



Florida Energy Affordability Coalition (FLEAC) Escheatment White Paper (draft)

Executive Summary

The mission of the Florida Energy Affordability Coalition (FLEAC) is to “bring together public, private and non-profit sector organizations seeking to make energy more affordable for low-to-moderate income Floridians experiencing difficulty” paying their energy bills. This includes the identification of additional payment assistance resources that may be used to pay such bills.

FLEAC is investigating one possible means of providing such additional resources by designating “escheated” dollars, as collected by regulated utilities, toward the establishment of a statewide energy assistance “fuel fund.”

To provide increased understanding about the escheatment process in Florida, and to document FLEAC plans to pursue these funds, this paper outlines information related to:

- the escheatment laws and regulations within the state of Florida
- rationale on why such funds should be appropriated for energy payment assistance
- a “starting point” proposal on how such funds should be appropriated.

Escheatment “101” – the basics

The “banking” definition for escheatment is: reversion of property (and/or resources) to the state under certain prescribed conditions when the owner dies without heirs or if a depositor's account remains inactive for a specified number of years and the owner cannot be located.

At first reading, you would think this would be an infrequent occurrence. After all, how many people are so “careless” about their resources that they would allow the state to take control? The answer may surprise you.

Banking experts state unclaimed property departments across the U.S. currently hold more than 25 billion dollars worth of property, and many billions of dollars more in shares of corporate stock and mutual funds, unclaimed and uncashed refunds (checks) from various sources (including utilities), and other such resources. By law, these unclaimed “credit balance” resources are remitted to the states after a certain period of time by businesses who owe these funds to customers. This typically occurs after fund-holders have made every reasonable attempt but were unable to locate the rightful “owners” of these resources.

An early question may be this – how often does this occur, and how many owners are impacted? From a practical sense, there are many ways owners are separated from their resources. But, this can be primarily related to the individual movement of owners from one address, city or state to another. According to U.S. Census Bureau statistics, over 40 million people move to a new address each year, with nearly 4 million moving to a new state. With each move comes the need for the owner to update address and contact information with all relevant businesses and financial institutions. When these updates fail to happen, refund checks and account statements are returned as undeliverable.



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If a company can't successfully locate the individual at their new address and reconcile the account, the financial property - including refund checks, stocks, dividends and other properties - becomes unclaimed property liability that must be reported – or escheated - to the states

The next issue then becomes this – what does the state do with these escheated funds? Each state has its own escheatment regulations and guidelines. Some of the variables include:

- When resources have to be reported/escheated
- How resources are reported/escheated
- What are the resource “needs” of the state, and
- How escheated resources are used.

While rules may vary from state to state, these variables are the primary drivers for how escheated funds are used once the state has the resources in hand.

Escheatment Models From Other States

A few states have taken the state to use utility escheatment dollars as utility payment assistance dollars, and some information for each follows.

New Jersey

In late 2005, acting New Jersey governor Richard Codey said "One of government's most important functions is to help those in need. New Jersey is helping make sure struggling seniors, families and disabled citizens are able to pay their utility bills. A little cold cash will go a long way toward keeping their homes warm."

Jim Dieterle, AARP New Jersey State Director stated: "On behalf of the citizens of New Jersey, AARP wants to commend Governor Codey for directing utility escheatment funding to NJ SHARES (New Jersey's state wide energy “fuel fund”).” Each year, NJ SHARES uses its annual escheat funding to help New Jersey families who otherwise may not qualify for government assistance and yet will still need help in paying their past due electric and gas utility bills."

NJ SHARES receives 75 percent of the utility escheatment balance each fiscal year. The remaining 25 percent is kept in reserve to pay out potential property claims. New Jersey's escheatment contribution is further leveraged by what NJ SHARES raises through tax deductible donations from the public and contributions from utility companies.

Colorado

In 2005, the State of Colorado determined and legislated that there is a need to distribute resources to provide aid and assistance to the indigent, the elderly, and persons with disabilities, who do not otherwise have the financial resources to meet their energy needs. To do so, a state fund was established to provide low-income energy assistance, as administered by the Colorado Department of Human Services (DHS) and Energy Outreach Colorado (state fuel fund manager). Resources for the fund include unclaimed utility deposits and state severance taxes. Such resources are designated to the DHS two years after escheated by the



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various utility companies in the state. As well, several Colorado cities have also implemented supplemental surcharges and taxes through energy bills, and funds collected also go toward energy payment assistance.

Delaware

In Delaware, it has been legislated that a electric utility shall use all non-escheat capital credits to fund low-income energy assistance programs in its service area and to donate to such nonprofit charitable and community organizations as shall be authorized by the Board of Directors of the utility.

Other Resource Options

Many states have implemented, regulated or are considering other resource avenues directed at home energy assistance, including:

- State general funds
New Mexico (\$23 million), Oklahoma (\$5.4 million), Illinois (\$5.2 million), Idaho (\$3.75 million), Wyoming (\$3 million), Iowa (\$2.85 million) and District of Columbia (\$2.5 million) reallocated resources from the state's general fund to low-income energy assistance, to supplement existing federal funding. .
- Universal service charges - In 2005 and 2006, several states (including Georgia, Montana, Missouri, Wisconsin and Pennsylvania) implemented (or reallocated) universal service charges billed to all (or residential) energy customers, and used those to supplement federal LIHEAP funding
- Budget reserve (or "rainy-day") funds – Kentucky (\$5 million)
- Other sources
 - Pennsylvania imposed a 1% gross receipts levy on businesses
 - Indiana released \$10 million and Ohio released \$7.5 million in unspent federal TANF (Temporary Assistance for Needy Families)

Escheatment in Florida

In Florida, all escheated funds received are deposited in the State School Fund, except an amount not exceeding \$3 million from which it shall make prompt payment of claims allowed by it. Costs incurred by the state for administration and enforcement of these funds are reimbursed from the State School Fund.

The department shall record the name and last known address of each person appearing from the holder's reports to be entitled to the abandoned property in the total amounts of \$5 or greater; the name and the last known address of each insured person or annuitant; and with respect to each policy or contract listed in the report of an insurance corporation, its number, the name of the corporation, and the amount due.

Any party claiming an interest in any escheated funds paid or delivered to the state may file a claim on a form prescribed by the state and verified by the claimant. The state will rule on each claim within 90 days after it is filed. Such determination shall contain a notice of rights provided by ss. 120.569 and 120.57.