

S. B. No. 224
As Introduced

_____ moved to amend as follows:

- In line 1 of the title, after "sections" insert "169.02," 1
- In line 4 of the title, after "4717.36" insert "and to enact section 2
4717.311" 3
- In line 8 of the title, after "contracts" insert ", and to the 4
Unclaimed Funds Law" 5
- In line 9, after "sections" insert "169.02," 6
- In line 12, after "4717.36" insert "be amended and section 7
4717.311"; delete "amended" and insert "enacted" 8
- After line 12, insert: 9
- "**Sec. 169.02.** Subject to division (B) of section 169.01 10
of the Revised Code, the following constitute unclaimed funds: 11
- (A) Except as provided in division (R) of this section, 12
any demand, savings, or matured time deposit account, or matured 13
certificate of deposit, together with any interest or dividend 14
on it, less any lawful claims, that is held or owed by a holder 15
which is a financial organization, unclaimed for a period of 16



five years;	17
(B) Any funds paid toward the purchase of withdrawable	18
shares or other interest in a financial organization, and any	19
interest or dividends on them, less any lawful claims, that is	20
held or owed by a holder which is a financial organization,	21
unclaimed for a period of five years;	22
(C) Except as provided in division (A) of section 3903.45	23
of the Revised Code, moneys held or owed by a holder, including	24
a fraternal association, providing life insurance, including	25
annuity or endowment coverage, unclaimed for three years after	26
becoming payable as established from the records of such holder	27
under any life or endowment insurance policy or annuity contract	28
that has matured or terminated. An insurance policy, the	29
proceeds of which are payable on the death of the insured, not	30
matured by proof of death of the insured is deemed matured and	31
the proceeds payable if such policy was in force when the	32
insured attained the limiting age under the mortality table on	33
which the reserve is based.	34
Moneys otherwise payable according to the records of such	35
holder are deemed payable although the policy or contract has	36
not been surrendered as required.	37
(D) Any deposit made to secure payment or any sum paid in	38
advance for utility services of a public utility and any amount	39
refundable from rates or charges collected by a public utility	40
for utility services held or owed by a holder, less any lawful	41
claims, that has remained unclaimed for one year after the	42
termination of the services for which the deposit or advance	43
payment was made or one year from the date the refund was	44
payable, whichever is earlier;	45

(E) Except as provided in division (R) of this section, 46
any certificates, securities as defined in section 1707.01 of 47
the Revised Code, nonwithdrawable shares, other instruments 48
evidencing ownership, or rights to them or funds paid toward the 49
purchase of them, or any dividend, capital credit, profit, 50
distribution, interest, or payment on principal or other sum, 51
held or owed by a holder, including funds deposited with a 52
fiscal agent or fiduciary for payment of them, and instruments 53
representing an ownership interest, unclaimed for five years. 54
Any underlying share or other intangible instrument representing 55
an ownership interest in a business association, in which the 56
issuer has recorded on its books the issuance of the share but 57
has been unable to deliver the certificate to the shareholder, 58
constitutes unclaimed funds if such underlying share is 59
unclaimed for five years. In addition, an underlying share 60
constitutes unclaimed funds if a dividend, distribution, or 61
other sum payable as a result of the underlying share has 62
remained unclaimed by the owner for five years. 63

This division shall not prejudice the rights of fiscal 64
agents or fiduciaries for payment to return the items described 65
in this division to their principals, according to the terms of 66
an agency or fiduciary agreement, but such a return shall 67
constitute the principal as the holder of the items and shall 68
not interrupt the period for computing the time for which the 69
items have remained unclaimed. 70

In the case of any such funds accruing and held or owed by 71
a corporation under division (E) of section 1701.24 of the 72
Revised Code, such corporation shall comply with this chapter, 73
subject to the limitation contained in section 1701.34 of the 74
Revised Code. The period of time for which such funds have gone 75
unclaimed specified in section 1701.34 of the Revised Code shall 76

be computed, with respect to dividends or distributions, 77
commencing as of the dates when such dividends or distributions 78
would have been payable to the shareholder had such shareholder 79
surrendered the certificates for cancellation and exchange by 80
the date specified in the order relating to them. 81

Capital credits of a cooperative which after January 1, 82
1972, have been allocated to members and which by agreement are 83
expressly required to be paid if claimed after death of the 84
owner are deemed payable, for the purpose of this chapter, 85
fifteen years after either the termination of service by the 86
cooperative to the owner or upon the nonactivity as provided in 87
division (B) of section 169.01 of the Revised Code, whichever 88
occurs later, provided that this provision does not apply if the 89
payment is not mandatory. 90

(F) Any sum payable on certified checks or other written 91
instruments certified or issued and representing funds held or 92
owed by a holder, less any lawful claims, that are unclaimed for 93
five years from the date payable or from the date of issuance if 94
payable on demand; except that the unclaimed period for money 95
orders that are not third party bank checks is seven years, and 96
the unclaimed period for traveler's checks is fifteen years, 97
from the date payable or from the date of issuance if payable on 98
demand. 99

As used in this division, "written instruments" include, 100
but are not limited to, certified checks, cashier's checks, 101
bills of exchange, letters of credit, drafts, money orders, and 102
traveler's checks. 103

If there is no address of record for the owner or other 104
person entitled to the funds, such address is presumed to be the 105
address where the instrument was certified or issued. 106

(G) Except as provided in division (R) of this section, 107
all moneys, rights to moneys, or other intangible property, 108
arising out of the business of engaging in the purchase or sale 109
of securities, or otherwise dealing in intangibles, less any 110
lawful claims, that are held or owed by a holder and are 111
unclaimed for five years from the date of transaction. 112

(H) Except as provided in division (A) of section 3903.45 113
of the Revised Code, all moneys, rights to moneys, and other 114
intangible property distributable in the course of dissolution 115
or liquidation of a holder that are unclaimed for one year after 116
the date set by the holder for distribution; 117

(I) All moneys, rights to moneys, or other intangible 118
property removed from a safe-deposit box or other safekeeping 119
repository located in this state or removed from a safe-deposit 120
box or other safekeeping repository of a holder, on which the 121
lease or rental period has expired, or any amount arising from 122
the sale of such property, less any lawful claims, that are 123
unclaimed for three years from the date on which the lease or 124
rental period expired; 125

(J) Subject to division (M) (2) of this section, all 126
moneys, rights to moneys, or other intangible property, and any 127
income or increment on them, held or owed by a holder which is a 128
fiduciary for the benefit of another, or a fiduciary or 129
custodian of a qualified retirement plan or individual 130
retirement arrangement under section 401 or 408 of the Internal 131
Revenue Code, unclaimed for three years after the final date for 132
distribution; 133

(K) All moneys, rights to moneys, or other intangible 134
property held or owed in this state or held for or owed to an 135
owner whose last known address is within this state, by the 136

United States government or any state, as those terms are 137
described in division (E) of section 169.01 of the Revised Code, 138
unclaimed by the owner for three years, excluding any property 139
in the control of any court in a proceeding in which a final 140
adjudication has not been made; 141

(L) Amounts payable pursuant to the terms of any policy of 142
insurance, other than life insurance, or any refund available 143
under such a policy, held or owed by any holder, unclaimed for 144
three years from the date payable or distributable; 145

(M) (1) Subject to division (M) (2) of this section, any 146
funds constituting rents or lease payments due, any deposit made 147
to secure payment of rents or leases, or any sum paid in advance 148
for rents, leases, possible damage to property, unused services, 149
performance requirements, or any other purpose, held or owed by 150
a holder unclaimed for one year; 151

(2) Any escrow funds, security deposits, or other moneys 152
that are received by a licensed broker in a fiduciary capacity 153
and that, pursuant to division (A) (26) of section 4735.18 of the 154
Revised Code, are required to be deposited into and maintained 155
in a special or trust, noninterest-bearing bank account separate 156
and distinct from any personal or other account of the licensed 157
broker, held or owed by the licensed broker unclaimed for two 158
years. 159

(N) Any sum greater than fifty dollars payable as wages, 160
any sum payable as salaries or commissions, any sum payable for 161
services rendered, funds owed or held as royalties, oil and 162
mineral proceeds, funds held for or owed to suppliers, and 163
moneys owed under pension and profit-sharing plans, held or owed 164
by any holder unclaimed for one year from date payable or 165
distributable, and all other credits held or owed, or to be 166

refunded to a retail customer, by any holder unclaimed for three	167
years from date payable or distributable;	168
(O) Amounts held in respect of or represented by lay-aways	169
sold after January 1, 1972, less any lawful claims, when such	170
lay-aways are unclaimed for three years after the sale of them;	171
(P) All moneys, rights to moneys, and other intangible	172
property not otherwise constituted as unclaimed funds by this	173
section, including any income or increment on them, less any	174
lawful claims, which are held or owed by any holder, other than	175
a holder which holds a permit issued pursuant to Chapter 3769.	176
of the Revised Code, and which have remained unclaimed for three	177
years after becoming payable or distributable;	178
(Q) All moneys that arise out of a sale held pursuant to	179
section 5322.03 of the Revised Code, that are held by a holder	180
for delivery on demand to the appropriate person pursuant to	181
division (I) of that section, and that are unclaimed for two	182
years after the date of the sale.	183
(R) (1) Any funds that are subject to an agreement between	184
the holder and owner providing for automatic reinvestment and	185
that constitute dividends, distributions, or other sums held or	186
owed by a holder in connection with a security as defined in	187
section 1707.01 of the Revised Code, an ownership interest in an	188
investment company registered under the "Investment Company Act	189
of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or a	190
certificate of deposit, unclaimed for a period of five years.	191
(2) The five-year period under division (R) (1) of this	192
section commences from the date a second shareholder	193
notification or communication mailing to the owner of the funds	194
is returned to the holder as undeliverable by the United States	195

postal service or other carrier. The notification or 196
communication mailing by the holder shall be no less frequent 197
than quarterly. 198

All moneys in a personal allowance account, as defined by 199
rules adopted by the medicaid director, up to and including the 200
maximum resource limitation, of a medicaid recipient who has 201
died after receiving care in a long-term care facility, and for 202
whom there is no identifiable heir or sponsor, are not subject 203
to this chapter. 204

(S) (1) Funds held or owed by a holder pursuant to a 205
preneed funeral contract, as defined in section 4717.01 of the 206
Revised Code, unclaimed upon the one hundred fifth birthday of 207
the contract beneficiary, unless the holder or the seller or 208
successor seller demonstrates to the director of commerce that 209
the beneficiary is still alive; 210

(2) Funds held or owed by a holder pursuant to a preneed 211
funeral contract, upon either of the following: 212

(a) The holder's failure to confirm that the beneficiary 213
is still alive within thirty days of the beneficiary's ninety- 214
fifth birthday pursuant to division (B) (1) of section 4717.311 215
of the Revised Code; 216

(b) The holder's receipt of the notification described in 217
division (B) (2) of section 4717.311 of the Revised Code. 218

(3) Funds held or owed by a holder which is a trustee of a 219
preneed funeral contract trust that the trustee was unable to 220
pay as required by division (J) (2) of section 4717.36 of the 221
Revised Code upon the expiration of the one hundred eighty-day- 222
period specified in that division." 223

In line 310, delete "i;" 224

Delete lines 311 through 313	225
In line 314, delete " <u>funeral funds</u> "	226
In line 1465, after "(K)" insert " <u>(1)</u> "	227
After line 1474, insert:	228
" <u>(2)</u> "	229
After line 1479, insert:	230
" <u>(3) Division (K) (2) of this section does not apply to a</u>	231
<u>cemetery company or cemetery association that is exempt from</u>	232
<u>federal income taxation under section 501(c) (3) of the "Internal</u>	233
<u>Revenue Code of 1986," 26 U.S.C. 501(c) (3).</u>	234
<u>Sec. 4717.311. (A) The holder of funds for a preneed</u>	235
<u>funeral contract shall, at least thirty days prior to the</u>	236
<u>beneficiary's ninety-fifth birthday, contact the seller or</u>	237
<u>successor seller to inform the seller or successor seller of the</u>	238
<u>beneficiary's upcoming ninety-fifth birthday.</u>	239
<u>(B) The holder and the seller or successor seller shall</u>	240
<u>agree to one of the following:</u>	241
<u>(1) That the holder shall make a reasonable attempt to</u>	242
<u>confirm that the beneficiary is still alive. If the holder</u>	243
<u>cannot confirm that the beneficiary is still alive within thirty</u>	244
<u>days following the beneficiary's ninety-fifth birthday, the</u>	245
<u>holder shall report and remit the funds to the director of</u>	246
<u>commerce pursuant to Chapter 169. of the Revised Code.</u>	247
<u>(2) That the seller or successor seller shall make a</u>	248
<u>reasonable attempt to confirm that the beneficiary is still</u>	249
<u>alive. If the seller or successor seller cannot confirm that the</u>	250
<u>beneficiary is still alive within thirty days following the</u>	251

<u>beneficiary's ninety-fifth birthday, the seller or successor</u>	252
<u>seller shall notify the holder within one business day. Upon</u>	253
<u>receiving the notification, the holder shall report and remit</u>	254
<u>the funds to the director of commerce pursuant to Chapter 169.</u>	255
<u>of the Revised Code."</u>	256
In line 1681, after "(J)" insert " <u>(1)</u> "	257
In line 1691, before " <u>If</u> " insert " <u>(2)</u> "	258
In line 1693, delete " <u>either</u> "	259
In line 1694, after " <u>or</u> " insert " <u>, if no estate has been opened, to</u> "	260
In line 1698, after " <u>section.</u> " insert " <u>The trustee shall make a</u>	261
<u>reasonable attempt to pay the estate or person with the right of</u>	262
<u>disposition within one hundred eighty days of receipt of notice that the</u>	263
<u>contract beneficiary has died. If the trustee is unable to make payment</u>	264
<u>within one hundred eighty days, the trustee shall report and remit the</u>	265
<u>funds to the director of commerce pursuant to Chapter 169. of the Revised</u>	266
<u>Code."</u>	267
In line 1699, before "In" insert " <u>(3)</u> "	268
In line 1731, after "sections" insert "169.02,"	269

The motion was _____ agreed to.

SYNOPSIS 270

Unclaimed funds; payment of excess funds; nonprofit	271
cemetery companies and cemetery associations; rules	272
R.C. 169.02, 4717.04, 4717.31, 4717.311, and 4717.36	273

Unclaimed Funds	274
Adds to the Unclaimed Funds Law the following as types of unclaimed funds:	275
-Funds held pursuant to a preneed funeral contract upon the contract beneficiary's 105th birthday, unless the holder, seller, or successor seller demonstrates to the Director of Commerce that the beneficiary is still alive;	276
-Funds held pursuant to a preneed funeral contract 30 days following the beneficiary's 95th birthday if the holder, the seller, or successor seller is unable to confirm that the beneficiary is still alive.	277
-Excess preneed funeral contract funds that the trustee was unable to pay to the beneficiary's estate or person with the right of disposition within 180 days of learning of the beneficiary's death.	278
Requires the holder of funds for a preneed funeral contract to, at least 30 days prior to the beneficiary's 95th birthday, contact the seller or successor seller to inform the seller or successor seller of the beneficiary's upcoming 95th birthday.	279
Requires the holder and the seller or successor seller to agree that one of them will attempt to confirm that the beneficiary is still alive.	280
If it cannot be confirmed that the beneficiary is still alive within 30 days following the beneficiary's 95th birthday, requires the holder to report and remit the funds to the Director of Commerce in accordance with the Unclaimed Funds Law.	281
Requires the holder of funds for a preneed funeral contract to, at least 30 days prior to the beneficiary's 95th birthday, contact the seller or successor seller to inform the seller or successor seller of the beneficiary's upcoming 95th birthday.	282
Requires the holder and the seller or successor seller to agree that one of them will attempt to confirm that the beneficiary is still alive.	283
If it cannot be confirmed that the beneficiary is still alive within 30 days following the beneficiary's 95th birthday, requires the holder to report and remit the funds to the Director of Commerce in accordance with the Unclaimed Funds Law.	284
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Requires the holder and the seller or successor seller to agree that one of them will attempt to confirm that the beneficiary is still alive.	286
If it cannot be confirmed that the beneficiary is still alive within 30 days following the beneficiary's 95th birthday, requires the holder to report and remit the funds to the Director of Commerce in accordance with the Unclaimed Funds Law.	287
Requires the holder of funds for a preneed funeral contract to, at least 30 days prior to the beneficiary's 95th birthday, contact the seller or successor seller to inform the seller or successor seller of the beneficiary's upcoming 95th birthday.	288
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Requires the holder of funds for a preneed funeral contract to, at least 30 days prior to the beneficiary's 95th birthday, contact the seller or successor seller to inform the seller or successor seller of the beneficiary's upcoming 95th birthday.	300
Requires the holder and the seller or successor seller to agree that one of them will attempt to confirm that the beneficiary is still alive.	301
If it cannot be confirmed that the beneficiary is still alive within 30 days following the beneficiary's 95th birthday, requires the holder to report and remit the funds to the Director of Commerce in accordance with the Unclaimed Funds Law.	301

Limits the ability of the seller to direct a trustee of a trust funding the preneed funeral contract to pay excess funds to a person with the right of disposition to situations in which no estate has been opened.	302 303 304 305
Requires the trustee to make a reasonable attempt to pay the estate or person with the right of disposition within 180 days of receipt of notice that the contract beneficiary has died.	306 307 308 309
Requires the trustee, if unable to make payment within 180 days, to report and remit the funds to the Director of Commerce pursuant to the Unclaimed Funds Law.	310 311 312
Nonprofit cemetery companies and cemetery associations	313
Exempts nonprofit cemetery companies and cemetery associations from the bill's requirement that cemetery companies and cemetery associations comply with the preneed funeral contract law when selling funeral goods, including caskets, pursuant to preneed funeral contracts.	314 315 316 317 318
Rules	319
Removes the bill's requirement that the Board of Embalmers and Funeral Directors adopt rules regarding the sale of preneed funeral services and goods, the content and funding of preneed funeral contracts, and the payment and administration of preneed funeral funds.	320 321 322 323 324