

# SENATE NO. 943

## **AN ACT** RELATIVE TO CERTAIN CHECKS NOT CASHED AND DEEMED ABANDONED

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1 SECTION 1. Section 9A of chapter 200A of the general laws is hereby repealed in its entirety and  
2 shall be replaced with the following:

3 Section 9A. Alternative procedure for handling abandoned funds held by cities, towns and districts.

4 (a) This section shall apply to abandoned funds, as determined herein, held in the custody of cities,  
5 towns or districts that have accepted the provisions of this section pursuant to section 4 of chapter 4 of  
6 the general laws. In the case of such cities, towns or districts accepting the provisions of this section  
7 there shall be an alternative procedure for disposing of abandoned funds held in the custody of such  
8 cities, towns or districts as provided in this section, and only this section shall apply to the disposition  
9 of such funds.

10 (b) Any funds held in the custody of a city, town or district that has accepted this section may be  
11 presumed by the city, town or district treasurer to be abandoned unless claimed by the corporation,  
12 organization, beneficiary or person entitled thereto within one year after the date prescribed for  
13 payment or delivery, provided the last instrument intended as payment bears upon its face the

14 statement “void if not cashed within one year from date of issue.” Once a period of one year has  
15 elapsed from the date of any such instrument, the treasurer of any such city, town or district may cause  
16 the financial institution upon which the instrument was drawn to stop payment on the instrument, or  
17 otherwise cause the financial institution to decline payment on the instrument, and any claims made  
18 beyond this date may only be paid by the city, town or district through the issuance of a new  
19 instrument. Neither the city, town, district nor financial institution shall be liable for damages,  
20 consequential or otherwise, resulting from a refusal to honor an instrument of a city, town or district  
21 submitted for payment more than one year from its issuance.

22 (c) The treasurer of a city, town or district holding funds owed to a corporation, organization,  
23 beneficiary or person entitled thereto, that are presumed to be abandoned as aforementioned, shall post  
24 a notice, which notice shall be entitled “Notice of Names of Persons appearing to be Owners of funds  
25 held by (insert city, town or district name), and deemed abandoned.” The notice shall specify those  
26 who appear from available information to be entitled to such funds, shall provide a description of the  
27 appropriate method for claiming such funds, and shall state a deadline beyond which funds may no  
28 longer be claimed, provided such deadline is no earlier than sixty days from the date such notice was  
29 either postmarked or first posted on a website as herein provided. The treasurer of such city, town or  
30 district may post such notice using one or both of the following methods: (1) by mailing such notice  
31 postpaid to the last known address of the beneficiary or person entitled thereto, sent via first class mail,  
32 or (2) if the city, town or district maintains an official website the said treasurer may, as an alternative,  
33 post the notice conspicuously on said website for a period of not less than 60 days.

34 (d) In the event funds appearing to be owed to a corporation, organization, beneficiary or person  
35 amount to \$100 or more, and the deadline as provided in the aforementioned notice has passed, and no

36 claim for the funds has been made, the treasurer shall cause an additional notice, in substantially the  
37 same form as the aforementioned notice, to be published in a newspaper of general circulation in the  
38 county (or counties) in which the city, town or district is located, except that this notice shall provide  
39 an extended deadline beyond which funds cannot be claimed, which shall be no earlier than one year  
40 from the date of publication of such notice.

41 (e) Once the final deadline of the aforementioned notice(s) has passed, the funds owed to such  
42 corporation, organization, beneficiary or person entitled thereto shall escheat to the city, town or  
43 district and the treasurer thereof shall record the funds as revenue in the general fund of the city, town  
44 or district, and the city, town or district shall not thereafter be liable to the corporation, organization,  
45 beneficiary or person for payment of those funds, nor for the underlying liability for which the funds  
46 were originally intended. These funds shall then be available to the city, town or district's  
47 appropriating authority for appropriation for any other public purpose. In addition to the notices  
48 herein provided for, the treasurer of the city, town or district may initiate any other notices or  
49 communications that are directed in good faith toward making final disbursement of the funds to the  
50 corporation, organization, beneficiary or person entitled thereto.

51 Prior to escheatment of the funds, the treasurer of the city, town or district shall hear all claims  
52 on funds that may arise, and if it is clear, based on a preponderance of the evidence available to the  
53 treasurer at the time the claim is made that the claimant is entitled to disbursement of the funds, the  
54 treasurer shall disburse funds to the claimant upon receipt by the treasurer of a written indemnification  
55 agreement from the claimant wherein the claimant agrees to hold the city, town or district and the  
56 treasurer of the city, town or district harmless in the event it is later determined that the claimant was  
57 not entitled to receipt of the funds. If it is not clear, based on a preponderance of the evidence before

58 the treasurer at the time of the claim that the claimant is entitled to disbursement of the funds, the  
59 treasurer shall segregate the funds into a separate, interest bearing, bank account and shall notify the  
60 claimant of such action within 10 days. A claimant affected by this action may appeal within 20 days  
61 to the district, municipal or superior court of the county in which the city, town or district is located.  
62 The claimant shall have a trial de novo. An appeal shall be perfected by the claimant within 20 days  
63 after receiving notice of this action by the city, town or district treasurer. A party adversely affected by  
64 a decree or order of the district, municipal or superior court may appeal to the appeals court or the  
65 supreme judicial court within 20 days from the date of the decree.

66 If the validity of the claim shall be determined in favor of the claimant or another party, the  
67 treasurer shall disburse funds to the claimant in accordance with the order of the court, including  
68 interest accrued. If the validity of the claim is determined to be not in favor of the claimant or any  
69 other party, or if the treasurer does not receive notice that an appeal has been filed within one year  
70 from the date the claimant was notified that funds were being withheld, then the funds, plus accrued  
71 interest, shall escheat to the city, town or district in the manner herein provided.

72 If the claimant is domiciled in a country or state outside the United States or its territories and  
73 the city, town or district determines that there is no reasonable assurance that the claimant will actually  
74 receive the payment provided for in this section in substantially full value, the superior court, in its  
75 discretion or upon a petition by the city, town or district may order that the city, town or district retain  
76 such payment.

77 SECTION 2. The earlier Section 9A of chapter 200A herein repealed shall apply to funds wherein the  
78 final instrument of disbursement was issued prior to the effective date of this act.

