Shareholder Services Association
shareholderservices.org
Established 1946
8441 Wayzata Blvd., Ste 270, Golden Valley, MN 55426
763.253.4310

THE STA
SECURITIES TRANSFER ASSOCIATION, INC.
Established 1911
P.O. Box 5220, Hazlet, New Jersey 07730-5220
www.stai.org
1-732-888-6040

January 30, 2019

The Honorable Gael Tarleton
Washington State Legislature
429A Legislative Building
P.O. Box 40600
Olympia, WA 98504

via e-mail: gael.tarleton@leg.wa.gov

Re: Revised Uniform Unclaimed Property Act – HB 1179

Dear Representative Tarleton:

The Securities Transfer Association ("STA") and Shareholder Services Association ("SSA") write to express our members' grave concerns regarding Sections 702 and 703 of Bill 1179, which require the Unclaimed Property Administrator to liquidate securities as soon as practicable after receipt, and which fails to make the owner whole when claiming back property. For the reasons discussed herein, the provisions are at odds with the corresponding provisions enacted by the Uniform Law Commission ("ULC") as part of the Revised Uniform Unclaimed Property Act ("RUUPA") and thereby eviscerate these important elements of protection for shareholders.

Founded in 1911, the STA represents more than 100 transfer agents who are responsible for the record keeping for more than 15,000 issuers of securities, representing the investments of over 100,000,000 registered shareholders. The SSA was founded in 1946 with a mission of facilitating its members' compliance with complex state and federal regulatory matters relating to securities. The SSA counts hundreds of public companies as its members and is proud to support its members' service to their shareholders while achieving regulatory compliance. Combined, the STA and SSA's members are directly or indirectly responsible for the record keeping and maintenance of the securities investments of at least one third of the population of the United States. For many of these shareholders, these investments in securities represent their life savings.

The STA's and SSA's members are responsible for compliance with escheat laws nationwide and have an interest in seeing that the escheat laws are administered so as not to create risk of loss for these shareholders. We are writing to request that you amend Bill 1179, which will undoubtedly cause significant losses for citizens of Washington. As noted above, Bill 1179 is at odds with the RUUPA promulgated by the ULC in July 2016. As you may be aware, Washington's ULC Commissioners voted to enact the RUUPA. Surprisingly, however, Bill

1179 seeks to reduce drastically the period of time that the Administrator is required to hold securities that have been escheated prior to liquidating such securities.

Section 702 of the RUUPA prevents the liquidation of securities for at least three (3) years after the state receives the property.[1] Further, if shareholders claim their property from the state within six years of its escheatment and the shares have been sold, the unclaimed property administrator is required to make the shareholder whole.[2] Please note that the National Association of Unclaimed Property Administrators served as an advisor to the RUUPA Drafting Committee and agreed to these protections, particularly since the goal of any unclaimed property program is to protect property for rightful owners.

In contrast, the current language of Bill 1179 allows for liquidation by the Administrator as soon as practicable after delivery.[3] While proposed provision s. 503 does require the Administrator to attempt to notify the rightful owner prior to liquidation, there is no guarantee that the shareholder will receive the notice. Selling shares without constructive notice could constitute a violation of due process. The ability of the Administrator to liquidate upon receipt prevents a shareholder from being able to take the steps necessary to recover shares. Futhermore, proposed s. 703 highlights the necessity of a three (3) year waiting period as that section states that if the rightful owner comes forward, they are only entitled to receive the proceeds received from the sale *even if* the sale of the securities is not yet complete when the owner's claim is made. Additionally, the sale is an irreversible taxable event for the shareholder, whereas the return of shares will not negatively impact the owner.

Such prompt liquidation will likely add to the expenses and administrative work of the Administrator. As but one example of the risks caused by prompt liquidation, the State of Delaware recently settled multi-year litigation in which shareholders lost over twelve million dollars in value due to the state's prompt liquidation of securities.[4] While this case was very high profile, there are hundreds of other cases in which shareholders have been harmed by liquidation provisions in statutes that are intended to be consumer protection measures, and the Supreme Court of the United States has taken notice of the fact that such seizures raise significant constitutional issues.[5] Just this month, the Seventh Circuit of the United States Court of Appeals remanded a case in which the State of Illinois had relied on its statute in an attempt not to make owners whole when claiming back escheated funds. In its ruling, the Court stated emphatically that claimants are entitled to receive the time value of their property when claiming it back from the state. They also inferred that if there was a loss due to the escheatment, that there was a need for the state to compensate the owner. As such, sections 702 and 703 as proposed in HB 1179 run afoul of all of the recent decisions regarding takings.

In order to protect shareholders, we therefore strongly urge the State of Washington to reject the liquidation provision currently contained in Bill 1179, and replace it with the language of s. 702 of the RUUPA adopted by the Uniform Law Commission. Section 703 should require that the

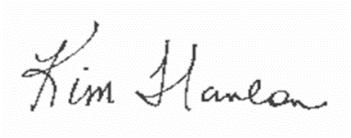
---

[1] Rev. Unif. Disposition of Unclaimed Prop. Act § 702 (2016).
[2] *Id.* at § 703.
[3] " Sec. 702. DISPOSAL OF SECURITIES. (1) Except as otherwise provided in this subsection, the administrator must sell all securities delivered to the administrator as required by this chapter as soon as practicable, in the judgment of the administrator, after receipt by the administrator…"
[4] JLI Invest S.A. et al. v. Cook et al., Del. Ch. No. 11274-VCN (2015).
[5] Taylor v. Yee, 136 S. Ct. 929 (2016).

owner be made whole when claiming back property. Anything less will harm owners, under the guise of consumer protection.

Sincerely,

Todd May
President
The Securities Transfer Association, Inc.



Kim Hanlon
President
Shareholder Services Association

cc: Jacob Thorpe, Washington State Legislature
Don Shelton, The Seattle Times
Dale Phelps, The News Tribune
Rob Curley, The Spokesman Review