



COMPLIANCE UPDATE

AMENDMENTS TO PENNSYLVANIA UNCLAIMED PROPERTY LAW

Significant changes affecting all holders of unclaimed property were included in amendments to Pennsylvania's Fiscal Code adopted as part of the state's 2016–2017 budget. The amendments:

- Establish requirements for the notification of property owners prior to the transfer of unclaimed property to the State Treasury.
- Modify presumed abandonment rules for fiduciary and tax-deferred retirement savings accounts.

These changes to the Pennsylvania Unclaimed Property Act were effective in September 2016 and will apply to unclaimed property reports filed in 2017.

Requirements to Notify Property Owners Prior to Transfer of Unclaimed Property to the State Treasury

The new amendments to the Pennsylvania Unclaimed Property Act require the holder of property presumed abandoned to send notice to the owner of the property not more than 120 days, nor less 60 days, prior to the date a report concerning the property is required to be submitted to the State Treasurer, stating that the holder is in possession of the property, if:

- the holder has in its records an address for the owner that the holder's records do not disclose to be inaccurate; and
- the value of the property is \$50 or more.

The notice must provide a description of the property; a description of the property's ownership; the value of the property, if known; and any information necessary to contact the holder to prevent the reporting of the property to the State Treasurer.

Notice must be sent by First-Class Mail, unless the owner has previously agreed to a method of electronic notice that remains valid to contact the owner. **Notices for property to be transferred to the State Treasurer in 2017 must be sent between December 21, 2016, and February 13, 2017.**

Holders of unclaimed property are prohibited from imposing any costs or fees upon owners of unclaimed property for the preparation or mailing of these notices.

Compliance with these new notification requirements may result in an owner recovering property, or indicating a continuing interest in the property, prior to the date an unclaimed property report is required to be submitted to the State Treasurer. When this occurs (either as a result of the new notification requirements or due to other circumstances), Pennsylvania law does not

require the property to be remitted to the State Treasury, but requires the holder to “file a verified written explanation of the proof of claim or ... the reason the property is not subject to the custody and control of the Commonwealth.”

Presumed Abandonment Rules for Fiduciary and Tax-Deferred Retirement Savings Accounts

Pennsylvania has modified its rules for the presumed abandonment of fiduciary accounts, assets held by agents in fact, and all types of retirement accounts. Amendments provided that tax-deferred retirement savings accounts (both traditional and Roth IRA) are presumed abandoned “three years after the owner has; attained 70.5 years of age; or last indicated an interest in the account or plan or in other property of the owner in the possession, custody or control of the holder. These accounts are presumed abandoned three years after the holder “has lost contact with the owner,” unless within that three-year period the owner has:

- increased or decreased the principal in the account;
- commenced receiving distributions; or
- otherwise indicated an interest in the account or plan or in other property of the owner in the possession, custody, or control of the holder.

The legislation provides that a holder has lost contact with the owner if a communication sent to the owner by First-Class Mail is returned undelivered by the U.S. Postal Service. If a second communication sent within 30 days after a prior communication is returned as undelivered, presumed abandonment is measured from the date that second communication is returned undelivered. If a second communication is not sent within 30 days, however, presumed abandonment is measured from 30 days after the first communication is returned undelivered.

Where holders do not regularly communicate with owners by mail, such as typically occurs when an account owner elects to receive electronic communications, the legislation requires the holder to attempt to confirm the owner’s continued interest in the property by communicating electronically with the owner two years after the date of owner’s last indication of interest in the property. If an electronic communication is returned undelivered or is not responded to by the owner, the holder is required to send a written notice to the owner by First-Class Mail. If the mail notice is returned as undelivered, presumed abandonment is measured from the date of the owner’s last contact with the holder.

CFPB BULLETIN ON INCENTIVE COMPENSATION

The Consumer Financial Protection Bureau's Compliance Bulletin 2016-03 provides insight into the Bureau's expectations with regard to incentive compensation programs. The Bulletin restates guidance previously issued and focuses on examples from the CFPB's supervisory and enforcement experience in which incentives have proven detrimental to consumers. The guidance emphasizes the need for a compliance management system that is adjusted to the risk, nature, and significance of an institution's incentive programs.

http://www.consumerfinance.gov/documents/1537/2016_11_cfpb_Production_Incentives_Bulletin.pdf

BUREAU PUBLISHES MORTGAGE SERVICING AMENDMENTS

On August 6, the CFPB released a final rule making several amendments to the 2013 Mortgage Servicing Rules under RESPA (Regulation X) and TILA (Regulation Z). That rule was published in the October 19, 2016, *Federal Register* at 81 FR 72160. The rule clarifies, revises, or amends provisions

regarding force-placed insurance notices, policies and procedures, early intervention, and loss mitigation requirements under Regulation X's servicing provisions, and prompt crediting and periodic statement requirements under Regulation Z's servicing provisions. The final rule also addresses proper compliance regarding certain servicing requirements when a person is a potential or confirmed successor in interest, is a debtor in bankruptcy, or sends a cease communication request under the Fair Debt Collection Practices Act, and makes several technical corrections to both regulations. The rule will be effective one year from publication, or October 19, 2017, except for portions for which the effective date will be six months later, or April 19, 2018.

CFPB APPROVES OPTIONAL USE OF NEW URLA IN 2017

The Consumer Financial Protection Bureau has published at [81 FR 66930](#) in the September 29, 2016 *Federal Register* a Notice of Bureau Official Approval under the Equal Credit Opportunity Act (ECOA) concerning the new Uniform Residential Loan Application (URLA) and the collection of expanded Home Mortgage Disclosure Act (HMDA) information about ethnicity and race in 2017. Under Part III of the Notice, the Bureau approved (but does not require) the collection of such information for applications received during calendar year 2017, even though Regulation C doesn't mandate the collection of the expanded data until January 1, 2018. The Notice says the Bureau believes the option to begin collecting the expanded data may provide creditors extra time to implement the changes needed to comply with the updated HMDA rules by January 1, 2018.

For reporting 2017 data on applications on which final action is taken during 2017, only the aggregate categories and codes in the filing instructions for data collected in 2017 will be used, even if applicants have self-identified using the expanded "disaggregated" categories. For applications taken in 2017 on which

final action is taken on or after January 1, 2018, institutions can optionally submit data using disaggregated categories if provided by applicants instead of using the transition rule for those submissions.

QUESTIONS?

If you wish to discuss these matters in detail, please contact Steve Zanardelli, Tim Schofer, or Frank Antiga at (724) 934-0344 or (800) 580-7738, or email szanardelli@srsnodgrass.com, tschofer@srsnodgrass.com, or fantiga@srsnodgrass.com.