



2011 ASSEMBLY BILL 417

December 7, 2011 – Introduced by Representative KRAMER, cosponsored by Senator GROTHMAN. Referred to Committee on Judiciary and Ethics.

- 1 **AN ACT to amend** 177.26 of the statutes; **relating to:** procedures for establishing
2 a claim (suggested as remedial legislation by the Office of the State Treasurer).

Analysis by the Legislative Reference Bureau

Under current law, a person may claim an interest in abandoned, intangible property by filing a claim with the state treasurer. Intangible property is presumed to be abandoned if it is held, issued, or owing in the ordinary course of a holder's business and it has remained unclaimed by the owner for more than five years after it became payable or distributable. Current law requires the state treasurer to consider each claim within 90 days after the claim is filed. The state treasurer may also refer a claim to the attorney general for an opinion on whether to either allow the claim or deny the claim in whole or in part.

A person aggrieved by a decision of the state treasurer or whose claim has not been acted upon within 90 days (claimant) may, under current law, bring an action to establish the claim in circuit court. If, in circuit court, the claimant establishes the claim against the state treasurer, the court must award costs and reasonable attorney fees to the claimant.

This bill permits a claimant to petition for judicial review of the decision or inaction of the state treasurer under chapter 227 of the statutes; chapter 227 establishes uniform procedures for the review of administrative actions and decisions. The bill also eliminates the mandatory award of costs and reasonable attorneys fees to a claimant who prevails against the state treasurer in circuit court in those cases in which the circuit court determines the state treasurer was substantially justified in taking its position or in which special circumstances exist that would make the award of costs and attorney fees unjust.

