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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**S.B. 67**  
**133rd General Assembly**

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Williams

Andrew Little, Attorney

### Summary

- Requires the Director of Budget and Management, instead of the Auditor of State, to pay unclaimed funds when the funds owner has an agreement with a person registered with the Director of Commerce (registrant) to locate, deliver, recover, or assist in the recovery of the funds.
- Authorizes the Director of Commerce to establish a reasonable fee for the processing and delivery of any payment made to the registrant for the recovery services.
- Requires the agreement between an unclaimed funds owner and a registrant performing the recovery services to disclose that:
  - The Director of Commerce will direct the Director of Budget and Management to pay, from the unclaimed funds, any legal amount specified in the agreement directly to the registrant, less any fee charged by the Director of Commerce; and
  - The remaining unclaimed funds will be paid directly to the owner.

### Detailed Analysis

#### Payments of unclaimed funds under recovery assistance agreements

Unclaimed funds are moneys, rights to moneys, or intangible property owned by someone who has not maintained a minimum level of contact with the person or entity holding the funds. Sometimes, the owner engages another person to assist in locating or recovering unclaimed funds. Continuing law refers to such a person as a “registrant” because they must obtain a certificate of registration from the Director of Commerce before engaging in these activities.<sup>1</sup>

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<sup>1</sup> R.C. 169.01, 169.02, and 169.16, not in the bill.

When the owner of unclaimed funds has entered into an unclaimed funds recovery assistance agreement with a registrant to locate, deliver, recover, or assist in the recovery of those unclaimed funds, the bill requires the Director of Budget and Management, to do both of the following:

1. Pay from the unclaimed funds, directly to the registrant, any legal amount specified in the agreement to compensate the registrant for services performed in the recovery of the unclaimed funds, minus any amount the bill authorizes the Director of Commerce to establish as a reasonable fee for the processing and delivery of any payment made to a registrant; and
2. Pay any remaining unclaimed funds directly to the owner.<sup>2</sup>

Current law implicitly requires the Auditor of State to pay the unclaimed funds directly to the owner and does not require payment to the registrant under an unclaimed funds recovery assistance agreement.<sup>3</sup>

The bill also requires each person who files a claim with the Director of Commerce under a recovery assistance agreement to include with that claim a copy of the agreement. Existing law requires only that the registrant's certificate of registration number also be included with the claim.<sup>4</sup> (See **Comment.**)

### **New disclosure provisions in recovery assistance agreements**

The bill requires that an unclaimed funds recovery assistance agreement include a provision disclosing that the Director of Commerce will direct the Director of Budget and Management to:

- Pay from the unclaimed funds any legal amount specified in the agreement to compensate a registrant for services performed under the agreement directly to the registrant, less any fee established by the Director of Commerce; and
- Pay any remaining unclaimed funds, or, as required by existing law, deliver the contents of a safe deposit box, directly to the owner of the unclaimed funds.<sup>5</sup>

### **Continuing disclosure provisions in recovery assistance agreements**

Under continuing law, following a two-year period after a holder of unclaimed funds reports those funds to the Director of Commerce, a person entitled to receive unclaimed funds may enter into an agreement with a registrant, agreeing to pay a fee or compensate the registrant to locate, deliver, recover, or assist in the recovery of unclaimed funds if certain conditions are met, including the changes made by the bill and the following conditions: the aggregate fee cannot exceed 10% of the amount recovered; the agreement must be in writing, signed by the owner, and notarized; the agreement must disclose certain identifying items of

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<sup>2</sup> R.C. 169.13(B) and 169.14(C) and (D).

<sup>3</sup> See R.C. 169.13(B)(2)(f) and (E); R.C. 169.08(A), not in the bill.

<sup>4</sup> R.C. 169.14(A).

<sup>5</sup> R.C. 169.13(B)(2)(f).

the owner of the unclaimed funds or contents of a safe deposit box and of the person or entity holding the funds or contents; the agreement cannot include a power of attorney for the payment of the unclaimed funds to any person other than the owner; and, if the agreement involves recovery of the contents of a safe deposit box, certain additional requirements.<sup>6</sup>

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## Comment

The bill also requires each person who files a claim with the Director of Commerce under a recovery assistance agreement to include with that claim a copy of the agreement. Existing law requires only that the registrant's certificate of registration number also be included with the claim. Existing law also directs the Division of Unclaimed funds to disregard any claims submitted pursuant to a recovery assistance agreement that are not filed with the certificate of registration number.<sup>7</sup> The bill does not require the Division, however, to disregard any claims filed pursuant to a recovery assistance agreement without a copy of the agreement attached.

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## History

Action	Date
Introduced	02-26-19

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<sup>6</sup> R.C. 169.03, not in the bill, and R.C. 169.13.

<sup>7</sup> R.C. 169.14(B).