsense piece of legislation that will help DOR reunite more property to citizens of Wisconsin and their heirs. We appreciate the interest of the bill's authors, Representative August and Senator Petrowski, as well as the cosponsors of this legislation.

Thank you again for hearing this testimony. I would be happy to offer myself and the staff I have brought with me to answer any questions you may have at this time.



JERRY PETROWSKI

WISCONSIN STATE SENATOR

Senate Bill 370

Committee on Financial Institutions and Revenue

October 14, 2021

Thank you Mr. Chairman and committee members for holding this public hearing on Senate Bill 370, a rewrite of Chapter 177 dealing with unclaimed property. These changes are modeled after the Uniform Unclaimed Property Laws introduced by the National Conference of Commissioners on Uniform State Laws.

This legislation may look familiar to some of the members of this committee as the bill is almost identical to a bill the Assembly passed unanimously last session. Unfortunately, the Senate was not able to take up this legislation before shutting down due to the pandemic.

This chapter has not been updated since 1983, while national model legislation was updated in 1995 and 2016. It is past time for Chapter 177 to see a needed modernization.

While this bill is fairly technical and the Department of Revenue can get into the details of the bill, I would like to point out a couple of the most important provisions:

- Strengthens confidentiality provisions for unclaimed property information.
- Creates an appeal process for property holders similar to those the department uses for income, franchise or sales and use tax audits.
- Updates statutes to include modern items like gift cards, loyalty cards and virtual currency.
- Allows for voluntary disclosures from property holders without penalties.
- Expansion of different types of records the department can use to identify owners of unclaimed property.

The only change included in SB 370 that was not a part of the bill last session is due to a federal court case regarding the Illinois unclaimed property program. Due to that case, states' unclaimed property funds must now pay interest on certain accounts that had not collected interest in the past.

In addition, Senate Amendment 1 was introduced after discussion with the Wisconsin Bankers Association. The bill inadvertently omitted language in current law that provides a "linkage provision," allowing the institution to use contact information tied to an account linked to the one that does not have it.

Thank you, again, for hearing SB 370 and I would be happy to answer any questions.

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Testimony of the Wisconsin Bankers Association

John Cronin, Director – Government Relations, WBA

Senate Committee on Financial Institutions and Revenue

October 14, 2021

Chairman Kooyenga and members of the Senate Committee on Financial Institutions and Revenue,

Thank you for the opportunity to submit testimony in favor of Assembly Bill 325 and Senate Bill 370.

Founded in 1892, WBA is the state's largest financial industry trade association, representing more than 200 commercial banks and savings institutions, their branches, and over 21,000 employees. The Association represents banks of all sizes in Wisconsin, and nearly 98 percent of banks in the state are WBA members.

This legislation would adopt portions of the Revised Uniform Unclaimed Property Act (RUUPA) here in Wisconsin. The bill also makes further improvements to the state's unclaimed property laws. AB 325/SB 370 provide individuals with lost or unclaimed property with an avenue to be reconnected with those assets, which oftentimes are left in the hands of banks, other financial institutions, or corporations.

Since the Uniform Unclaimed Property Act was last updated in 1995, this proposal considers several new types of property that were less prevalent, or perhaps did not exist 25 years ago. This includes gift cards, virtual currency, and game-related content, and how those items should be treated.

As you are aware, this bipartisan legislation passed as amended on a unanimous vote in the State Assembly last session. WBA is grateful to bill authors Rep. Tyler August and Sen. Jerry Petrowski for making numerous improvements to then-2019 AB 752 that addressed concerns WBA had with the bill as introduced last session. Our organization was happy to see all of those changes incorporated into AB 325 and SB 370 – the bills before you today.

There are two amendments to the Assembly version of the bill. Both address issues identified by WBA and we are grateful to the bill authors and the Department of Revenue working in concert to craft amendments correcting them.

Section 1 of Assembly Amendment 1 to AB 325 fixes a one-word drafting error.

Senate Amendment 1 to AB 325 restores two departures from current law that were inadvertently removed under the bill.

First, it restores a "linkage" provision which allows activity on one account in an owner's relationship to be counted as activity on the other accounts in that relationship. In a practicable application, if an owner has activity on a checking account, but little to no activity on a rainy-day savings account or CD, the bank can use the active account's activity to "save" the inactive account from escheatment.

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Second, under current law, if a bank sends mail to an account owner that isn't returned by USPS as undeliverable, the bank is to assume that it was received and is considered contact. This too would have been inadvertently removed under the bill and is rectified under SA 1 to AB 325.

WBA is grateful for the work that has been put into this legislation and encourages its passage after incorporation of the two amendments discussed above.