

ESCHEAT:
INSURANCE:

There are no laws of Missouri requiring escheat of funds held by insurance companies currently doing business.

September 30, 1970

OPINION NO. 63

Mr. William Y. McCaskill
Superintendent
Division of Insurance
Department of Business
and Administration
100 East Capitol
Jefferson City, Missouri 65101



Dear Mr. McCaskill:

This official opinion is issued in response to the request contained in your letter concerning the escheat laws of the State of Missouri. The question raised is as follows:

"It has come to the attention of the Superintendent, Division of Insurance, by reason of examination into the financial affairs of Missouri domiciled insurance companies and foreign insurance companies licensed to do business in the State of Missouri, that some companies have established reserves or liability accounts for funds represented by uncashed checks of the company payable to various persons for dividends, premium refunds, claims and the like. Oftentimes these funds are maintained in these reserve accounts for many years.

"Question has arisen whether or not there are any Missouri Laws requiring the ultimate escheat of these funds to the State of Missouri or if there are any procedures by which the funds can be escheated to the State."

As we understand the request, the funds in question are in the possession of companies currently doing business and not in the

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process of liquidation. Section 375.760, RSMo 1969, sets forth a procedure to be followed in cases where an insurance company is being liquidated, but this procedure is not available in any other situation. Likewise, Section 379.395 contains a provision for escheat of certain funds held by the Superintendent of Insurance arising from a determination of unreasonable rates charged by certain insurance companies, but this does not apply to the factual situation involved here.

General provisions relating to escheats are found in Chapter 470, RSMo 1969. These provisions are limited to certain cases as expressed therein, being mainly those arising out of administration of estates of deceased persons, receiverships, sheriffs' sales, and funds in custody of courts. None of these would be applicable to the factual situation outlined in your letter.

In brief, there are no statutory provisions in Missouri which govern the type of case mentioned in the request, and escheat would occur only if there is a body of nonstatutory law applicable to these facts.

In this regard, the Attorney General's Office rendered Opinion No. 203 to the Honorable Maurice Schechter February 27, 1968, in which it was found that any unclaimed assets of a liquidating corporation will escheat to the State of Missouri under the common law. The principal authority for this conclusion appears to be State ex rel. McDowell v. Libby, 175 S.W.2d 171 (K.C.App.1943) where it was held that at common law a dissolved corporation's property escheated to the Crown, all debts due to or from it were extinguished and all pending suits and actions by and against it were abated. The corporation involved there was in liquidation following a forfeiture of its charter.

There is nothing in our prior opinion or the authority cited therein indicating that there is a common law escheat in cases where the corporation is in good standing and currently engaged in business. Likewise, the common law principle of escheat was applied to property of the liquidating corporation rather than to property of a third party held by the corporation.

We are not aware of any case which holds there is an escheat at common law of property owned by a person who cannot be located and held by a company currently engaged in business. Many states have remedied this situation by adopting legislation covering the disposition of unclaimed property generally. Such legislation was presented to the General Assembly of Missouri at the last session but failed to pass.

CONCLUSION

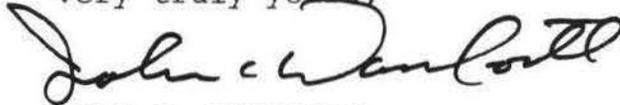
Therefore, it is the opinion of this office that there are no laws of Missouri requiring escheat of funds held by insurance companies

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currently doing business.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John E. Park.

Very truly yours,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

JOHN C. DANFORTH
Attorney General