



**Officers, 2017-2018**

**Amy Thomas Laub**  
Chair  
*Nationwide Insurance Company*

**Arthur J. Parham, Jr.**  
Vice Chair  
*Energy Services, Inc.*

**Robert J. Tuinstra, Jr.**  
Secretary & Treasurer  
*E.I. DuPont De Nemours and Company*

**Douglas L. Lindholm**  
President  
*Council On State Taxation*

**Directors**

**Barbara Barton Weiszhaar**  
*HP Inc.*

**Deborah R. Bierbaum**  
*AT&T*

**C. Benjamin Bright**  
*HCA Holdings, Inc.*

**Paul A. Broman**  
*BP America Inc.*

**Michael F. Carchia**  
*Capital One Services, LLC*

**Tony J. Chirico**  
*Medtronic, Inc.*

**Susan Courson-Smith**  
*Pfizer Inc*

**Karen DiNuzzo-Wright**  
*Walmart Inc.*

**Meredith H. Garwood**  
*Charter Communications*

**Tracy L. George**  
*The Coca-Cola Company*

**Beth Ann Kendziarski**  
*Apria Healthcare, Inc.*

**Kurt A. Lamp**  
*Amazon.Com*

**J. Hugh McKinnon**  
*Raytheon Company*

**Mollie L. Miller**  
*Fresenius Medical Care North America*

**Rebecca J. Paulsen**  
*U.S. Bancorp*

**John H. Paraskevas**  
*Exxon Mobil Corporation*

**Frances B. Sewell**  
*NextEra Energy, Inc.*

**Andrew H. Solomon**  
*L3 Technologies, Inc.*

**Patrick J. Reynolds**

*Senior Tax Counsel*

(202) 484-5218

[preynolds@cost.org](mailto:preynolds@cost.org)

October 9, 2018

**VIA EMAIL**

Re: B22-0654

Dear Chair Evans and Members of the Committee on Finance and Revenue:

On behalf of the Council On State Taxation (COST), I encourage you to vote against Bill 22-0654, which lacks the reforms proposed by the American Bar Association's (ABA) Draft Model Unclaimed Property Act (attached for your reference). The ABA model act was drafted by leading national unclaimed property experts and reviewed by the ABA's Business Law and Tax Sections and should provide a basis for any revisions to the District of Columbia unclaimed property law.

**About COST**

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of approximately 550 major corporations engaged in interstate and international business. COST's objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

**ABA Advisors Concerned with the RUUPA, Offer Draft Alternative**

After the 2016 adoption by the Uniform Law Commission of the Revised Uniform Unclaimed Property Act (RUUPA), upon which Bill 22-0654 is loosely based, representatives of the ABA Business Law Section, who served as ABA advisors on the RUUPA drafting committee, led an effort to address various Constitutional infirmities in the RUUPA by drafting an ABA Model Unclaimed Property Act. The ABA advisors' concerns with the RUUPA included the following:

- Allowing states to use unclaimed property laws to override other substantive laws governing the debtor-creditor relationship;
- Allowing states to escheat foreign-owned property;
- Allowing states to escheat property in a manner which is inconsistent with federal common law rules governing unclaimed property;
- Allowing states to liquidate securities in a manner that violates the U.S. Constitution's provisions regarding due process and taking; and
- Allowing states to require the holders of property possibly subject to escheat to incur significant expenses in investigating rights to the property.

The ABA advisors' concerns are set forth in more detail in the attached article from the ABA's *Business Law Today* publication.

During the effort to draft the ABA Model Unclaimed Property Act, the drafters sought input from ABA members in both the Business Law Section and Tax Section who practice unclaimed property law, as well as from other interested parties. COST feels the ABA model act is a far superior product that, if adopted by the District of Columbia, will go a long way toward preventing the kind of bad conduct by unclaimed property auditors that a federal district court judge, in *Temple-Inland v. Cook*, 192 F.Supp.3d 527 (2016), found to "shock the conscience," while furthering the goal of reuniting unclaimed property with its owners. COST therefore urges you to vote against B22-0654, and instead work to incorporate the reforms outlined in the ABA model act into the District of Columbia's unclaimed property law.

Sincerely,



Patrick J. Reynolds  
Senior Tax Counsel

CC: COST Board of Directors  
Douglas Lindholm, COST President & Executive Director