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HOUSE BILL 536

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Henry Kiki Saavedra

AN ACT

RELATING TO UNCLAIMED PROPERTY; AMENDING SECTIONS OF THE NMSA
1978 TO EXCLUDE CHILD, SPOUSAL OR MEDICAL SUPPORT PAYMENTS FROM
THE DEFINITION OF PROPERTY UNDER THE UNIFORM UNCLAIMED PROPERTY
ACT (1995).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-8A-1 NMSA 1978 (being Laws 1997,
Chapter 25, Section 1) is amended to read:

"7-8A-1. DEFINITIONS. -- As used in the Uniform Unclaimed
Property Act (1995):

(1) "administrator" means the taxation and revenue
department, the secretary of taxation and revenue or any
employee of the department who exercises authority lawfully
delegated to him by the secretary;

(2) "apparent owner" means a person whose name

underscored material = new
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1 appears on the records of a holder as the person entitled to
2 property held, issued, or owing by the holder;

3 (3) "business association" means a corporation,
4 joint stock company, investment company, partnership,
5 unincorporated association, joint venture, limited liability
6 company, business trust, trust company, land bank, safe deposit
7 company, safekeeping depository, financial organization,
8 insurance company, mutual fund, utility, or other business
9 entity consisting of one or more persons, whether or not for
10 profit;

11 (4) "domicile" means the state of incorporation of
12 a corporation and the state of the principal place of business
13 of a holder other than a corporation;

14 (5) "financial organization" means a savings and
15 loan association, building and loan association, savings bank,
16 industrial bank, bank, banking organization or credit union;

17 (6) "holder" means a person obligated to hold for
18 the account of, or deliver or pay to, the owner property that
19 is subject to the Uniform Unclaimed Property Act (1995);

20 (7) "insurance company" means an association,
21 corporation or fraternal or mutual benefit organization,
22 whether or not for profit, engaged in the business of providing
23 life endowments, annuities or insurance, including accident,
24 burial, casualty, credit life, contract performance, dental,
25 disability, fidelity, fire, health, hospitalization, illness,

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1 life, malpractice, marine, mortgage, surety, wage protection
2 and workers' compensation insurance;

3 (8) "mineral" means gas; oil; coal; other gaseous,
4 liquid and solid hydrocarbons; oil shale; cement material; sand
5 and gravel; road material; building stone; chemical raw
6 material; gemstone; fissionable and nonfissionable ores;
7 colloidal and other clay; steam and other geothermal resource;
8 or any other substance defined as a mineral by the law of New
9 Mexico;

10 (9) "mineral proceeds" means amounts payable for
11 the extraction, production or sale of minerals, or, upon the
12 abandonment of those payments, all payments that become payable
13 thereafter. The term includes amounts payable:

14 (i) for the acquisition and retention of a
15 mineral lease, including bonuses, royalties, compensatory
16 royalties, shut-in royalties, minimum royalties and delay
17 rentals;

18 (ii) for the extraction, production or sale of
19 minerals, including net revenue interests, royalties,
20 overriding royalties, extraction payments and production
21 payments; and

22 (iii) under an agreement or option, including a
23 joint operating agreement, unit agreement, pooling agreement
24 and farm-out agreement;

25 (10) "money order" includes an express money order

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1 and a personal money order, on which the remitter is the
2 purchaser. The term does not include a bank money order or any
3 other instrument sold by a financial organization if the seller
4 has obtained the name and address of the payee;

5 (11) "owner" means a person who has a legal or
6 equitable interest in property subject to the Uniform Unclaimed
7 Property Act (1995) or the person's legal representative. The
8 term includes a depositor in the case of a deposit, a
9 beneficiary in the case of a trust other than a deposit in
10 trust and a creditor, claimant or payee in the case of other
11 property;

12 (12) "person" means an individual; business
13 association; financial organization; estate; trust; government;
14 governmental subdivision, agency, or instrumentality; or any
15 other legal or commercial entity;

16 (13) "property" means tangible property described
17 in Section ~~[3 of the Uniform Unclaimed Property Act (1995)]~~
18 7-8A-3 NMSA 1978 or a fixed and certain interest in intangible
19 property that is held, issued, or owed in the course of a
20 holder's business, or by a government, governmental
21 subdivision, agency, or instrumentality, and all income or
22 increments therefrom, but excludes child, spousal or medical
23 support received by the child support enforcement division of
24 the human services department, the New Mexico IV-D agency. The
25 term includes property that is referred to as or evidenced by:

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1 (i) money, a check, draft, deposit, interest or
2 dividend;

3 (ii) credit balance, customer's overpayment,
4 gift certificate, security deposit, refund, credit memorandum,
5 unpaid wage, unused ticket, mineral proceeds or unidentified
6 remittance;

7 (iii) stock or other evidence of ownership of
8 an interest in a business association or financial
9 organization;

10 (iv) a bond, debenture, note or other evidence
11 of indebtedness;

12 (v) money deposited to redeem stocks, bonds,
13 coupons or other securities or to make distributions;

14 (vi) an amount due and payable under the terms
15 of an annuity or insurance policy, including policies providing
16 life insurance, property and casualty insurance, workers'
17 compensation insurance or health and disability insurance; and

18 (vii) an amount distributable from a trust or
19 custodial fund established under a plan to provide health,
20 welfare, pension, vacation, severance, retirement, death, stock
21 purchase, profit sharing, employee savings, supplemental
22 unemployment insurance or similar benefits;

23 (14) "record" means information that is inscribed
24 on a tangible medium or that is stored in an electronic or
25 other medium and is retrievable in perceivable form;

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1 (15) "state" means a state of the United States,
2 the District of Columbia, the commonwealth of Puerto Rico or
3 any territory or insular possession subject to the jurisdiction
4 of the United States; and

5 (16) "utility" means a person who owns or operates
6 for public use any plant, equipment, real property, franchise,
7 or license for the transmission of communications or the
8 production, storage, transmission, sale, delivery or furnishing
9 of electricity, water, steam or gas. "

10 Section 2. Section 27-2-27 NMSA 1978 (being Laws 1981,
11 Chapter 90, Section 1, as amended) is amended to read:

12 "27-2-27. SINGLE STATE AGENCY--POWERS AND DUTIES. --

13 A. The department is designated as the single state
14 agency for the enforcement of child and spousal support
15 obligations pursuant to Title IV D of the federal act with the
16 following duties and powers:

17 [~~A.~~] (1) establish the paternity of a child in
18 the case of the child born out of wedlock with respect to whom
19 an assignment of support rights has been executed in favor of
20 the department;

21 [~~B.~~] (2) establish an order of support for
22 children receiving aid to families with dependent children and,
23 at the option of the department, for the spouse or former
24 spouse with whom such children are living, but only if a
25 support obligation has been established with respect to such

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1 spouse or former spouse, for whom no order of support
2 [~~presently~~] currently exists and seek modification, based upon
3 the noncustodial parent's ability to pay, of existing orders in
4 which the support order is inadequate to properly care for the
5 child and the spouse or former spouse with whom the child is
6 living;

7 [~~E.-~~] (3) enforce as the real party in interest
8 any existing order for the support of children who are
9 receiving aid to families with dependent children or of the
10 spouse or former spouse with whom such children are living; and

11 [~~D.-~~] (4) provide services to non-aid families
12 with dependent children in the establishment and enforcement of
13 paternity and child support obligations, including locating the
14 absent parent. For these services, the department is
15 authorized to establish and collect fees, costs and charges
16 permitted or required by federal law or by regulations adopted
17 pursuant to that federal law, including regulations adopted for
18 the disposition of unclaimed child, spousal or medical support
19 payments.

20 [~~E.-~~] B. In all cases handled by the department
21 pursuant to the provisions of this section, the child support
22 enforcement division of the department and any attorney
23 employed by the division represent the department in
24 establishing, modifying and enforcing support obligations. "