

The Honorable Joseph Baldacci, Senate Chair  
The Honorable Suzanne Salisbury, House Chair  
Committee on State and Local Government  
Maine Legislature

May 21, 2025

Re: LD 1969 – An Act to Amend the Maine Revised Unclaimed Property Act

Dear Senator Baldacci, Representative Salisbury, and Distinguished Committee Members:

Thank you for the opportunity to comment on LD 1969. ACLI opposes Sections 5 and 6 of the bill. Section 5 would presume that funds in a terminated defined contribution or other retirement plan are abandoned as soon as administratively feasible after the date of the plan termination. Section 6 would presume property held in a tax-advantaged retirement account to be abandoned three years after the death of the apparent owner.

Under Section 5, when terminating a retirement plan, instead of issuing checks to plan participants, retirees, alternate payees, and beneficiaries or transferring plan assets to an insurance company to provide annuity payments, an employer would be required to escheat all of the assets in the plan to the state of Maine. We assume this is not the author's intent.

A qualified retirement plan is a trust established under federal tax and labor law. The fiduciary of such a plan must follow a plan document that sets out the terms of the plan and must conform with federal tax and labor law. Under federal law, in the event of the termination of a defined contribution plan, all benefits promised to plan participants, retirees, alternate payees, and beneficiaries must be distributed to them in accordance with the terms of the plan. Upon termination of a defined benefit pension plan, absent a provision permitting an election by a plan participant, retiree, alternate payee, or beneficiary to receive benefits in a lump sum, the payment obligations are assumed by a life insurance company through the purchase of a group annuity contract. Until all assets have been distributed from the plan's trust, the plan is not considered terminated under federal law. Thus, the practice is to distribute all benefits and/or transfer assets to an insurance company at one time.

It would violate federal law if a plan fiduciary were to send these benefits or assets directly to any other party for that party's benefit. It would also be contrary to federal law to escheat these funds to a state without first taking steps to pay the funds to plan participants, retirees, alternate payees, and beneficiaries or transfer funds to an insurance company to provide for annuity payments to these individuals.

MRSA Section 2062 currently provides for the escheatment of abandoned retirement benefits following a prescribed three-year period. If it is the intent of the bill's sponsor to shorten the period in which the proceeds must be distributed upon plan termination to plan participants, retirees, alternate payees, and beneficiaries, then we would respectfully suggest that Section 2062 be amended to reflect such shorter period.

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for these payments. However, such period should be reasonably sufficient to establish that benefits for the plan participants, retirees, alternate payees, or beneficiaries have been abandoned, for example after 180 days.

Section 6 would presume tax-advantaged retirement accounts to be abandoned after three years. This would include some supplementary contracts with check-writing accounts, which may have very favorable rate guarantees that are better than other short-term deposit opportunities. As a result, some beneficiaries may choose to let their funds accumulate at the favorable interest rate without making any withdrawals. It would not be in beneficiary's best interest for their account to be presumed abandoned if they do not make a withdrawal in a three-year period.

Thank you for considering our comments. Please contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line extending to the right.

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