
DIGEST

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HB 325 Engrossed

2017 Regular Session

Thibaut

Abstract: Provides procedures for the repayment and retention of unused advanced court costs by the clerks of court, and provides an exception to the application of the Uniform Unclaimed Property Act to abandoned advanced court costs.

Present law requires the clerks of the district courts to collect from the plaintiff advanced costs in each ordinary suit.

Proposed law requires the clerks of the district courts to collect the advanced costs from the parties.

Present law provides that if a period of five years elapses without any pleadings being filed during which time the suit is inactive, the clerk shall refund any unused balance remaining after paying all fees or other charges of record in the suit. Probate matters are excepted from the provisions of present law.

Proposed law deletes present law and requires the clerk to refund any unused advanced deposits in excess of \$10 within 90 days of receipt of written verification of final termination of the proceeding, upon a judgment of dismissal based on abandonment, or where no document has been filed for more than five years.

Proposed law requires the clerk to send payment to the last known address of the person who made the deposit, and further provides that the clerk, after publishing a notice of intent, shall move that the district court order any unused balance remaining for more than six months to be transferred to the clerk's operating account.

Proposed law provides that the clerk shall remain liable for the unclaimed funds for a period of one year after the transfer of the money to the operating account, after which the clerk shall be relieved of all liability.

Proposed law authorizes the clerk to retain any account balance under \$10 unless the person who made the deposit claims the balance prior to the expiration of the delays established by proposed law.

Compliance with proposed law exempts the clerk from any obligations established by the Uniform Unclaimed Property Act.

Present law (R.S. 9:154) provides for the Uniform Unclaimed Property Act which establishes presumptions of abandonment based on different classifications of property, and requires that, upon

reaching the period of abandonment, the holder of the abandoned property shall report and transfer the abandoned property to the state treasurer who shall hold the property until the owner files and establishes a claim for the return of the property.

Present law provides that, except for unclaimed bail bonds, property held by the court for one year after it becomes distributable is deemed abandoned and is required to be transferred to the state treasurer.

Proposed law provides an additional exception to present law for advanced deposits held by the clerk of court.

Present law (R.S. 13:843.1) provides that not later than 90 days after receipt of written verification of final termination of a civil suit, the clerk of each district court shall either: (1) refund any unused balance remaining in the clerk's advance deposit fund to the plaintiff, or (2) issue to the party primarily liable a demand for payment of any accrued costs in excess of the advance deposit.

Proposed law repeals present law.

(Amends R.S. 9:154(A)(10) and R.S. 13:842; Repeals R.S. 13:843.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Removes requirement that clerks of courts collect advance costs from authorized representatives or counsels of record.