
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1366 Session of
2002

Report of the Committee of Conference

To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 1366, entitled:
"An act amending the act of April 9, 1929 (P.L.343, No.176), entitled, as amended, 'An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, * * * State depository and every debtor or creditor of the Commonwealth,' FURTHER PROVIDING FOR SETTLEMENT AND COLLECTION OF STATE TAXES; * * *; REQUIRING PUBLIC NOTICE OF CERTAIN REAL PROPERTY PURCHASES BY THE COMMONWEALTH; PROVIDING FOR A RIGHT OF CERTAIN PUBLIC OFFICIALS TO EXAMINE AND REVIEW INSPECTOR GENERAL REPORTS; AND MAKING A REPEAL,"

respectfully submit the following bill as our report:

DAVID J. BRIGHTBILL

JOE CONTI

(Committee on the part of the Senate.)

JOHN M. PERZEL

DWIGHT EVANS

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(Committee on the part of the House of Representatives.)

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AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,
2 as amended, "An act relating to the finances of the State
3 government; providing for the settlement, assessment,
4 collection, and lien of taxes, bonus, and all other accounts
5 due the Commonwealth, the collection and recovery of fees and
6 other money or property due or belonging to the Commonwealth,
7 or any agency thereof, including escheated property and the
8 proceeds of its sale, the custody and disbursement or other
9 disposition of funds and securities belonging to or in the
10 possession of the Commonwealth, and the settlement of claims
11 against the Commonwealth, the resettlement of accounts and
12 appeals to the courts, refunds of moneys erroneously paid to
13 the Commonwealth, auditing the accounts of the Commonwealth
14 and all agencies thereof, of all public officers collecting
15 moneys payable to the Commonwealth, or any agency thereof,
16 and all receipts of appropriations from the Commonwealth,
17 authorizing the Commonwealth to issue tax anticipation notes
18 to defray current expenses, implementing the provisions of
19 section 7(a) of Article VIII of the Constitution of
20 Pennsylvania authorizing and restricting the incurring of
21 certain debt and imposing penalties; affecting every
22 department, board, commission, and officer of the State
23 government, every political subdivision of the State, and
24 certain officers of such subdivisions, every person,
25 association, and corporation required to pay, assess, or
26 collect taxes, or to make returns or reports under the laws
27 imposing taxes for State purposes, or to pay license fees or
28 other moneys to the Commonwealth, or any agency thereof,
29 every State depository and every debtor or creditor of the
30 Commonwealth," further providing, in cigarette sales and
31 licensing, for intent, for definitions, for licensing and for
32 the Cigarette Licensing, Marketing and Control Board;
33 providing for tax collection by the Pennsylvania Liquor
34 Control Board; further regulating abandoned property;
35 providing for the Budget Stabilization Reserve Fund, for a
36 transfer from the Underground Storage Tank Indemnification
37 Fund to the General Fund and for the Tobacco Settlement Fund;
38 and making a repeal.

39 The General Assembly of the Commonwealth of Pennsylvania
40 hereby enacts as follows:

41 Section 1. Section 201-A of the act of April 9, 1929
42 (P.L.343, No.176), known as The Fiscal Code, is repealed.

43 Section 2. The definition of "board" in section 202-A of the
44 act, added July 2, 1993 (P.L.250, No.46), is amended to read:

45 Section 202-A. Definitions.--As used in this article--

46 * * *

47 "Board" shall mean the [Cigarette Licensing, Marketing and

1 Control] Board [created under section 207-A] of Appeals in the
2 Department of Revenue.

3 * * *

4 Section 3. Section 207-A of the act, added July 2, 1993
5 (P.L.250, No.46), is amended to read:

6 Section 207-A. [Cigarette Licensing, Marketing and Control
7 Board] Appeals.--(a) [There is hereby created a Cigarette
8 Licensing, Marketing and Control Board consisting of three
9 members designated by the secretary, one of whom shall be a
10 deputy secretary of the department and one of whom shall be an
11 attorney at law. The board shall take testimony, after proper
12 notices as hereinafter mentioned, and shall make its
13 recommendations in writing to the secretary under the provisions
14 of this article.] The board shall provide administrative review
15 of all department actions taken under this article.

16 (b) Whenever [any applicant for license or renewal thereof]
17 a person is aggrieved by [the] a determination of the
18 department, [he] the person may file a complaint with the board,
19 [assigning specifically his] stating the reasons for believing
20 that the department acted improperly. The complaint shall be
21 filed within thirty days after notice by the department of its
22 determination. [of his application. Whenever the department
23 determines that a violation of this article has occurred, it may
24 file a complaint with the board assigning specifically its
25 reasons for believing that the provisions of this article have
26 been violated. The complaint shall be filed by the department
27 within thirty days after final determination of those facts
28 which give rise to its belief that the provisions of this
29 article have been violated. Upon receipt of the complaint, the
30 board, if it determines that the complaint raises an issue of

1 fact, shall, within] Within thirty days after receipt of the
2 complaint, the board shall issue a [citation] notice directing
3 the [applicant, dealer or department, as the case may be,]
4 person to appear at a hearing scheduled by the board within
5 thirty days. [The board shall afford the aggrieved party an
6 opportunity to be heard at the hearing, which] The hearing shall
7 be conducted in accordance with the provisions of 2 Pa.C.S.
8 (relating to administrative law and procedure).

9 (c) Within thirty days after the termination of the hearing,
10 the board [shall make its recommendations to the secretary in
11 writing, and within fifteen days subsequent thereto, the
12 secretary] shall render a final decision. Any party aggrieved by
13 the final decision shall have the right of appeal in accordance
14 with the provisions of 2 Pa.C.S.

15 [(d) If any person is aggrieved by an assessment issued by
16 the department for taxes due the Commonwealth, he may file an
17 appeal from the assessment in accordance with the procedures of
18 this article.]

19 Section 4. The act is amended by adding a section to read:

20 Section 1210.1. Collection of Taxes by the Pennsylvania
21 Liquor Control Board.--(a) Notwithstanding any other law to the
22 contrary, the board shall, on the last business day of each
23 calendar month, transmit to the department a statement
24 containing all of the following:

25 (1) The board's gross receipts from the sale of liquor for
26 all fiscal months ending in that calendar month.

27 (2) The taxes collected by the board during all fiscal
28 months ending in that calendar month.

29 (3) Any other information required by the department.

30 (b) Notwithstanding section 237 of the act of March 4, 1971

1 (P.L.6, No.2), known as the "Tax Reform Code of 1971," the board
2 shall, on the last day of each calendar month, transmit to the
3 department the tax imposed by Article II of the "Tax Reform Code
4 of 1971" and collected by the board during all fiscal months
5 ending in that calendar month.

6 (c) The board shall, on the last day of each calendar month,
7 transmit to the department the liquor tax collected by the board
8 during all fiscal months ending in that calendar month.

9 (d) Notwithstanding subsection (c), if the board adds the
10 liquor tax to the wholesale and retail price of the liquor, the
11 board shall, on the last day of each calendar month, transmit to
12 the department an amount equal to the quotient of the board's
13 aggregate gross receipts from the sale of liquor during all
14 fiscal months ending in that calendar month divided by six and
15 five-ninths.

16 (e) The following words and phrases when used in this
17 section shall have the meaning given to them in this subsection
18 unless the context clearly indicates otherwise:

19 "Board." The Pennsylvania Liquor Control Board.

20 "Department." The Department of Revenue of the Commonwealth.

21 "Liquor." Any alcoholic, spirituous, vinous, fermented or
22 other alcoholic beverage or combination of liquors and mixed
23 liquor, a part of which is spirituous, vinous, fermented or
24 other alcoholic, and all drinks or drinkable liquids,
25 preparations or mixtures intended for beverage purposes, which
26 contain more than one-half of one per cent of alcohol by volume,
27 except alcohol, and malt or brewed beverages.

28 "Liquor tax." The tax imposed in accordance with the act of
29 June 9, 1936 (1st Sp. Sess., P.L. 13, No.4), entitled "An act
30 imposing an emergency State tax on liquor, as herein defined,

1 sold by the Pennsylvania Liquor Control Board; providing for the
2 collection and payment of such tax; and imposing duties upon the
3 Department of Revenue and the Pennsylvania Liquor Control
4 Board."

5 Section 5. The definitions of "holder" and "secretary" in
6 section 1301.1 of the act, added December 9, 1982 (P.L.1057,
7 No.248), are amended to read:

8 Section 1301.1. Definitions.--As used in this article,
9 unless the context otherwise requires:

10 * * *

11 "Holder" shall include any person in possession of property
12 subject to this article belonging to another, or who is a
13 trustee in case of a trust, or is indebted to another on an
14 obligation subject to this article or any financial institution
15 which has paid amounts and sums to the [secretary] State
16 Treasurer under subsection (c) of section 1301.13 of this
17 article.

18 * * *

19 ["Secretary" shall mean the Secretary of Revenue of the
20 Commonwealth of Pennsylvania.]

21 * * *

22 Section 6. Sections 1301.3, 1301.4, 1301.5, 1301.6 and
23 1301.8 of the act, added December 9, 1982 (P.L.1057, No.248),
24 are amended to read:

25 Section 1301.3. Property Held by Financial Institutions.--
26 The following property held or owing by a financial institution
27 is presumed abandoned and unclaimed:

28 1. Any demand, saving or matured time deposit in a financial
29 institution, or any funds paid toward the purchase of shares or
30 other interest in a savings association, savings and loan or

1 building and loan association, excluding any charges that may
2 lawfully be withheld, unless within the preceding [seven (7)]
3 five (5) years the owner has:

4 (i) Increased the amount of the deposit, shares or claim,
5 otherwise than by the crediting of accrued interest, or
6 decreased it, or presented to the holder evidence of the
7 deposit, shares or claim; or

8 (ii) Corresponded in writing with the holder concerning the
9 deposit, shares or claim; or

10 (iii) Otherwise indicated an interest in the deposit, shares
11 or claim as evidenced by a writing on file with the holder; or

12 (iv) Received tax reports or regular statements of the
13 deposits, shares or claim by certified mail or other method of
14 communication that will provide the financial institution with a
15 record that such report or statement was transmitted and
16 received; or

17 (v) Owned other property held by the financial institution
18 to which subclause (i), (ii), (iii) or (iv) applies.

19 2. A deposit under clause 1 shall include any interest or
20 dividend which the financial institution would pay to the owner
21 upon claim therefor. The charges which may be excluded hereunder
22 shall not include any charge due to inactivity imposed, directly
23 or indirectly, after December 31, 1981 unless there is a valid
24 and enforceable written contract between the financial
25 institution and the owner of the deposit pursuant to which the
26 financial institution may impose said charge.

27 3. Any sum payable on checks or on written instruments
28 including, but not limited to, drafts, money orders and
29 travelers checks, on which a financial institution is directly
30 liable, and (i) which have been outstanding for more than [seven

1 (7)] five (5) years, or in the case of travelers checks, fifteen
2 (15) years, from the date payable[,] or from the date of
3 issuance if payable on demand; and (ii) the owner of which has
4 not written to the financial institution concerning it, nor
5 otherwise indicated an interest as evidenced by a writing on
6 file with the financial institution.

7 4. Any funds or other personal property, tangible or
8 intangible, removed from a safe deposit box or any other
9 safekeeping repository in the Commonwealth on which the lease or
10 rental period has expired due to nonpayment of rental charges or
11 other reason, or any surplus amounts arising from the sale
12 thereof pursuant to law, if the same has not been claimed by the
13 owner for more than [seven (7)] five (5) years from the date on
14 which the rental period expired.

15 5. The following deposits described in clause 1 shall be
16 excluded from the presumption of being abandoned and unclaimed
17 only while the conditions described below are in effect:

18 (i) Deposits during any period when withdrawals may be made
19 only upon an order of a court of competent jurisdiction.

20 (ii) Deposits established under 20 Pa.C.S. Ch. 53 (relating
21 to Pennsylvania Uniform Transfers to Minors Act) or similar law
22 concerning transfers to minors, while the custodianship has not
23 been terminated.

24 (iii) Burial reserve accounts and similar deposits
25 established under written agreements to provide for the funeral
26 and/or burial expenses of a person while the person is still
27 alive.

28 Section 1301.4. Property Held by Insurers.--(a) In the case
29 of life insurance, the following property held or owing by an
30 insurer is presumed abandoned and unclaimed:

1 1. Any moneys held or owing by an insurer as established by
2 its records under any contract of annuity or policy of life
3 insurance including premiums returnable or dividends payable,
4 unclaimed and unpaid for more than [seven (7)] five (5) years
5 after the moneys have or shall become due and payable under the
6 provisions of such contract of annuity or policy of insurance. A
7 life insurance policy not matured by actual proof of the death
8 of the insured is deemed to be matured and the proceeds thereof
9 are deemed to be due and payable if such policy was in force
10 when the insured attained the limiting age under the mortality
11 table on which the reserve is based, unless the person appearing
12 entitled thereto has within the preceding [seven (7)] five (5)
13 years, (i) assigned, readjusted or paid premiums on the policy,
14 or subjected the policy to loan, or (ii) corresponded in writing
15 with the insurer concerning the policy.

16 2. If a person other than the insured or annuitant is
17 entitled to the funds and no address of such person is known to
18 the insurer or if it is not definite and certain from the
19 records of the insurer what person is entitled to the funds, it
20 is presumed that the last known address of the person entitled
21 to the funds is the same as the last known address of the
22 insured or annuitant according to the records of the insurer.

23 3. Moneys otherwise payable according to the records of the
24 insurer are deemed due and payable although the policy or
25 contract has not been surrendered as required.

26 (b) In the case of insurance other than life insurance, the
27 following property held or owing by an insurer is presumed
28 abandoned and unclaimed:

29 1. Any moneys held or owing by an insurer as established by
30 its records under any contract of insurance other than annuity

1 or life insurance, including premiums or deposits returnable or
2 dividends payable to policy or contract holders or other persons
3 entitled thereto, unclaimed and unpaid for more than [seven (7)]
4 five (5) years after the moneys have or shall become due and
5 payable under the provisions of such contracts of insurance.

6 2. If a person other than the insured, the principal or the
7 claimant is entitled to the funds and no address of such person
8 is known to the insurer or if it is not definite and certain
9 from the records of the insurer what person is entitled to the
10 funds, it is presumed that the last known address of the person
11 entitled to the funds is the same as the last known address of
12 the insured, the principal or the claimant according to the
13 records of the insurer.

14 Section 1301.5. Property Held by Utilities.--The following
15 funds held or owing by any utility are presumed abandoned and
16 unclaimed:

17 1. Any customer advance, toll, deposit or collateral
18 security or any other property held by any utility if under the
19 terms of an agreement the advance, toll, deposit, collateral
20 security or other property is due to or demandable by the owner
21 and has remained unclaimed for [seven (7)] five (5) years or
22 more from the date when it first became due to or demandable by
23 the owner under the agreement.

24 2. Any sum which a utility has been ordered to refund, less
25 any lawful deductions, and which has remained unclaimed by the
26 person appearing on the records of the utility entitled thereto
27 for two (2) years or more after the date it became payable in
28 accordance with the final order providing for the refund.

29 Section 1301.6. Property Held by Business Associations.--The
30 following property held or owing by a business association is

1 presumed abandoned and unclaimed:

2 1. The consideration paid for a gift certificate which has
3 remained unredeemed for two (2) years or more after its
4 redemption period has expired or for [seven (7)] five (5) years
5 or more from the date of issuance if no redemption period is
6 specified.

7 2. Any certificate of stock or participating right in a
8 business association, for which a certificate has been issued or
9 is issuable but has not been delivered, whenever the owner
10 thereof has not claimed such property, or corresponded in
11 writing with the business association concerning it, within
12 [seven (7)] five (5) years after the date prescribed for
13 delivery of the property to the owner.

14 3. Any sum due as a dividend, profit, distribution, payment
15 or distributive share of principal held or owing by a business
16 association, whenever the owner has not claimed such sum or
17 corresponded in writing with the business association concerning
18 it within [seven (7)] five (5) years after the date prescribed
19 for payment or delivery.

20 4. Any sum due as principal or interest on the business
21 association's bonds or debentures, or coupons attached thereto,
22 whenever the owner has not claimed such sum or corresponded in
23 writing with the business association concerning it within
24 [seven (7)] five (5) years after the date prescribed for
25 payment.

26 5. Any sum or certificate or participating right due by a
27 cooperative to a participating patron, whenever the owner has
28 not claimed such property, or corresponded with the cooperative
29 concerning the same within [seven (7)] five (5) years after the
30 date prescribed for payment or delivery.

1 Section 1301.8. Property Held by Fiduciaries.--The following
2 property held by fiduciaries is presumed abandoned and
3 unclaimed:

4 All property held in a fiduciary capacity for the benefit of
5 another person, unless the owner within [seven (7)] five (5)
6 years after it has or shall become payable or distributable has
7 increased or decreased the principal, accepted payment of
8 principal or income, corresponded in writing concerning the
9 property or otherwise indicated an interest therein as evidenced
10 by a writing on file with the fiduciary.

11 Section 7. Section 1301.9 of the act, amended May 16, 1986
12 (P.L.197, No.60), is amended to read:

13 Section 1301.9. Property Held by Courts and Public Officers
14 and Agencies.--The following property is presumed abandoned and
15 unclaimed:

16 1. Except as provided in clause 2, all property held for the
17 owner by any court, public corporation, public authority or
18 instrumentality of the United States, the Commonwealth, or any
19 other state, or by a public officer or political subdivision
20 thereof, unclaimed by the owner for more than [seven (7)] five
21 (5) years from the date it first became demandable or
22 distributable.

23 2. Bicycles held for the owner by a municipality unclaimed
24 by the owner for more than ninety (90) days from the date it
25 first became demandable or distributable.

26 3. The bicycles held pursuant to clause 2 may be disposed of
27 by the municipality at public auction at such time and place as
28 may be designated by the municipality or the governing body may,
29 by resolution, donate the bicycles to a charitable organization.
30 Any proceeds from the sale of the bicycles shall be retained by

1 the municipality and used for municipal purposes.

2 4. Bicycles held by or acquired by the Commonwealth for
3 ninety (90) days may be disposed of at public auction at such
4 time and place as may be designated by the [Secretary of
5 Revenue] State Treasurer. Proceeds of such sale or sales shall
6 be deposited in the General Fund.

7 5. All property held by or subject to the control of any
8 court, public corporation, public authority or instrumentality
9 of the Commonwealth or by a public officer or political
10 subdivision thereof, which is without a rightful or lawful
11 owner, to the extent not otherwise provided for by law, held for
12 more than one year.

13 Section 8. Section 1301.10 of the act, added December 9,
14 1982 (P.L.1057, No.248), is amended to read:

15 Section 1301.10. Miscellaneous Property Held for or Owing to
16 Another.--The following property, held or owing to any owner, is
17 presumed abandoned and unclaimed:

18 1. All property, not otherwise covered by this article, that
19 is admitted in writing by the holder and adjudicated to be due,
20 that is held or owing in the ordinary course of the holder's
21 business, and that has remained unclaimed by the owner for more
22 than [seven (7)] five (5) years after it became payable or
23 distributable is presumed abandoned and unclaimed[.], except for
24 clause 2.

25 2. Wages or other compensation for personal services that
26 have remained unclaimed by the owner for more than three (3)
27 years after the wages or other compensation for personal
28 services become payable or are distributed are presumed
29 abandoned and unclaimed.

30 Section 9. Section 1301.11 of the act, amended May 16, 1986

1 (P.L.197, No.60), December 12, 1994 (P.L.1015, No.138) and
2 December 15, 1999 (P.L.942, No.66), is amended to read:

3 Section 1301.11. Report of Property Subject to Custody and
4 Control of the Commonwealth under this Article.--(a) Every
5 person holding property which became subject to custody and
6 control of the Commonwealth under this article during the
7 preceding year shall report to the [secretary] State Treasurer
8 as hereinafter provided.

9 (b) The report shall be verified and shall include:

10 1. Except with respect to travelers checks and money orders,
11 the name, if known, and last known address, if any, of each
12 person appearing from the records of the holder to be the owner
13 of any property of the value of [twenty-five dollars (\$25)]
14 fifty dollars (\$50) or more;

15 2. The nature and identifying number, if any, or description
16 of the property and the amount appearing from the records to be
17 due, except that items of value under [twenty-five dollars
18 (\$25)] fifty dollars (\$50) each may be reported in the
19 aggregate;

20 3. The date when the property became payable, demandable,
21 returnable or the date upon which the property was declared or
22 found to be without a rightful or lawful owner, and the date of
23 the last transaction with the owner with respect to the
24 property; and

25 4. Other information consistent with law which the
26 [secretary] State Treasurer prescribes by [rules or] regulations
27 as necessary for administration of this article.

28 (c) If the person holding property subject to custody and
29 control of the Commonwealth under this article is a successor to
30 other persons who previously held the property for the owner, or

1 if the holder has changed his name while holding the property,
2 he shall file with his report all prior known names and
3 addresses of each holder of the property.

4 (d) The report shall be filed on or before April 15 of the
5 year following the year in which the property first became
6 subject to custody and control of the Commonwealth under this
7 article. The [secretary] State Treasurer may postpone for a
8 period not exceeding six (6) months the reporting date upon
9 written request by any person required to file a report.

10 (e) Verification, if made by a partnership, shall be
11 executed by a partner; if made by an unincorporated association
12 or private corporation, by an officer; and if made by a public
13 corporation, by its chief fiscal officer; if made by a court, by
14 an officer of the court; and if made by a public officer of the
15 United States, of the Commonwealth of Pennsylvania or any
16 political subdivisions thereof, or of any other state or
17 political subdivision thereof, by that public officer.

18 (f) Subsequent to the filing of the reports required by this
19 section, the State Treasurer shall compile a list of the
20 abandoned and unclaimed property contained in the reports. The
21 listing shall contain the names, [amount of value] items of
22 property and last known addresses, if any, of the owners listed
23 in the reports. [The listing shall not be available to any
24 person for examination, inspection or copying prior to twenty-
25 four (24) months after the reports have been filed with or
26 payment or delivery of the property has been made to the State
27 Treasurer. After the twenty-four-month period provided for in
28 this section, the] The State Treasurer shall, after the
29 notification period provided for in section 1301.12, make the
30 listing available for examination, inspection or copying at fees

1 to be determined by the State Treasurer.

2 (g) All agreements or powers of attorney to recover or
3 collect abandoned and unclaimed property contained in the
4 reports filed under this article [which are made within twenty-
5 four (24) months after the date that the reports have been filed
6 with the State Treasurer shall be void.

7 (h) All such agreements entered into after the twenty-four-
8 month period] shall be valid and enforceable only if the
9 agreements:

10 1. are in writing and duly signed and acknowledged by the
11 owner;

12 2. clearly state the fee or compensation to be paid, which
13 shall not exceed fifteen per centum of the value of the
14 abandoned and unclaimed property;

15 3. disclose the nature and value of the property; and

16 4. disclose the name and address of the holder and, if
17 known, whether the abandoned and unclaimed property has been
18 paid or delivered to the State Treasurer.

19 (i) Subsection (g) shall not apply to any agreement or power
20 of attorney entered into between the personal representative,
21 guardian, trustee or other person in a representative capacity
22 to the owner of the property in which such person has an
23 interest for a fixed fee or hourly or daily rate not contingent
24 upon the discovery of property or the value of property
25 discovered: Provided, however, That any such agreement under
26 this subsection for the purpose of evading the provisions of
27 subsection (g) shall be void.

28 (j) Nothing in this section shall be construed to prevent an
29 owner from asserting at any time that any agreement to locate or
30 reveal abandoned and unclaimed property reported to the State

1 Treasurer is based on an excessive or unjust consideration.

2 (k) To the maximum extent feasible, the State Treasurer
3 shall be entitled to request and receive and shall utilize and
4 be provided with such facilities, resources and data of any
5 court, department, division, board, bureau, commission or agency
6 of the Commonwealth or any political subdivision thereof as it
7 may reasonably request to carry out properly its powers and
8 duties hereunder.

9 Section 10. Section 1301.12 of the act, amended May 16, 1986
10 (P.L.197, No.60) and December 15, 1999 (P.L.942, No.66), is
11 amended to read:

12 Section 1301.12. Notice and Publication of Lists of Property
13 Subject to Custody and Control of the Commonwealth under this
14 Article.--(a) Within [nine (9)] twelve (12) months from the
15 filing of the report required by section 1301.11, the
16 [secretary] State Treasurer shall cause notice to be published
17 at least once [each week for two (2) successive weeks] in an
18 English language newspaper of general circulation in the county
19 in which the owner of the property had a last known address
20 appearing from the verified report filed by the holder or, if
21 there is no name or address or the owner is not a Pennsylvania
22 resident, then at least one time in the Pennsylvania Bulletin.

23 (b) The published notice shall be entitled "Notice of Names
24 of Persons Appearing to be Owners of Abandoned and Unclaimed
25 Property," and shall contain:

26 1. The names and last known addresses, if any, of persons
27 listed in the report and entitled to notice within the county as
28 hereinbefore specified and the name and address of the holder;

29 2. A statement that information concerning the amount or
30 description of the property and the name and address of the

1 holder may be obtained by any persons possessing an interest in
2 the property by addressing an inquiry to the holder;

3 3. A statement that a proof of claim should be presented by
4 the owner to the holder within three (3) months from the date of
5 the [second] published notice, and that thereafter claims should
6 be filed with the [secretary] State Treasurer.

7 (c) The [secretary] State Treasurer is not required to
8 publish in such notice any item of less than one hundred dollars
9 (\$100) unless [he] the State Treasurer deems such publication to
10 be in the public interest.

11 (d) Within [six (6)] nine (9) months from the receipt of the
12 report required by section 1301.11, the [secretary] State
13 Treasurer shall mail a notice to each person having an address
14 listed who appears to be entitled to property of the value of
15 one hundred dollars (\$100) or more subject to custody and
16 control of the Commonwealth under this article. The mailed
17 notice shall contain:

18 1. A statement that, according to a report filed with the
19 [secretary] State Treasurer, property is being held to which the
20 addressee appears entitled;

21 2. The name and address of the holder of the property and
22 any necessary information regarding changes of name and address
23 of the holder;

24 3. A statement that, if satisfactory proof of claim is not
25 presented by the owner to the holder by the date specified in
26 the published notice, claims should thereafter be filed with the
27 [secretary] State Treasurer.

28 (e) This section is not applicable to sums payable on
29 travelers checks and money orders or to property reported to be
30 without a rightful or lawful owner.

1 Section 11. Section 1301.13 of the act, amended May 16, 1986
2 (P.L.197, No.60), is amended to read:

3 Section 1301.13. Payment or Delivery.--(a) Every person who
4 holds property subject to the custody and control of the
5 Commonwealth shall, [within sixty (60) days after receipt of
6 written demand from the secretary and] after compliance with
7 section [1301.12] 1301.11, where required, and on or before
8 April 15 of the year following the year in which the property
9 first became subject to custody and control of the Commonwealth
10 under this article, pay or deliver to the [secretary] State
11 Treasurer all property subject to custody and control of the
12 Commonwealth under this article, except that, if the owner
13 establishes his right to receive the property to the
14 satisfaction of the holder, or if it appears that for some other
15 reason the property is not then subject to custody and control
16 of the Commonwealth under this article, the holder need not pay
17 or deliver the property to the [secretary] State Treasurer, but
18 in lieu thereof shall file a verified written explanation of the
19 proof of claim or as to the reason the property is not subject
20 to custody and control of the Commonwealth.

21 (b) A receipt shall be issued, on behalf of the
22 Commonwealth, for all property received under this article.

23 (c) Notwithstanding subsection (a) of this section, in the
24 case of the deposits and the sums payable under clauses 1 and 3
25 of section 1301.3 the amount of such deposits and such sums
26 shall be paid to the [secretary] State Treasurer on or before
27 the final date for filing the report required by section
28 1301.11.

29 (d) Any person who holds property which may become subject
30 to the custody and control of the Commonwealth pursuant to this

1 act may, with the consent of the [secretary] State Treasurer,
2 report and deliver such property prior to the expiration of any
3 holding period specified for such reporting. Any person who pays
4 or delivers property prior to the expiration of such holding
5 period shall be relieved of further liability pursuant to
6 section 1301.14. Property thus reported may be disposed of
7 pursuant to [sections 1301.12 and] section 1301.17, but in no
8 event shall the period for filing of claims be diminished by
9 such early delivery or disposition.

10 Section 12. Sections 1301.14, 1301.15 and 1301.16 of the
11 act, added December 9, 1982 (P.L.1057, No.248), are amended to
12 read:

13 Section 1301.14. Relief from Liability by Payment or
14 Delivery.--Upon the payment or delivery of the property to the
15 [secretary] State Treasurer, the Commonwealth shall assume
16 custody and shall be responsible for the safekeeping thereof.
17 Any person who pays or delivers property to the [secretary]
18 State Treasurer under this article is relieved of all liability
19 with respect to the safekeeping of such property so paid or
20 delivered for any claim which then exists or which thereafter
21 may arise or be made in respect to such property. Any holder who
22 has paid moneys to the [secretary] State Treasurer pursuant to
23 this article may make payment to any person appearing to such
24 holder to be entitled thereto. In the case of deposits and sums
25 paid to the [secretary] State Treasurer under subsection (c) of
26 section 1301.13, financial institutions shall make payment to
27 any person appearing to such financial institution to be
28 entitled thereto. Upon proof of such payment by a holder and
29 proof that the payee was entitled thereto, the [secretary] State
30 Treasurer shall forthwith reimburse the holder for such payment

1 together with interest from the date of receipt of such proofs
2 by the [secretary] State Treasurer to a date within thirty (30)
3 days of the date of mailing of the reimbursement. Interest under
4 this section shall be at the rate prevailing for tax over
5 payments on the date of receipt of the proofs by the [secretary]
6 State Treasurer as provided for in section 806 of this act.

7 Section 1301.15. Income Accruing After Payment or
8 Delivery.--When property is paid or delivered to the [secretary]
9 State Treasurer under this article, the owner is entitled to
10 receive income or other increments actually received by the
11 [secretary] State Treasurer.

12 Section 1301.16. Periods of Limitation.--Except as
13 hereinbelow set forth, the expiration of any period of time
14 specified by statute or court order, during which an action may
15 be commenced or maintained, or could have been commenced or
16 maintained, by the owner against the holder of the property,
17 shall not prevent such property from being subject to the
18 custody and control of the Commonwealth under this article, nor
19 affect the duty to file a report or to pay or deliver the
20 property to the [secretary] State Treasurer, as required by this
21 article, nor bar any action by the [secretary] State Treasurer
22 under this article, provided that:

23 1. If any holder required to file a report under any act in
24 effect prior to the effective date of this article, or under
25 this article, has filed or files a report, no action shall be
26 commenced or maintained against such holder unless it has been
27 or is commenced within fifteen (15) years after such report has
28 been or is filed.

29 2. If any holder was not required to file a report under any
30 act in effect prior to the effective date hereof, no action

1 shall be commenced or maintained unless it has been or is
2 commenced within fifteen (15) years after the property first
3 became escheatable or payable into the State Treasury without
4 escheat.

5 Section 13. Section 1301.17 of the act, amended May 16, 1986
6 (P.L.197, No.60), is amended to read:

7 Section 1301.17. Disposition of Property.--(a) Within a
8 reasonable time after delivery to [him] the State Treasurer of
9 any property under this article, the [secretary] State Treasurer
10 may sell it to the highest bidder at public sale in whatever
11 city in the Commonwealth affords, in [his] the State Treasurer's
12 judgment, the most favorable market for the property involved.
13 The [secretary] State Treasurer may decline the highest bid or
14 reoffer the property for sale if [he] the State Treasurer
15 considers the price bid insufficient. [He] The State Treasurer
16 need not offer any property for sale, if, in [his] the State
17 Treasurer's opinion, the probable cost of sale exceeds the value
18 of the property.

19 (b) If the property is of a type customarily sold on a
20 recognized market or of a type which is subjected to widely
21 distributed standard price quotations, the [secretary] State
22 Treasurer may sell the property without notice by publication or
23 otherwise. The language provided in this section grants to the
24 State Treasurer, express authority to sell any property
25 including, but not limited to, stocks, bonds, notes, bills and
26 all other public or private securities.

27 (c) Property reported or delivered to the custody or control
28 of the [secretary] State Treasurer pursuant to this act may be
29 donated to the use of the Commonwealth or any of its political
30 subdivisions or otherwise consumed or discarded, at the

1 discretion of the [secretary] State Treasurer where, in the
2 opinion of the [secretary] State Treasurer, the costs associated
3 with delivery, notice or sale exceed the value of the property.
4 Property which is refused or is to be donated to the use of a
5 political subdivision shall first be offered to the political
6 subdivision which holds the property. A donee or purchaser at
7 any sale conducted by the [secretary] State Treasurer pursuant
8 to this article shall receive title to the property purchased,
9 free from all claims of the owner or prior holder thereof and of
10 all persons claiming through or under them. The [secretary]
11 State Treasurer shall execute all documents necessary to
12 complete the transfer of title.

13 (d) The State Treasurer shall be responsible to an owner
14 only for the amount actually received by the State Treasurer
15 upon the sale of any property pursuant to subsections (a), (b)
16 and (c).

17 (e) The State Treasurer shall be required to sell all
18 stocks, bonds and other negotiable financial instruments upon
19 receipt of such items. The State Treasurer shall not be held
20 liable for any loss or gain in the value that the financial
21 instrument would have obtained had the financial instrument been
22 held instead of being sold.

23 Section 14. Sections 1301.18, 1301.19, 1301.20 and 1301.21,
24 added December 9, 1982 (P.L.1057, No.248), are amended to read:

25 Section 1301.18. Deposit of Funds.--(a) All funds received
26 under this article, including the proceeds from the sale of
27 property under section 1301.17, shall forthwith be deposited by
28 the [secretary] State Treasurer in the General Fund of the
29 Commonwealth, except that the [secretary] State Treasurer shall
30 retain in a separate trust fund an amount not exceeding twenty-

1 five thousand dollars (\$25,000) plus twenty per centum of
2 deposits and sums paid to the [secretary] State Treasurer under
3 subsection (c) of section 1301.13 during the preceding twelve
4 (12) months from which [he] the State Treasurer shall make
5 reimbursements under section 1301.14 and prompt payment of
6 claims duly allowed under section 1301.19. Before making the
7 deposit [he] the State Treasurer shall record the name and last
8 known address of each person appearing from the holders' reports
9 to be entitled to the property and of the name and last known
10 address of each insured person or annuitant, and with respect to
11 each policy or contract listed in the report of an insurer, its
12 number, the name of the insurer and the amount due. The record
13 with respect to any specific claim shall be available to the
14 claimant at all regular business hours.

15 (b) [Before making any deposit to the credit of the General
16 Fund, the secretary may deduct:

17 (i) Reasonable costs in connection with sale of the
18 property,

19 (ii) Reasonable costs of mailing and publication in
20 connection with any property, and

21 (iii) Reasonable service charges.] The General Assembly
22 shall annually appropriate to the State Treasurer such funds as
23 it deems necessary and appropriate to administer this article.

24 Section 1301.19. Claim for Property Paid or Delivered.--Any
25 person claiming an interest in any property paid or delivered to
26 the Commonwealth under this article may file a claim thereto or
27 to the proceeds from the sale thereof on the form prescribed by
28 the [secretary] State Treasurer.

29 Section 1301.20. Determination of Claims.--(a) The
30 [secretary] State Treasurer shall consider any claim filed under

1 this article and may hold a hearing and receive evidence
2 concerning it. If a hearing is held, [he] the State Treasurer
3 shall prepare a finding and a decision in writing on each claim
4 filed, stating the substance of any evidence heard by [him] the
5 State Treasurer and the reasons for [his] the State Treasurer's
6 decision. The decision shall be a public record.

7 (b) If the claim is allowed, the [secretary] State Treasurer
8 shall make payment forthwith.

9 Section 1301.21. Judicial Action upon Determinations.--Any
10 person aggrieved by a decision of the [secretary] State
11 Treasurer, or as to whose claim the [secretary] State Treasurer
12 has failed to act within ninety (90) days after the filing of
13 the claim, may commence an action in the Commonwealth Court to
14 establish his claim. The proceeding shall be brought within
15 thirty (30) days after the decision of the [secretary] State
16 Treasurer or within one hundred twenty (120) days from the
17 filing of the claim if the [secretary] State Treasurer fails to
18 act. The action shall be tried de novo without a jury.

19 Section 15. Section 1301.22 of the act, amended May 16, 1986
20 (P.L.197, No.60), is amended to read:

21 Section 1301.22. Election to Take Payment or Delivery.--The
22 [secretary] State Treasurer may decline to receive any item of
23 property reported, in which event the holder thereof shall be
24 discharged of any liability to the Commonwealth with respect
25 thereto. Unless the holder of the property is notified to the
26 contrary within [one hundred twenty (120)] ninety (90) days
27 after filing the report required under section 1301.11, the
28 [secretary] State Treasurer shall be deemed to have elected to
29 receive the custody of the property.

30 Section 16. Sections 1301.23, 1301.24, 1301.25, 1301.26 and

1 1301.28 of the act, added December 9, 1982 (P.L.1057, No.248),
2 are amended to read:

3 Section 1301.23. Examination of Records.--(a) If the
4 [secretary] State Treasurer has reason to believe that any
5 holder has failed to report property that should have been
6 reported pursuant to this article, the [secretary] State
7 Treasurer may, at reasonable times and upon reasonable notice,
8 examine the records of such person with respect to such
9 property.

10 (b) If a holder fails after the effective date of this
11 subsection to maintain the records required or the records of
12 the holder available for the periods subject to this act are
13 insufficient to permit the preparation of a report, the State
14 Treasurer may require the holder to report and pay the amount
15 the State Treasurer may reasonably estimate on the basis of any
16 available records of the holder or on the basis of any other
17 reasonable method of estimation that the State Treasurer may
18 select.

19 Section 1301.24. Proceeding to Compel Reporting or
20 Delivery.--(a) If any person refuses to report, or to pay or
21 deliver property to the [secretary] State Treasurer as required
22 under this article, including property subject to written
23 demands pursuant to section 1301.3 and the amount required to be
24 paid pursuant to section 1301.23(b), the Commonwealth shall
25 bring an action in a court of appropriate jurisdiction to
26 enforce reporting or delivery. In any such action the
27 Pennsylvania Rules of Civil Procedure shall apply, including
28 without limitation those pertaining to discovery. The State
29 Treasurer bears the burden of proof regarding the estimation of
30 the value of property pursuant to this article.

1 (b) If any holder fails, without proper cause, (i) to report
2 or (ii) to pay and deliver to the [secretary] State Treasurer
3 property subject to custody and control of the Commonwealth
4 under this article, such holder shall be liable to pay to the
5 [secretary] State Treasurer interest at the rate of twelve per
6 centum per annum from the time such report should have been
7 filed, to be computed on the value of such property as
8 established in an action by the [secretary] State Treasurer
9 under subsection (a), and such interest shall be recoverable in
10 the same action.

11 Section 1301.25. Penalties.--(a) Any person who, without
12 proper cause, fails to render any report or perform other duties
13 required under this article, shall, upon conviction in a summary
14 proceeding be sentenced to pay a fine of [ten dollars (\$10)] one
15 hundred dollars (\$100) for each day such report is withheld, but
16 not more than [one thousand dollars (\$1,000)] ten thousand
17 dollars (\$10,000).

18 (b) Any person who, without proper cause, refuses to pay or
19 deliver property to the [secretary] State Treasurer as required
20 under this article shall be guilty of a misdemeanor and, upon
21 conviction thereof, shall be sentenced to pay a fine of not less
22 than [one hundred dollars (\$100)] one thousand dollars (\$1,000)
23 nor more than [one thousand dollars (\$1,000)] ten thousand
24 dollars (\$10,000), or imprisonment for not more than [twelve
25 (12)] twenty-four (24) months, or both.

26 (c) Upon good cause shown, the State Treasurer may waive, in
27 whole or in part, interest and penalties under subsections (a)
28 and (b), and shall waive penalties if the holder acted in good
29 faith and without negligence.

30 Section 1301.26. [Rules and] Regulations.--(a) The

1 [secretary] State Treasurer is hereby authorized to make
2 necessary [rules and] regulations to carry out the provisions of
3 this article.

4 (b) Within twelve (12) months of the effective date of this
5 subsection, the State Treasurer shall promulgate regulations
6 regarding estimation calculations. Pending the promulgation of
7 the regulations and prior to issuing any demand pursuant to
8 section 1301.24 that incorporates any estimate of amounts due
9 following the State Treasurer's examination of a holder's
10 records, the State Treasurer shall promulgate a statement of
11 policy regarding estimation calculations. Estimation procedures
12 set forth by the statement of policy shall conform to generally
13 accepted auditing standards. The statement of policy shall
14 expire upon promulgation of final regulations or one year from
15 the effective date of this subsection, whichever occurs first.

16 [Section 1301.28. Exclusions.--The provisions of this
17 article shall not apply to nonprofit hospitalization
18 corporations or nonprofit medical service corporations.]

19 Section 17. The act is amended by adding a section to read:

20 Section 1301.28a. Interdepartmental Cooperation.--(a) The
21 head of any department, board, commission, agency or
22 instrumentality of the Commonwealth shall, unless otherwise
23 prohibited by law, disclose to the State Treasurer the last
24 known address of individuals listed in the Treasury Department's
25 records as owners of unclaimed property.

26 (b) Notwithstanding subsection (a), section 731 of this act
27 and sections 274, 353(f) and 408(b) of the act of March 4, 1971
28 (P.L.6, No.2), known as the "Tax Reform Code of 1971," the
29 Department of Revenue shall disclose to the State Treasurer the
30 last known address of individuals listed in the Treasury

1 Department's records as owners of unclaimed property.

2 (c) Upon receipt of the information referred to in
3 subsections (a) and (b), the Treasury Department shall keep the
4 information confidential and shall use it solely to assist in
5 the process of returning unclaimed property to its rightful
6 owner.

7 Section 18. The act is amended by adding an article to read:

8 ARTICLE XVII-A

9 SPECIAL FUNDS

10 SUBARTICLE A

11 BUDGET STABILIZATION RESERVE FUND

12 Section 1701-A. Establishment of Budget Stabilization Reserve
13 Fund.

14 There is established a special fund to be known as the Budget
15 Stabilization Reserve Fund.

16 Section 1702-A. Funding.

17 (a) Intent.--It is hereby declared as the intent and goal of
18 the General Assembly to create a stabilization reserve in an
19 eventual amount of 6% of the revenues of the General Fund of the
20 Commonwealth.

21 (b) Transfer of portion of surplus.--

22 (1) Except as may be provided in paragraph (2), for the
23 fiscal year beginning July 1, 2002, and in any fiscal year
24 thereafter in which the Secretary of the Budget certifies
25 that there is a surplus in the General Fund, 25% of the
26 surplus shall be deposited by the end of the next succeeding
27 quarter into the Budget Stabilization Reserve Fund.

28 (2) If, at the end of any fiscal year, the ending
29 balance of the Budget Stabilization Reserve Fund equals or
30 exceeds 6% of the actual General Fund revenues received for

1 the fiscal year in which the surplus occurs, 10% of the
2 surplus shall be deposited by the end of the next succeeding
3 quarter into the Budget Reserve Stabilization Fund.

4 (c) Appropriated funds.--The General Assembly may at any
5 time provide additional amounts from any funds available to this
6 Commonwealth as an appropriation to the Budget Stabilization
7 Reserve Fund.

8 Section 1703-A. Disposition of Budget Stabilization Reserve
9 Fund.

10 (a) Purpose.--It is the intent of the General Assembly that:

11 (1) Money from the Budget Stabilization Reserve Fund be
12 appropriated only when emergencies involving the health,
13 safety or welfare of the residents of this Commonwealth or
14 downturns in the economy resulting in significant
15 unanticipated revenue shortfalls cannot be dealt with through
16 the normal budget process.

17 (2) Money in the Budget Stabilization Reserve Fund shall
18 not be used to begin new programs but to provide for the
19 continuation of vital public programs in danger of being
20 eliminated or severely reduced due to financial problems
21 resulting from the economy.

22 (b) Appropriation.--Whenever the Governor determines that an
23 appropriation from the Budget Stabilization Reserve Fund is
24 necessary to meet emergencies involving the health, safety or
25 welfare of the residents of this Commonwealth or to
26 counterbalance downturns of the economy which result in
27 significant unanticipated revenue shortfalls, the Governor shall
28 present a request for an appropriation along with the specifics
29 of the proposal and suggested ancillary and substantive
30 legislation as may be necessary to the chairman of

1 Appropriations Committee of the Senate and the chairman of the
2 Appropriations Committee of the House of Representatives. The
3 General Assembly may then through approval of a separate
4 appropriation bill by a vote of two-thirds of the members
5 elected to the Senate and the House of Representatives
6 appropriate money from the Budget Stabilization Reserve Fund to
7 meet the needs identified in the Governor's proposal. Any money
8 appropriated according to this section which has then lapsed
9 shall be returned to the Budget Stabilization Reserve Fund.

10 SUBARTICLE B

11 UNDERGROUND STORAGE TANK INDEMNIFICATION FUND

12 Section 1711-A. Transfer.

13 Notwithstanding section 704 of the act of July 6, 1989
14 (P.L.169, No.32), known as the Storage Tank and Spill Prevention
15 Act, the Secretary of the Budget shall, by October 15, 2002,
16 transfer the sum of \$100,000,000 from the Underground Storage
17 Tank Indemnification Fund to the General Fund. The sum
18 transferred under this section shall be repaid to the
19 Underground Storage Tank Indemnification Fund over a ten-year
20 period, commencing July 1, 2004, plus interest. An annual
21 payment amount shall be included in the budget submission
22 required pursuant to section 613 of the act of April 9, 1929
23 (P.L.177, No.175), known as The Administrative Code of 1929.

24 SUBARTICLE C

25 TOBACCO SETTLEMENT FUND

26 Section 1721-A. Deposits.

27 (a) Funds.--Notwithstanding sections 303(b) and 306(c) of
28 the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco
29 Settlement Act, the following shall apply:

30 (1) For fiscal year 2002-2003, funds derived pursuant to

1 section 303(b)(3) of the Tobacco Settlement Act shall be
2 deposited into the Tobacco Settlement Fund.

3 (2) Funds lapsed pursuant to section 306(c) in fiscal
4 years 2001-2002 and 2002-2003 shall be deposited into the
5 Tobacco Settlement Fund.

6 (b) Appropriation.--Money deposited into the Tobacco
7 Settlement Fund under subsection (a) shall be appropriated for
8 health-related purposes in the General Appropriation Act for the
9 fiscal year commencing July 1, 2002.

10 Section 1722-A. Expiration.

11 This subarticle shall expire July 1, 2003.

12 Section 19. The amendment of section 1301.25(a) and (b) of
13 the act shall not apply to any holder of abandoned or unclaimed
14 property or to any abandoned or unclaimed property reportable
15 and payable to the State Treasurer prior to December 31, 2003,
16 that has a dormancy period of five years. This section shall
17 expire December 31, 2003.

18 Section 20. The act of July 1, 1985 (P.L.120, No.32),
19 entitled "An act creating a special fund in the Treasury
20 Department for use in attracting major industry into this
21 Commonwealth; establishing a procedure for the appropriation and
22 use of moneys in the fund; establishing the Tax Stabilization
23 Reserve Fund; and providing for expenditures from such account,"
24 is repealed.

25 Section 21. This act shall take effect as follows:

26 (1) The following provisions shall take effect July 1,
27 2002, or immediately, whichever is later:

28 (i) The amendments to Article XIII.1 of the act.

29 (ii) Section 19 of this act.

30 (2) The following provisions shall take effect July 15,

1 2002, or immediately, whichever is later:

2 (i) The amendments to Article II-A of the act. This
3 subparagraph includes the repeal of section 201-A of the
4 act.

5 (ii) The addition of Subarticle A of Article XVII-A
6 of the act.

7 (3) The addition of section 1210.1 of the act shall take
8 effect December 31, 2002.

9 (4) The remainder of this act shall take effect
10 immediately.