

103D CONGRESS
1ST SESSION

H. R. 2443

To provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 1993

Mr. GONZALEZ (for himself and Mr. LEACH) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

OCTOBER 28, 1993

Additional sponsors: Mr. NEAL of North Carolina, Mr. BACCHUS of Florida, Mr. MCCOLLUM, Mr. LAROCO, Mr. ORTON, Mr. DEUTSCH, Mr. JOHNSTON of Florida, Mrs. MEEK, Mrs. FOWLER, Mr. GIBBONS, Mr. SHAW, Mrs. THURMAN, Mr. HASTINGS, Mr. SANDERS, Mr. RAHALL, Mr. THOMAS of Wyoming, Mr. WATT, Ms. SHEPHERD, Mr. KLEIN, Mr. SMITH of Iowa, Mr. OXLEY, Mr. PASTOR, Mr. JEFFERSON, Mr. PETERSON of Florida, Mr. BEREUTER, Mr. VALENTINE, Mr. BARRETT of Wisconsin, Mr. LANCASTER, Mr. CRAMER, Mr. GALLEGLY, Mr. APPLGATE, Mr. GLICKMAN, Mr. LANTOS, Mr. MORAN, Mr. PICKETT, Mr. BOEHNER, Mr. MCCANDLESS, Mr. FIELDS of Texas, Mr. JACOBS, Mr. HAMILTON, Mr. MACHTLEY, Mr. SWETT, Ms. ROYBAL-ALLARD, Mr. GILLMOR, Mr. HOBSON, Mr. RUSH, Mr. WILLIAMS, Mr. MANN, Mr. PRICE of North Carolina, Mr. MONTGOMERY, Mr. BATEMAN, Mr. HANSEN, Mr. DOOLEY, Mr. FROST, Ms. DANNER, Mr. INSLEE, Ms. SNOWE, Mr. HAYES, Mrs. UNSOELD, Mr. KREIDLER, Mr. DURBIN, Mr. BERMAN, Mr. ANDREWS of Texas, Mr. ROSE, Mr. LIGHTFOOT, Mr. McDERMOTT, Mr. SANTORUM, Mr. PAYNE of Virginia, Mr. ANDREWS of New Jersey, Mr. PACKARD, Ms. PRYCE of Ohio, Mr. CLINGER, Mr. BACHUS of Alabama, Mr. KANJORSKI, Mr. EVANS, Mr. LIVINGSTON, Mr. TALENT, Mr. BRYANT, Mr. DICKS, Mr. BORSKI, Mr. MILLER of California, Mr. BREWSTER, Mrs. COLLINS of Illinois, Mr. WHEAT, Mr. NUSSLE, Mr. BROWN of Ohio, Mr. SAM JOHNSON of Texas, Mrs. ROUKEMA, Mr. CALVERT, Mr. ROHRABACHER, Mr. HALL of Texas, Ms. FURSE, Mr. RIDGE, Mr. FINGERHUT, Mr. DEFazio, Mr. ROYCE, Ms. PELOSI, Mr. LEWIS of California, Mr. SANGMEISTER, Mr. FIELDS of Louisiana, Mr. EMERSON, Mr. KLINK, Mr. CHAPMAN, Ms. WATERS, Mr. STENHOLM, Mr. ANDREWS of Maine, Mr. GUTIERREZ, Mr. REED, Mr. FILNER, Mr. MARTINEZ, Mr. STARK, Mr.

BAKER of Louisiana, Mr. McDADE, Mr. DICKEY, Mr. PETE GEREN of Texas, Mr. LINDER, Mr. TEJEDA, Ms. WOOLSEY, and Mr. MAZZOLI

A BILL

To provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equitable Escheatment
5 Act of 1993”.

6 **SEC. 2. DISPOSITION OF UNCLAIMED DISTRIBUTIONS.**

7 (a) IN GENERAL.—The Act entitled “An Act to in-
8 crease deposit insurance from \$20,000 to \$40,000, to pro-
9 vide full insurance for public unit deposits of \$100,000
10 per account, to establish a National Commission on Elec-
11 tronic Fund Transfers, and for other purposes.” and ap-
12 proved October 28, 1974 is amended by adding at the end
13 of title VI (12 U.S.C. 2501 et seq.) the following new sub-
14 title:

1 **“Subtitle B—Disposition of Other**
2 **Unclaimed Distributions**

3 **“SEC. 611. CONGRESSIONAL FINDINGS AND DECLARATION**
4 **OF PURPOSE.**

5 “The Congress hereby finds the following:

6 “(1) Banks and other intermediaries hold secu-
7 rities which are registered in the street name or
8 nominee name of banks or other intermediaries.

9 “(2) A very small percentage of the dividends,
10 interest, and other distributions made by issuers of
11 securities is unable to be transmitted by the banks
12 and other intermediaries because the intermediaries
13 do not know the identities or addresses of the bene-
14 ficial owners.

15 “(3) This small percentage of unclaimed dis-
16 tributions nonetheless amounts to substantial sums
17 of money annually.

18 “(4) As a matter of equity among the several
19 States, the States entitled to such unclaimed dis-
20 tributions should be the State in which the principal
21 executive office of the issuer of such distribution is
22 maintained.

23 **“SEC. 612. DEFINITIONS.**

24 “As used in this Act—

1 “(1) ADDRESS.—The term ‘address’ does not
2 include an address which is not within any State.

3 “(2) BENEFICIAL OWNER.—The term ‘bene-
4 ficial owner’ means any person who holds an owner-
5 ship interest in a security and is entitled to receive
6 the economic benefits of ownership.

7 “(3) DISTRIBUTION.—The term ‘distribution’
8 means the payment of a dividend or interest or any
9 other transfer of money, securities, or value made
10 with respect to a publicly traded security, including
11 a transfer of any ownership interest in such security
12 and any payment of principal with respect to such
13 security.

14 “(4) HOLDER.—The term ‘holder’—

15 “(A) means a person in possession of all or
16 part of a distribution who is not the beneficial
17 owner of the security with respect to which a
18 distribution is made, including banks, deposi-
19 tories, brokerage firms, and other financial
20 intermediaries; and

21 “(B) includes any State that has taken
22 possession of a distribution under the laws of
23 such State relating to unclaimed property.

24 “(5) ISSUER.—The term ‘issuer’ means a cor-
25 porate or governmental entity, including a federally-

1 chartered or foreign entity, that issues publicly
2 traded equity or debt securities.

3 “(6) PRINCIPAL EXECUTIVE OFFICE.—For pur-
4 poses of applying section 613 and 614 with respect
5 to a distribution by an issuer of a publicly traded se-
6 curity—

7 “(A) IN GENERAL.—The term ‘principal
8 executive office’ means—

9 “(i) the office identified as the issuer’s
10 principal executive office in the issuer’s
11 most recent required filing with the appro-
12 priate Federal regulatory agency during
13 the 12-month period ending on the date
14 immediately prior to the date of payment
15 by the issuer of such distribution; and

16 “(ii) in the case of an issuer who did
17 not identify a principal executive office in
18 the filing described in clause (i), the office
19 identified as the issuer’s principal executive
20 office in—

21 “(I) the issuer’s most recent re-
22 quired filing with the appropriate
23 Federal regulatory agency; or

1 “(II) if no filing was required,
2 any other approved filing with the ap-
3 propriate Federal regulatory agency.

4 “(B) STATE AND MUNICIPAL ISSUERS.—In
5 the case of any issuer which is a State or a po-
6 litical subdivision of the State, the principal ex-
7 ecutive offices of the State or political subdivi-
8 sion shall be deemed to be located within such
9 State.

10 “(7) SECURITY.—The term ‘security’ means
11 any note, stock, treasury stock, bond, debenture, evi-
12 dence of indebtedness, certificate of interest or par-
13 ticipation in any profit-sharing agreement, collateral
14 trust certificate, preorganization certificate or sub-
15 scription, transferable share, investment contract,
16 voting-trust certificate, certificate of deposit for a se-
17 curity, fractional undivided interest in oil, gas, or
18 other mineral rights, any put, call, straddle, option,
19 or privilege on any security, certificate of deposit, or
20 group or index of securities (including any interest
21 therein or based on the value thereof), or any put,
22 call, straddle, option, or privilege entered into on a
23 national securities exchange relating to foreign cur-
24 rency, or, in general, any interest or instrument
25 commonly known as a ‘security’, or any certificate of

1 interest or participation in, temporary or interim
2 certificate for, receipt for, guarantee of, or warrant
3 or right to subscribe to or purchase, any of the fore-
4 going.

5 “(8) STATE.—The term ‘State’ has the mean-
6 ing given to such term in section 3(a)(3) of the
7 Federal Deposit Insurance Act.

8 **“SEC. 613. STATE ENTITLEMENT TO ESCHEAT OR CUSTODY.**

9 “(a) ESCHEAT TO STATE IN WHICH THE PRINCIPAL
10 EXECUTIVE OFFICES OF THE ISSUER ARE LOCATED.—

11 “(1) IN GENERAL.—Subject to paragraphs (2)
12 and (3), if—

13 “(A) the books and records of the holder
14 of a distribution paid on a security do not con-
15 tain the last-known address of a beneficial
16 owner of such distribution; or

17 “(B) the last-known address of a beneficial
18 owner of a security, as contained on the books
19 and records of the holder of such security, is in
20 a State which does not provide for the escheat
21 or custodial taking of any distribution with re-
22 spect to such security,

23 any distribution for the beneficial owner of the secu-
24 rity shall be subject to escheat or custodial taking
25 only by the State in which the principal executive of-

1 fices of the issuer of the security are located to the
2 extent the laws of such State relating to the escheat
3 or custodial taking of unclaimed property authorize
4 the State to take possession of such distribution.

5 “(2) RECOVERY BY STATE DESCRIBED IN PARA-
6 GRAPH (1)(B).—If a law which provides for the es-
7 cheat or custodial taking of any distribution by any
8 State referred to in paragraph (1)(B) is enacted by
9 or otherwise takes effect in such State at any time
10 after any amount of a distribution for the beneficial
11 owner of a security has escheated to or has been
12 taken into the custody of another State pursuant to
13 paragraph (1), the State described in paragraph
14 (1)(B) shall have the right to recover such amount
15 (other than amounts paid by the other State to the
16 beneficial owner) from the other State for disposi-
17 tion in accordance with such law.

18 “(3) RECOVERY BY STATE FOR PARAGRAPH
19 (1)(A) DISPOSITIONS BEFORE THE EFFECTIVE DATE
20 OF THIS SECTION.—With respect to the amount of
21 any distribution which—

22 “(A) but for this paragraph, would be sub-
23 ject to paragraph (1)(A); and

24 “(B) escheated to or was taken into the
25 custody of any State before the date of the en-

1 actment of the Equitable Escheatment Act of
2 1993 pursuant to the laws of such State relat-
3 ing to the escheat or custodial taking of un-
4 claimed property,

5 the amount of such distribution (other than amounts
6 paid to a beneficial owner of the security with re-
7 spect to which such distribution was made) shall be
8 subject to escheat or custodial taking by each other
9 State in the manner provided in paragraph (1).

10 “(b) ESCHEAT TO STATE IN WHICH THE PRINCIPAL
11 OFFICES OF THE HOLDER ARE LOCATED.—

12 “(1) IN GENERAL.—Except as provided in sub-
13 section (c) and subject to paragraph (2), if, in any
14 case described in subparagraph (A) or (B) of sub-
15 section (a)(1)—

16 “(A) the books and records of the holder
17 of a security do not contain the identity of the
18 issuer of such security; or

19 “(B) the principal executive offices of the
20 issuer of a security is in a State which does not
21 provide for the escheat or custodial taking of
22 any distribution with respect to such security,
23 any distribution for the beneficial owner of the secu-
24 rity shall be subject to escheat or custodial taking
25 only by the State in which the principal executive of-

1 fices of the holder of the security are located to the
2 extent the laws of such State relating to the escheat
3 or custodial taking of unclaimed property authorize
4 the State to take possession of such distribution.

5 “(2) RECOVERY BY STATE DESCRIBED IN PARA-
6 GRAPH (1)(B).—If a law which provides for the es-
7 cheat or custodial taking of any distribution by a
8 State referred to in paragraph (1)(B) is enacted by
9 or otherwise takes effect in such State at any time
10 after any amount of a distribution for the beneficial
11 owner of a security has escheated to or has been
12 taken into the custody of another State pursuant to
13 paragraph (1), the State described in paragraph
14 (1)(B) shall have the right to recover such amount
15 (other than amounts paid by the other State to the
16 beneficial owner) from the other State for disposi-
17 tion in accordance with such law.

18 “(c) RECOVERIES FOR DISPOSITIONS DESCRIBED IN
19 SUBSECTION (b) BEFORE THE EFFECTIVE DATE OF THIS
20 SECTION.—

21 “(1) IN GENERAL.—With respect to the amount
22 of any distribution which—

23 “(A) but for this subsection, would be sub-
24 ject to subsection (b); and

1 “(B) escheated to or was taken into the
2 custody of any State before the date of the en-
3 actment of the Equitable Escheatment Act of
4 1993 pursuant to the laws of such State relat-
5 ing to the escheat or custodial taking of un-
6 claimed property,

7 the amount of such distribution (other than amounts
8 paid to a beneficial owner of the security with re-
9 spect to which such distribution was made) shall be
10 subject to escheat or custodial taking by each other
11 State in the manner provided in paragraph (2).

12 “(2) APPORTIONMENT OF RECOVERY.—For
13 purposes of paragraph (1), the amount of any dis-
14 tribution which is subject to escheat or custodial
15 taking by any State pursuant to paragraph (1) shall
16 bear the same proportion to the total amount of the
17 distribution which is available to all States under
18 such paragraph as the amount which such State is
19 entitled to receive under subsection (a) from the
20 State referred to in paragraph (1)(B) with respect
21 to distributions which are subject to subsection (a)
22 and escheated to or were taken into the custody of
23 such State before the date of the enactment of the
24 Equitable Escheatment Act of 1993 bears to the
25 total amount which all States are entitled to receive

1 under subsection (a) from the State referred to in
2 paragraph (1)(B) with respect to such distributions.

3 “(d) DETERMINATION OF IDENTIFICATION AND AD-
4 DRESSES OF ISSUERS AND BENEFICIAL OWNERS.—

5 “(1) IN GENERAL.—With respect to any un-
6 claimed distribution in the possession of a holder,
7 the holder’s determination, after making reasonable
8 efforts (on the basis of prevailing commercial prac-
9 tices) to review the holder’s books and records, of
10 the identity and address of the beneficial owner of
11 the security for which such distribution was made
12 and of the issuer of such security, shall be prima
13 facie evidence of the information relating to such
14 beneficial owner and issuer for purposes of this
15 subtitle.

16 “(2) BURDEN OF SHOWING OTHERWISE.—The
17 burden shall rest upon any State seeking to contest
18 a holder’s determination in accordance with para-
19 graph (1) to demonstrate, at the cost of such State,
20 that the books and records of the holder, or other
21 readily available public information sources, identify
22 a different State with a superior right to the dis-
23 tribution.

24 “(e) DISTRIBUTIONS IN EVENT OF PRINCIPAL EXEC-
25 UTIVE OFFICES IN MORE THAN 1 STATE.—If an issuer

1 or holder identifies principal executive offices in more than
2 1 State, each State identified as the location of a principal
3 executive office shall be entitled to escheat or take
4 custodially on a pro rata basis to the extent the laws of
5 such State relating to the escheat or custodial taking of
6 unclaimed property authorize the State to take possession
7 of a distribution.

8 **“SEC. 614. CHANGES IN PRINCIPAL EXECUTIVE OFFICE**
9 **DESIGNATION.**

10 “No issuer may change the issuer’s designation of a
11 principal executive office for the sole purpose of altering
12 the entitlement of any State to take custody of property
13 subject to this subtitle.

14 **“SEC. 615. SCOPE OF APPLICATION.**

15 “Section 613 shall apply to all distributions subject
16 to this subtitle without regard to the date on which any
17 such distribution was made by the issuer or whether any
18 distribution was paid over by a holder to 1 or more
19 States.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

21 Sections 602 and 604 of title VI of the Act entitled “An
22 Act to increase deposit insurance from \$20,000 to
23 \$40,000, to provide full insurance for public unit deposits
24 of \$100,000 per account, to establish a National Commis-
25 sion on Electronic Fund Transfers, and for other pur-

1 poses.” and approved October 28, 1974 (12 U.S.C. 2501
2 nt., 2502) are each amended by striking “title” and insert-
3 ing “subtitle”.

4 (c) CLERICAL AMENDMENT.—The Act entitled “An
5 Act to increase deposit insurance from \$20,000 to
6 \$40,000, to provide full insurance for public unit deposits
7 of \$100,000 per account, to establish a National Commis-
8 sion on Electronic Fund Transfers, and for other pur-
9 poses.” and approved October 28, 1974, is amended by
10 striking the heading for title VI and inserting the follow-
11 ing new headings:

12 **“TITLE VI—DISPOSITION OF**
13 **UNCLAIMED DISTRIBUTIONS**
14 **“Subtitle A—Disposition of Aban-**
15 **doned Money Orders and Trav-**
16 **eler’s Checks”**.”

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