

106TH CONGRESS
2D SESSION

H. R. 3997

To improve systems for the delivery of dividends, interest, and other valuable property rights to lost security holders.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2000

Mrs. WILSON (for herself, Mr. KASICH, and Mr. OXLEY) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve systems for the delivery of dividends, interest, and other valuable property rights to lost security holders.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Money Return Act of
5 2000”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) The intent and purpose of Federal securi-
9 ties law is to protect the general investing public and

1 to make the regulation and control required by na-
2 tional public interest reasonably complete and effec-
3 tive.

4 (2) The United States Securities and Exchange
5 Commission has acknowledged that there are mil-
6 lions of lost security holders in the United States,
7 who are, thereby, deprived of the benefit of their in-
8 vestments valued by the Commission in the hun-
9 dreds of millions of dollars.

10 (3) The Commission's current regulations relat-
11 ing to lost security holders apply only to record-
12 keeping transfer agents who handle approximately
13 half of all security holders, thereby denying the same
14 benefits to the other half.

15 (4) Available technologies can locate 80 percent
16 or more of corrected addresses for security holders,
17 who have not received the benefit of the dividends
18 and interest earned by their securities and other val-
19 uable property rights.

20 (5) The Federal Government, through its agen-
21 cies, holds large sums of money owed to others, who
22 cannot reasonably obtain their money, because of a
23 lack of information about these sums and how to
24 claim them.

1 **TITLE I—RESPONSIBILITIES OF**
2 **THE SECURITIES AND EX-**
3 **CHANGE COMMISSION**

4 **SEC. 101. ADDITIONAL RESPONSIBILITIES TO SECURE DE-**
5 **LIVERY OF DIVIDENDS, INTEREST, AND**
6 **OTHER VALUABLE PROPERTY RIGHTS.**

7 Section 17A of the Securities Exchange Act of 1934
8 (15 U.S.C. 78q–1) is amended by adding at the end the
9 following new subsection:

10 “(g) DUE DILIGENCE FOR THE DELIVERY OF DIVI-
11 DENDS, INTEREST, AND OTHER VALUABLE PROPERTY
12 RIGHTS.—

13 “(1) DUE DILIGENCE OBLIGATION.—Each
14 issuer of any security registered pursuant to section
15 12 of this title shall exercise due diligence in deliv-
16 ering dividends, interest, and other valuable property
17 rights to their owners, whether such dividends, inter-
18 est, or other valuable property rights are delivered
19 by any issuer or on behalf of any issuer by any pay-
20 ing agent.

21 “(2) REVISION OF REGULATIONS REQUIRED.—
22 The Commission shall amend the provisions of sec-
23 tion 240.17Ad–17 of the Commission’s regulations
24 (17 C.F.R. 240.17Ad–17) as in effect on December
25 8, 1997—

1 “(A) to extend the application of such sec-
2 tion to all such paying agents, including the ob-
3 ligation to use database searches as required of
4 transfer agents; and

5 “(B) to extend the application of such sec-
6 tion to security holders who became lost secu-
7 rity holders before such date.

8 “(3) NOTICES.—

9 “(A) NOTICE ON CHECKS OR OTHER VALU-
10 ABLE PROPERTY RIGHTS TO SECURITY HOLD-
11 ERS.—Any check or notice to any security hold-
12 er who has failed to cash or deposit a previous
13 check for any dividend or interest payment or
14 has failed to process a valuable property right
15 as instructed shall bear a printed notice to the
16 effect—

17 “(i) if a check or other valuable prop-
18 erty right has been sent to a security hold-
19 er, and the check or other valuable prop-
20 erty right has been returned to the sender,
21 the security holder is considered a ‘lost se-
22 curity holder’ whenever that expression is
23 used by the Unites States Securities and
24 Exchange Commission; and

1 “(ii) if a check or other valuable prop-
2 erty right is sent to a security holder, and
3 the check is not negotiated within 7
4 months or the other valuable property
5 right is not processed as instructed within
6 7 months, then that security holder shall
7 be considered a ‘lost security holder’ and
8 shall be treated in the same way as lost se-
9 curity holders are treated under subpara-
10 graph (A).

11 “(B) NOTICES ON SUBSEQUENT COMMU-
12 NICATIONS.—If the lost security holder (as de-
13 fined in subparagraphs (A)(i) and (A)(ii)) is to
14 be sent another regularly scheduled communica-
15 tion, including a dividend or interest check,
16 then that next communication shall notify the
17 security holder—

18 “(i) that a previous check or valuable
19 property right has been returned to the
20 sender or has not been negotiated or proc-
21 essed as instructed, and such notice shall
22 request the security holder promptly to ne-
23 gotiate the received check or process the
24 received valuable property right as in-
25 structed; and

1 “(ii) that if such check or other valu-
2 able property right has not been received
3 by the security holder, then the security
4 holder should call the sender at the toll
5 free number in the notice or should write
6 or otherwise contact the sender at the ad-
7 dress or addresses in the notice.

8 In no event shall the next regularly scheduled
9 communication occur longer than 7 months
10 after the original sending.

11 “(C) EXCEPTIONS.—Paying agents may
12 exclude from the search requirements any lost
13 security holder when the value of all dividend,
14 interest, or other valuable property rights due
15 to the security holder plus the value of all as-
16 sets listed in the lost security holder’s account
17 is less than \$25.

18 “(4) LISTING OF LOST SECURITY HOLDERS.—
19 The Commission shall establish, or provide for the
20 establishment by others, of a database that is acces-
21 sible from the Internet and that contains a list of
22 the names of persons who are lost security holders,
23 the names of those issuers or paying agents who are
24 obligated to deliver to them their dividends, interest,
25 and other valuable property rights, and, in the case

1 of paying agents, the identity of the issuer. The
2 database and Internet site shall be created or caused
3 to be created by the Commission in accordance with
4 such procedures as the Commission shall prescribe
5 by rule, regulation, or order.

6 “(5) INTEREST ON UNPAID AMOUNTS; TRUST
7 FOR SECURITY HOLDERS.—Any amounts to which
8 security holders are entitled shall be held in trust by
9 any issuers or any paying agents for the benefit of
10 the security holders. Interest on the amounts held in
11 trust shall—

12 “(A) accrue for the benefit of an issuer or
13 its paying agent as provided for by agreement
14 between them for the first 6 months after the
15 return of any undelivered dividend or interest
16 payment or 7 months after a payment has been
17 sent but remains uncashed;

18 “(B) accrue for the benefit of the security
19 holders beginning 6 months after the return of
20 any undelivered dividend or interest payment or
21 7 months after a payment has been sent but re-
22 mains uncashed; and

23 “(C) end upon the delivery as escheated or
24 unclaimed property to a State pursuant to
25 State law.

1 “(6) USE OF PROFESSIONAL SEARCH FIRMS.—

2 “(A) No lost security holder shall be
3 turned over to a professional search firm for lo-
4 cating until after two database searches have
5 been conducted, regardless of whether the secu-
6 rity holder was deemed ‘lost’ before, on, or after
7 December 8, 1997.

8 “(B) The issuer or its paying agent shall
9 solicit competing bids for locating lost security
10 holders in accordance with such procedures as
11 the Commission shall prescribe by rule, regula-
12 tion, or order. Any successful bidder shall re-
13 port to the issuer, its paying agent, and the
14 Commission the number of accounts pursued,
15 the percentage of accounts recovered, the
16 amount and percentage of funds recovered, the
17 names of those who recovered, and the gross
18 and net amounts each received.

19 “(7) LIABILITY.—Any issuer or paying agent
20 that fails to exercise due diligence in accordance
21 with the requirements of this subsection shall be lia-
22 ble to any lost security holders or class of lost secu-
23 rity holders for damages. If the court determines
24 that such failure constitutes gross negligence or
25 wanton misconduct, the court may award punitive

1 damages in an amount equal to triple the amount of
2 such damages. An action under this paragraph may
3 be brought in any Federal court of competent juris-
4 diction.

5 “(8) REGULATIONS; REPORT.—The Commission
6 shall—

7 “(A) adopt such rules, regulations, and or-
8 ders necessary to implement this subsection no
9 later than 3 months after the date of enactment
10 of this subsection;

11 “(B) provide a report to Congress con-
12 cerning its progress toward implementation of
13 this subsection no later than 6 months after
14 such date of enactment; and

15 “(C) thereafter include in its annual report
16 similar information.

17 “(9) DEFINITION OF PAYING AGENT.—For pur-
18 poses of this subsection, the term ‘paying agent’ in-
19 cludes any issuer, transfer agent, broker, dealer, in-
20 vestment company, mutual fund, investment adviser,
21 indenture trustee, custodian, or any other person ob-
22 ligated to deliver dividends, interest, or valuable
23 property rights.”.

1 **TITLE II—UNITED STATES**
2 **MONEY RETURN COMMISSION**

3 **SEC. 201. ESTABLISHMENT.**

4 (a) **IN GENERAL.**—There is established the United
5 States Money Return Commission. The Commission shall
6 be composed of 5 members appointed by the President.

7 (b) **CHAIRMAN.**—The President shall designate a
8 Chairman from among the members of the Commission.

9 (c) **TERMS.**—Each member shall serve for a term of
10 5 years, except that from the first 5 appointees, one shall
11 serve for 1 year, one shall serve for 2 years, one shall serve
12 for 3 years, one shall serve for 4 years, and one, the chair-
13 man, shall serve for 5 years.

14 (d) **LIMITATION.**—No more than 2 members shall be
15 appointed who are employees of the United States of
16 America or any of its agencies.

17 **SEC. 202. FUNCTIONS.**

18 (a) **IN GENERAL.**—The Commission shall—

19 (1) collect and publish on the Internet and
20 other appropriate media information on all money
21 held by the United States that is owed to any person
22 or entity; and

23 (2) establish procedures for the use of state-of-
24 the-art technology to restore such moneys to their
25 rightful owners without charge.

1 (b) REPORT.—The Commission shall report on its ac-
2 tivities to the President not later than 1 year after the
3 date of the enactment of this Act, and annually thereafter.

4 **SEC. 203. ADMINISTRATION.**

5 (a) INFORMATION FROM EXECUTIVE AGENCIES.—
6 The heads of executive agencies shall, to the extent per-
7 mitted by law, provide the Commission such information
8 as it may require for the purpose of carrying out its func-
9 tions.

10 (b) PAY.—Members of the Commission shall serve
11 without any additional Federal compensation for their
12 work on the Commission. However, members appointed
13 from among private citizens of the United States may be
14 allowed travel expenses, including per diem in lieu of sub-
15 sistence, as authorized by law for persons serving intermit-
16 tently in the government service (5 U.S.C. 5701–5707),
17 to the extent funds are available therefor.

18 (c) STAFF.—The Commission shall have a staff head-
19 ed by an Executive Director. Any expenses of the Commis-
20 sion shall be paid from such funds as may be available
21 to the Secretary of the Treasury.

○