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Representative Reineke

Cosponsors: Representatives Dever, Sprague, Anielski, Antonio, Barnes, Cupp, Ginter, Green, Greenspan, Hambley, Henne, Householder, Johnson, Keller, Landis, Lang, Lepore-Hagan, McClain, Perales, Riedel, Rogers, Romanchuk, Ryan, Seitz, Sheehy, Smith, K., Smith, R., Stein, Strahorn, Sweeney, Thompson, West, Young

A BILL

To amend section 169.01 of the Revised Code to make 1
changes to the exemptions under the Unclaimed 2
Funds Law. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 169.01 of the Revised Code be 4
amended to read as follows: 5

Sec. 169.01. As used in this chapter, unless the context 6
otherwise requires: 7

(A) "Financial organization" means any bank, trust 8
company, savings bank, safe deposit company, mutual savings bank 9
without mutual stock, savings and loan association, credit 10
union, or investment company. 11

(B) (1) "Unclaimed funds" means any moneys, rights to 12
moneys, or intangible property, described in section 169.02 of 13
the Revised Code, when, as shown by the records of the holder, 14
the owner has not, within the times provided in section 169.02 15

of the Revised Code, done any of the following:	16
(a) Increased, decreased, or adjusted the amount of such funds;	17 18
(b) Assigned, paid premiums, or encumbered such funds;	19
(c) Presented an appropriate record for the crediting of such funds or received payment of such funds by check, draft, or otherwise;	20 21 22
(d) Corresponded with the holder concerning such funds;	23
(e) Otherwise indicated an interest in or knowledge of such funds;	24 25
(f) Transacted business with the holder.	26
(2) "Unclaimed funds" does not include any of the following:	27 28
(a) Money received or collected under section 9.39 of the Revised Code;	29 30
(b) Any payment or credit due to a business association from a business association representing sums payable to suppliers, or payment for services rendered, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;	31 32 33 34 35 36
(c) Any payment or credit received by a business association from a business association for tangible goods sold, or services performed, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;	37 38 39 40 41 42

(d) <u>Either of the following:</u>	43
(i) <u>Any credit or obligation due a retail customer that is represented by a gift certificate, gift card, merchandise credit, or merchandise credit card, redeemable only for merchandise goods or services, including gift cards issued by financial organizations or business associations;</u>	44 45 46 47 48
(ii) <u>Any electronic payment device that is issued by a financial organization or a business association that has no expiration date and meets all of the following conditions:</u>	49 50 51
(I) <u>It is purchased or loaded on a prepaid basis for the future purchase or delivery of goods or services.</u>	52 53
(II) <u>It is redeemable upon presentation to a single merchant or service provider or an affiliated group of merchants or service providers.</u>	54 55 56
(III) <u>It is not redeemable for cash in whole or in part.</u>	57
(e) <u>Any open-loop prepaid card that is issued by a financial organization or a business association for which the underlying funds do not expire. For purposes of division (B) (2) (e) of this section, "open-loop prepaid card" means an electronic payment device that meets all of the following conditions:</u>	58 59 60 61 62 63
(i) <u>It is purchased or loaded on a prepaid basis for the future purchase or delivery of any goods or services.</u>	64 65
(ii) <u>It can be used to purchase goods and services at multiple unaffiliated merchants or service providers.</u>	66 67
(iii) <u>It is not redeemable for cash in whole or in part.</u>	68
(f) <u>Any rewards card. For purposes of division (B) (2) (f)</u>	69

of this section, "rewards card" includes any loyalty, incentive, 70
or promotional type program that is issued by a financial 71
organization or a business association whether represented by a 72
card or electronic record, which program is established for the 73
purposes of providing cardholder awards, rewards, rebates, or 74
other amounts to reward the cardholder for the cardholder's 75
relationship with the entity sponsoring the rewards card, 76
provided that no direct money was paid by the cardholder for the 77
rewards card. "Rewards card" includes both of the following: 78

(i) Cards or electronic records consisting of points, 79
cash, or other tokens of value given to a cardholder as a reward 80
or incentive for engaging in a transaction or a series of 81
transactions; 82

(ii) The unpaid portion of a rewards card when the rewards 83
card is partially loaded by the cardholder with the remaining 84
portion funded as a reward or incentive. 85

A minimal annual fee charged to the cardholder for joining 86
any such loyalty, incentive, or promotional type program shall 87
not be considered direct money paid by the cardholder for the 88
rewards card. For purposes of division (B) (2) (f) of this 89
section, "cardholder" means the holder of a rewards card, 90
regardless of whether the rewards card is represented by a card 91
or by an electronic record. 92

For purposes of ~~divisions~~ division (B) (2) ~~(b) and (c)~~ of 93
this section, "business association" means any corporation, 94
joint venture, business trust, limited liability company, 95
partnership, association, or other business entity composed of 96
one or more individuals, whether or not the entity is for 97
profit. 98

(C) "Owner" means any person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against moneys, rights to moneys, or other intangible property, subject to this chapter.

(D) (1) "Holder" means any person that has possession, custody, or control of moneys, rights to moneys, or other intangible property, or that is indebted to another, if any of the following applies:

(a) Such person resides in this state;

(b) Such person is formed under the laws of this state;

(c) Such person is formed under the laws of the United States and has an office or principal place of business in this state;

(d) The records of such person indicate that the last known address of the owner of such moneys, rights to moneys, or other intangible property is in this state;

(e) The records of such person do not indicate the last known address of the owner of the moneys, rights to moneys, or other intangible property and the entity originating or issuing the moneys, rights to moneys, or other intangible property ~~is in~~ this state or any political subdivision of this state, or is incorporated, organized, created, or otherwise located in this state. Division (D) (1) (e) of this section applies to all moneys, rights to moneys, or other intangible property that is in the possession, custody, or control of such person on or after July 22, 1994, whether the moneys, rights to moneys, or other intangible property becomes unclaimed funds prior to or on or after that date.

(2) "Holder" does not mean any hospital granted tax-exempt

status under section 501(c)(3) of the Internal Revenue Code or 128
any hospital owned or operated by the state or by any political 129
subdivision. Any entity in order to be exempt from the 130
definition of "holder" pursuant to this division shall make a 131
reasonable, good-faith effort to contact the owner of the 132
unclaimed funds. 133

(E) "Person" includes a natural person; corporation, 134
whether for profit or not for profit; copartnership; 135
unincorporated nonprofit association; public authority; estate; 136
trust; two or more persons having a joint or common interest; 137
eleemosynary organization; fraternal or cooperative association; 138
other legal or community entity; the United States government, 139
including any district, territory, possession, officer, agency, 140
department, authority, instrumentality, board, bureau, or court; 141
or any state or political subdivision thereof, including any 142
officer, agency, board, bureau, commission, division, 143
department, authority, court, or instrumentality. 144

(F) "Mortgage funds" means the mortgage insurance fund 145
created by section 122.561 of the Revised Code, and the housing 146
guarantee fund created by division (D) of section 128.11 of the 147
Revised Code. 148

(G) "Lawful claims" means any vested right a holder of 149
unclaimed funds has against the owner of such unclaimed funds. 150

(H) "Public utility" means any entity defined as such by 151
division (A) of section 745.01 or by section 4905.02 of the 152
Revised Code. 153

(I) "Deposit" means to place money in the custody of a 154
financial organization for the purpose of establishing an 155
income-bearing account by purchase or otherwise. 156

(J) "Income-bearing account" means a time or savings 157
account, whether or not evidenced by a certificate of deposit, 158
or an investment account through which investments are made 159
solely in obligations of the United States or its agencies or 160
instrumentalities or guaranteed as to principal and interest by 161
the United States or its agencies or instrumentalities, debt 162
securities rated as investment grade by at least two nationally 163
recognized rating services, debt securities which the director 164
of commerce has determined to have been issued for the safety 165
and welfare of the residents of this state, and equity interests 166
in mutual funds that invest solely in some or all of the above- 167
listed securities and involve no general liability, without 168
regard to whether income earned on such accounts, securities, or 169
interests is paid periodically or at the end of a term. 170

(K) "Director of commerce" may be read as the "division of 171
unclaimed funds" or the "superintendent of unclaimed funds." 172

Section 2. That existing section 169.01 of the Revised 173
Code is hereby repealed. 174