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Substitute Bill Comparative Synopsis

Sub. H.B. 270

133rd General Assembly

House Finance

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Introduced)	Latest Version (I_133_0398-5)
Definition of unclaimed funds – generally	
Includes as “unclaimed funds” only those items with a value of \$100 or more (<i>R.C. 169.01(B)(1) and 169.02 and conforming changes throughout</i>).	Reduces this threshold amount to include items with a value of \$25 or more (<i>R.C. 169.01(B)(1)</i>).
Includes as unclaimed funds Ohio tax refund warrants of \$100 or more that are not presented for payment (cash) within five years after they are issued (<i>R.C. 169.02(S) and 126.37(F)</i>).	Reduces this amount to \$25 and applies this provision to warrants issued on or after the bill’s effective date (<i>R.C. 169.02(S) and 126.37(F)</i>).

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<p>Specifies that an item cannot become an item of unclaimed funds if, within the time identified in the Unclaimed Funds Law as the period after which that type of item qualifies as an item of unclaimed funds, the owner increased, decreased, or adjusted the amount of such funds, including by preauthorizing electronic debit or credit transfers such as automated clearinghouse transactions initiated by the owner and reflected on the books and records of the holder (R.C. 169.01(B)(1)(a)).</p> <p>No provision.</p>	<p>Specifies that an item cannot become an item of unclaimed funds if <i>at any time</i> the owner preauthorized a recurring electronic debit or credit transfer, including an automated clearing house transaction, which transfer is ongoing and which preauthorization is reflected on the books and records of the holder and specifies that such preauthorized transfers do not include automatic reinvestments of dividends or interest (R.C. 169.01(B)(1)(b)).</p> <p>Explicitly includes virtual currency in the definition of “unclaimed funds” and defines it as a digital representation of value used as a medium of exchange, unit of account, or store of value that does not have legal tender status recognized by the U.S.</p> <p>Excludes from the definition of “virtual currency”:</p> <ul style="list-style-type: none"> ▪ The software or protocols governing the transfer of the digital representation of value; ▪ Game-related digital content (generally, digital content that exists only in an electronic game or electronic-game platform); ▪ A gift card or loyalty card (R.C. 169.01(L) through (O)).
Definition of unclaimed funds – certificates of deposit	
<p>Provides that any funds subject to an agreement between the holder and the owner providing for automatic reinvestment, including a certificate of deposit (CD), that are unclaimed for a period of five years become unclaimed funds unless, at or about the time the underlying security or CD is due for renewal, the owner consented to the continued automatic reinvestment in a record on file with the holder.</p>	<p>Similar but provides that:</p> <ul style="list-style-type: none"> ▪ The first time the CD is due for renewal, the five-year period does not begin to run if the owner consented to the continued automatic reinvestment or renewal at or about the time the underlying CD is due for renewal;

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<p>States that this five-year period commences from the date of maturity of the automatic reinvestment and that maturity is reached five years after the expiration of the initial time period. <i>(R.C. 169.02(R).)</i></p>	<ul style="list-style-type: none"> ▪ For subsequent renewals, a new consent must be given not less frequently than every five years, regardless of the term of the CD. <p>Specifies that if consent is not timely given, the five-year period begins to run five years after the most recent consent is due. <i>(R.C. 169.02(R)(2).)</i></p>
Small estate affidavit	
<p>Requires the Director of Commerce to distribute an item of unclaimed funds that was owned by an individual who died an Ohio resident not sooner than <i>45 days</i> following the death and without requiring letters of testamentary, letters of administration, <i>or an Ohio estate tax release.</i></p> <p><i>Establishes conditions that must be met for the distribution to occur, including:</i></p> <ul style="list-style-type: none"> ▪ The item of unclaimed funds is valued at not more than \$5,000. ▪ Either of the following is met: <ul style="list-style-type: none"> ▫ A personal representative of the deceased owner's estate has not been appointed and no petition for the appointment is pending in any jurisdiction; ▫ The personal representative has been discharged and two or more years have elapsed since a closing statement has been filed. ▪ The person seeking to claim the item provides the Director specified documents and affidavits. 	<p>Increases the distribution deadline from 45 to 210 days and eliminates reference to Ohio estate tax releases.</p> <ul style="list-style-type: none"> ▪ Requires aggregation of all such items of unclaimed funds taken together when considering the \$5,000 threshold. <p>No provision.</p> <ul style="list-style-type: none"> ▪ Substantially the same, except as follows: <ul style="list-style-type: none"> ▫ A statement that the claimant is entitled to inherit from the

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<ul style="list-style-type: none"> ▫ A statement that the claimant is the deceased owner's successor and that specifies the claimant's relationship to the deceased owner; ▫ A statement that the claimant is authorized to act on behalf of the deceased owner's successor with respect to the decedent's interest in the item, as applicable (R.C. 169.052(A)). <p>Following distribution of an item, releases the Director to the same extent as if distribution had been made to a duly appointed executor, administrator, or <i>personal representative of the deceased owner</i> (R.C. 169.052(B)).</p>	<p>deceased owner either by virtue of being a beneficiary in the decedent's will or under Ohio's intestacy laws, and that specifies the claimant's relationship to the deceased owner;</p> <ul style="list-style-type: none"> ▫ A statement that the claimant will distribute the unclaimed funds pursuant to the deceased owner's will or Ohio's intestacy laws; ▫ A statement that the deceased owner's funeral and burial expenses have been paid, that the claimant will pay the funeral and burial expenses, or that the unclaimed funds will be used to pay the funeral and burial expenses; ▫ If the unclaimed funds will be used to pay the funeral and burial expenses, an additional statement that the unclaimed funds will go toward those expenses (R.C. 169.052(A)). <p>Following distribution of an item, releases the Director to the same extent as <i>by an entry granting release from administration or as if</i> distribution had been made to a duly appointed executor, administrator, or <i>commissioner of the deceased owner's estate</i> (R.C. 169.052(B)).</p>
Payment and allocation	
<p>Requires a holder to pay to the Director of Commerce all unclaimed funds shown on the report (R.C. 169.05(A)).</p>	<p>Same, but adds an exception that if an item of unclaimed funds is a certificate of deposit and the time provided for payment to the Director would result in a penalty or forfeiture of interest, the time for payment must be extended until the time when no penalty or forfeiture would result (R.C. 169.05(A)).</p>

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<p>Requires funds to be allocated to the Mortgage Insurance Fund in a percentage at least equal to the percentage allocated in fiscal year 2019 but not more than 50% (<i>R.C. 169.05(A)</i>).</p> <p>Requires that after allocation of sufficient moneys to the Minority Business Bonding Fund, funds must be allocated to the Housing Development Fund in a percentage at least equal to the percentage allocated in fiscal year 2019 but not more than 50% (<i>R.C. 169.05(A)</i>).</p> <p>Requires a holder of an item of unclaimed funds valued at \$100 or more as of the bill's effective date to deliver each such item to the Director not later than one year following the bill's effective date (<i>Section 3</i>).</p>	<p>Returns to existing law and requires half the funds evidenced by agreements, in income-bearing accounts, or on deposit with the Treasurer of State to be allocated to the Mortgage Insurance Fund (<i>R.C. 169.05(A)</i>).</p> <p>Of the remaining half, after allocation of sufficient moneys to the Minority Business Bonding Fund, requires funds to be allocated to the Housing Development Fund in an amount determined by the Director (<i>R.C. 169.05(A)</i>).</p> <p>Requires a holder retaining any item of unclaimed funds regardless of value to deliver each item to the Director not later than one year following the bill's effective date (<i>Section 4</i>).</p>
Statute of limitations	
<p>No provision.</p>	<p>Prohibits the Director from commencing an action or proceeding against a holder more than five years after the holder filed a report with the Director.</p> <p>Tolls the period of limitation in the absence of such a report or by the filing of a fraudulent report. (<i>R.C. 169.03(H)(2)</i>.)</p>
Reimbursement of holder by Director	
<p>Eliminates an existing provision that generally permitted a holder who has delivered an item of unclaimed funds to the Director or entered into an agreement with the Director on certain instruments to pay any person or governmental entity entitled to that item of unclaimed funds (<i>R.C. 169.08</i>).</p>	<p>Returns to existing law (<i>R.C. 169.08(H)</i>).</p>

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Penalties	
<p>Imposes penalties of up to \$100 or \$500 per day if a holder does any of the following:</p> <ul style="list-style-type: none"> ▪ Knowingly fails to report unclaimed funds; ▪ Knowingly fails to report unclaimed funds upon request; ▪ Knowingly fails to pay the unclaimed funds to the Department of Commerce when required to do so (<i>R.C. 169.10, 169.12, and 169.99</i>). <p>In addition, imposes a civil penalty of 1% of the amount of unclaimed funds not reported, underreported, or on which settlement has not been made for each month from the date prescribed for such reporting and payment or agreement until such required settlement is made, except that such penalty shall not be imposed for more than 25 months (<i>R.C. 169.12(C)</i>).</p>	<p>Imposes the following penalties:</p> <ul style="list-style-type: none"> ▪ For negligently failing to report or deliver unclaimed funds, including when specifically requested by the Director, up to 5% of the funds or \$5,000 for each month the violation occurs, with a cap of the lesser of 25% of the funds or \$5,000; ▪ For knowingly failing to report or deliver unclaimed funds, including when specifically requested by the Director, up to 5% of the funds or \$10,000 for each month the violation occurs, with a cap of the lesser of 50% of the funds or \$10,000 (<i>R.C. 169.10, 169.12, and 169.99</i>).
Data sharing	
<p>Regarding documents and information relating to an owner, holder, or item of unclaimed funds:</p> <ul style="list-style-type: none"> ▪ Requires the Director to share such documents and information with, and receive them from, local, state, and federal agencies and prosecutors; ▪ Requires local and state agencies and prosecutors to share such documents and information with, and receive them from, the Director. <p>Requires the Director and local and state agencies and prosecutors to maintain the confidential or privileged nature of any documents or</p>	<p>Unless otherwise prohibited, upon request of the Director, requires the state or a political subdivision to make its books and records available to the Director and cooperate with the Director to determine the current address of an owner of unclaimed funds or tangible property mistakenly sent to the Department of Commerce or otherwise assist the Director in administering the Unclaimed Funds Law. Allows the Director to enter into data sharing agreements to enable such other governmental agencies and political subdivisions to provide an additional notice to owners of unclaimed funds or owners of tangible property mistakenly sent to the Department. (<i>R.C. 169.18</i>.)</p>

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information and not release them except as otherwise required. (R.C. 169.18.)	