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UNCLAIMED PROPERTY LAW AND REPORTING FORMS

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UNCLAIMED PROPERTY LAW AND REPORTING FORMS

by

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the account is delivered to the state as abandoned, apparently the insurance will be terminated. States have recognized this problem and generally attempt to adopt compliance practices which avoid the indiscriminate loss of insurance coverage. Holders should consider exploring the problem with state unclaimed property administrators.

Federal credit unions are permitted to deduct from unclaimed accounts reasonable sums paid to third parties in attempts to locate a missing member.⁹

§ 5.16 Property Held by Casualty Insurance Companies

Various types of obligations held by casualty insurance companies have been the subject of litigation. Chapter 8 explores this subject at length.

The legal issues in this area arise from the fact that the records of insurers frequently do not distinguish between unaccepted offers of settlement, which may not be presumed abandoned, and unrepresented drafts or checks representing liquidated obligations, which are subject to the unclaimed property law.¹ Several cases have held that if the state is unable to establish which of the obligations are liquidated it cannot satisfy its burden of proof.² A few cases have held that the holder is required to file a report of the disputed items and explain why the presumption of abandonment is erroneous.³

Several cases are presently pending on the above issues, and many states are now aggressively pursuing property held by casualty insurance companies. Section 5.21[20] *infra* sets forth a table of all states which have enacted legislation which expressly presumes as abandoned, drafts issued by insurance companies, or expressly includes casualty insurers in their definition of holders subject to their unclaimed property law.

§ 5.17 Property Held by Life Insurance Companies

Legal issues related to property typically held by life insurance companies are discussed throughout Volume 1. Section 3.08 *supra*, considers the availability of the statute of limitations as a defense if the holder as a matter of practice does not assert it against the owner. In §§ 8.04[1][b] and 8.05[3][b][ii] *infra*, issues involving unclaimed accident and health benefits are reviewed. Section 10.06[4][b] *infra*, discusses the question of whether ERISA preempts state unclaimed property laws as they apply to such unclaimed obligations. The constitutionality of state laws excusing compliance with the conditions of an insurance policy is examined in § 9.04[3] *infra*.

⁹ See § 7.12[2][c] *infra*.

¹ See § 8.04 *infra*.

² See § 8.05[2] *infra*.

³ See § 8.05[3] *infra*.

§ 5.18 Property Held by All Types of Businesses**[1] In General****[a] Unclaimed Dividends, Undelivered Stock and Underlying Shares**

Forty-four states, the District of Columbia, and the Virgin Islands, have adopted express statutory provisions related to underlying shares which presume an outstanding stock certificate abandoned if dividend checks have not been cashed for periods ranging from three to seven years and the owner's location is unknown. Chapter 6 comprehensively reviews this subject; § 5.21[18] *infra* identifies the states which have enacted underlying share provisions or construe their laws to apply to such property.

Chapter 9 reviews in depth the various legal issues arising out of the numerous types of property usually held by all types of businesses. Questions related to whether the owner must demand performance or present evidence of the indebtedness as a condition precedent to abandonment are analyzed in § 9.02[2] *infra*. Issues involving credit balances are discussed in § 9.06 and problems peculiar to gift certificates, credit memos and scrip are reviewed in §§ 9.03 and 9.04. Private contractual provisions which limit the time within which an owner can demand performance are discussed in § 9.05 *infra*.

Generally, underlying shares are not being reported and states have experienced considerable difficulty in obtaining compliance. States are aware that holder resistance to reporting underlying shares is based in part on what is perceived as inadequate indemnification and hold harmless provisions.¹ Each state's provision is set forth in § 5.21[4] *infra*. The 1981 and 1995 Uniform Acts include provisions which seem to solve many of these problems.²

Section 6.09 *infra*, discusses a plan adopted by Marion Laboratories, Inc., designed to avoid the application of state abandoned property laws to unclaimed dividends and underlying shares.

[b] Unclaimed Employee Pension and Welfare Benefits

Many states have recently amended their unclaimed property laws to expressly provide for the presumption of abandonment of unclaimed employee and welfare benefits, and Sections 1 (10)(vi) and 12(b) of the 1981 Uniform Act and Sections 1(13)(vii) and 2(a)(14) of the 1995 Uniform Act cover such property. Chapter 10 is devoted to an analysis of the difficult legal issues which are posed by presuming the abandonment of such property. Included in the chapter is a discussion of whether ERISA preempts state abandoned property laws.³

[2] Property Held by Retailers, Manufacturers and Other Holders

Chapter 9 *infra*, reviews in depth the various legal issues arising out of the numerous

¹ See § 6.05[4][a] *infra*.

² See § 6.06[4] *infra*.

³ See § 10.06 *infra*.

types of property usually held by all types of businesses. Questions related to whether the owner must demand performance or present evidence of the indebtedness as a condition precedent to abandonment are analyzed in § 9.02[2] *infra*. Issues involving credit balances are discussed in § 9.06 and problems peculiar to gift certificates, credit memos and scrip are reviewed in §§ 9.03 and 9.04. Private contractual provisions which limit the time within which an owner can demand performance are discussed in § 9.05 *infra*.

PART C OVERLOOKED PROVISIONS IN STATE UNCLAIMED PROPERTY LAWS

§ 5.19 In General

Many state unclaimed property laws include provisions which a holder should consider in determining what property it is required to report to the state and for which periods. Section 5.02 *supra*, reviews the rules for determining which states may claim abandoned property and § 5.06 *supra*, discusses the general rules for determining the time period to be included in the initial report to the state. The following sections highlight specific provisions of various state unclaimed property laws which are sometimes overlooked by holders. In some cases these provisions may result in a holder not being required to report abandoned property to the state in question. In that event a holder should consider whether the property must be reported to some other jurisdiction (see § 5.02[1] *supra*).

§ 5.20 Statutory Provisions

[1] Alabama

In Alabama, property of a type which is subject to a statute of limitations is not required to be reported if it was in the possession of a holder prior to April 7, 1965.¹

[2] Alaska

Alaska has modified the 1981 Uniform Act to provide a report is not required if “during the year preceding June 30 of each year the total aggregate value of the intangible property is less than \$750.”² The meaning of this provision is unclear.

[3] California

As a result of a court ruling,^{2a} California may not accept delivery of unclaimed property prior to the state first notifying the owner that the unclaimed asset will transferred to the state’s possession if the owner does not re-establish contact with the

¹ Boswell v. South Cent. Bell Tel. Co., 293 Ala. 189, 301 So. 2d 65 (1974). See § 3.06 *supra*, for a discussion of the statute of limitation rules.

² § 34.45.280(f).

^{2a} Taylor v. Westly, 402 F.3d 924 (9th Cir. 2005).

holder.^{2b} Consequently, holders must first file a preliminary report with the state, with the state then mailing notices to the reported owners.^{2c} Property may not be remitted sooner than seven months following the report date,^{2d} and the state will return all property to a holder that has is not delivered in strict accordance with the unclaimed property law.

If a business association was not transacting business in California prior to January 1, 1969, it is not required to report any property which was barred by an applicable statute of limitations prior to that date. Additionally, for any property which was not time-barred on that date, the holder is not required to report the property if it was then outstanding longer than the abandonment period, California Unclaimed Property Law § 1503. For example, if a business association issued dividend checks on January 1, 1960, these obligations would not be subject to claim by California since they were outstanding for more than the seven year abandonment period. *See* § 5.02[1] *supra*, for rules relating to reporting of such property to the state of the holder’s domicile.

Holders who were transacting business in California prior to January 1, 1969, are not required to report property time-barred prior to September 18, 1959. *See* § 3.04[1] *supra*.

On or after January 1, 1997, a payment of unclaimed cash in an amount of at least \$20,000 must be made by electronic funds transfer pursuant to regulations adopted by the Controller.³

[4] Colorado

Colorado initially adopted unclaimed property legislation in 1987. In enacting provisions in 1992 extending the law to utilities, Colorado’s statute became comprehensive in scope.

Amendments to Colorado’s unclaimed property law, effective in 1995, allow a holder to “deduct and retain two percent of the value of the property or twenty-five dollars whichever is more per item,” C.R.S. 38-13-112(1)(a) (for certain types of property—bank accounts, insurance proceeds, and annuities—the “reporting fee” is limited to the lesser of the two percent value of the property or \$25). A holder relying on this provision should consult counsel in order to determine whether, in the absence of a contract with the owner providing for the deductions authorized by C.R.S. 38-13-112, the holder remains obligated to the owner for the amount deducted.

The 1995 amendments additionally exempt small businesses from reporting obligations, provided that the small business has less than \$3500 (and less than \$250 due any one owner) in otherwise reportable unclaimed property. *See* C.R.S. 38-13-110(e)(I).

^{2b} The court in the Taylor case ruled that a “due diligence” notice mailed to an owner by a holder was insufficient for satisfying federal due process considerations, and the mailing of notices must be undertaken by the state. *See* 488 F.3d 1197, 1201 (9th Cir. 2007).

^{2c} Cal. Civ. Proc. Code 1531(d).

^{2d} *Id.*, Cal. Civ. Proc. Code 1532(a).

³ § 1532.

[4A] Delaware

In 2005, the Delaware General Assembly directly addressed the issue of conflicting state claims by providing for the “automatic” reduction of abandonment periods whenever another state, with a shorter abandonment period than Delaware, makes claim to property for which Delaware believes it has the priority claim.^{3.1} The reduction in abandonment periods would not avert a conflict, but would serve to protect in part Delaware’s asserted interests through preventing a “race of due diligence.”^{3.2}

[5] District of Columbia

The reach back provisions of the District of Columbia’s law are inconsistent. Section 41–101 of the Uniform Disposition of Unclaimed Property Act states all personal property is subject to the law “without regard either to any maximum length of time for which such property was abandoned or to any statute limiting the right to sue to claim such property.” However, section 41–142 states the law “shall apply retroactively to all items of property which would have been presumed abandoned if this chapter had been in effect as of January 1, 1980.”⁴

[6] Florida

Florida’s unclaimed property law Section 717.119(3) requires that all stock or other intangible ownership interest reported to the state during the annual report filing be sold and the proceeds remitted to the department with the report. Reasonable fees within the industry’s standards may be deducted from the proceeds for the cost of selling the stock or other intangible ownership interest.⁵

[7] Georgia

Georgia’s unclaimed property law provides that property on which the statute of limitations expired prior to January 1, 1973 is not reportable.⁶

Section 44–12–220(d) provides that an owner may reclaim property from the state “within seven years from the date of escheatment of the property to the state revenue commissioner.” See § 1.04[3] for a discussion of whether Georgia’s provision satisfies due process requirements. The Georgia law does not define or otherwise provide for an “escheatment.” According to Georgia’s unclaimed property administrator, claims will be honored whenever presented.

[8] Hawaii

^{3.1} DEL. CODE ANN. tit. 12, § 1198(8).

^{3.2} See § 2.03 *supra*.

⁴ The meaning of this provision is unclear. See § 5.06[6][b] *supra*, for a discussion of a similar ambiguity in the reach back provisions of the 1954 Uniform Act.

⁵ § 717.119(3).

⁶ § 44–12–208, Georgia Disposition of Unclaimed Property Act (repealed). See § 2.05[4][v] *supra*, for a discussion of whether the state of domicile of the holder may claim time-barred property.

(This section has been removed)

[9] Idaho

The Idaho unclaimed property act, a version of the 1981 Uniform Act, was significantly amended by legislation approved on March 24, 1997;⁸ the amendments became effective on July 1, 1997, but are retroactive to January 1, 1981, “for the purposes of any audits or similar adjustments proposed by the administrator.”⁹ Intangible property with a value of \$50 or less is now exempt from reporting, publication, and delivery to the state, along with nonrefundable airline tickets, gift certificates with a prominent expiration date, and penalties or forfeitures charged by a business association for failure to make use of or pay for services.¹⁰ Where a holder files a report, there is a three-year limitations period within which the state can commence an action concerning the reported property; if the holder does not file a report, the limitations period is seven years after the time for filing the report.¹¹

The Idaho amendments changed the law from a completely custodial statute to one where escheat follows the period of custody. Escheat vests ownership of the unclaimed property in the state if no claim is made during the period of custody; the rights of the apparent owner are extinguished.¹² The Idaho amendment provides that the state will hold the unclaimed property for ten years. “At the end of such period, those moneys which have not been claimed and paid over or delivered as an allowed claim shall become due and payable by escheat to the state of Idaho and become the property of the state of Idaho without further action on the part of the administrator.”¹³ The only notice of the future escheat of property presumed abandoned is that contained in the notice published by the state; that notice must contain a “statement that the property shall escheat to the state of Idaho and become the property of the state of Idaho if not claimed within ten (10) years after notice is published”¹⁴ The notice requirement and the automatic escheat after ten years of custody have constitutional due process implications; for a discussion of the due process issue, see § 1.06[3] *supra*.

[10] Illinois

Amounts held by banking organizations as agent or trustee for purposes of making payment to holders of stocks, bonds or other securities are not subject to Illinois’ unclaimed property law.¹⁵

⁷ (Reserved)

⁸ 1997 Idaho Sess. Laws c.399.

⁹ *Id.*, § 19.

¹⁰ Idaho Code 14-502(2).

¹¹ *Id.*, 14-529(2) and (3).

¹² For a discussion of the concept of escheat and the evolution of custodial statutes, see §§ 1.04[3] and 1.06 *supra* .

¹³ Idaho Code 14-523(4).

¹⁴ *Id.*, 14-518(2)(d).

¹⁵ § 105, Illinois Uniform Disposition of Unclaimed Property Act.

Business associations holding property subject to § 109 of the Illinois Uniform Disposition of Unclaimed Property Act do not report property held prior to October 1, 1968.¹⁶ Section 2.05[4][a][ii], *supra*, discusses whether such property must be reported to the state of domicile of the holder.

[11] Kansas

The initial report to Kansas includes property presumed abandoned as if the law were in effect July 1, 1969, and is in possession of, or identified upon the books of, the holder on July 1, 1979.¹⁷

[12] Louisiana

Prior to 1986, there was no “anti-limitations” provision included in the Louisiana law.¹⁸

[13] Missouri

Property, the title to which is vested in the holder by the operation of the statute of limitations prior to August 13, 1984, or was held in a fiduciary capacity prior to August 13, 1974, is not subject to Missouri’s law, § 447.547.1. Holders are allowed to retain from the value of abandoned property the “costs” of complying with the Act as approved by the Director, § 447.543.1.

[14] Nebraska

Property on which statute of limitations expired prior to December 25, 1969, is not subject to Nebraska’s law.¹⁹

[15] Nevada

Nevada law authorizes holders, under certain circumstances, to recover the costs of mailing notices to inactive account holders. A specific form, as prescribed by regulation, is to be utilized.²⁰ However, the state has not adopted its own

(Text continued on page 5-53)

¹⁶ However, note that § 102(a) may also apply to such property.

¹⁷ § 58–3912(g), Kansas Disposition of Unclaimed Property Act.

¹⁸ See § 168, Louisiana Uniform Disposition of Unclaimed Property Act. (Repealed) See § 5.06 *supra*, for a discussion of anti-limitation provisions.

¹⁹ § 69–1315, Nebraska Uniform Disposition of Unclaimed Property Act.

²⁰ NRS 120A.260(2).

PART D QUICK ACCESS TABLES

§ 5.21 How to Use the Quick Access Tables

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[1] Consolidated Quick Reference Table (for Non-Insurance Companies)#

State	Period Ending	Due Date	Accounts Payable	Wages	Dividends	Aggregate Amount
ALABAMA	30-Jun	1-Nov	3	1	3	\$ 50.00
ALASKA	30-Jun	1-Nov	3	1	3	\$ 100.00
ARIZONA	30-Jun	1-Nov	5	1	3	\$ 50.00
ARKANSAS	30-Jun	1-Nov	5	1	5	\$ 50.00
CALIFORNIA	30-Jun	1-Nov	3	1	3	\$ 50.00
COLORADO	30-Jun	1-Nov	5	1	5	\$ 25.00
CONNECTICUT	31-Dec	1-Apr	3	1	3	\$ 50.00
DELAWARE	31-Dec	1-Mar	5	5	5	\$ 50.00
D.C.	30-Jun	1-Nov	3	1	3	\$ 50.00
FLORIDA	31-Dec	1-May	5	1	3	\$ 50.00
GEORGIA	30-Jun	1-Nov	5	1	5	\$ 50.00
HAWAII	30-Jun	1-Nov	5	1	5	\$ 50.00
IDAHO*	30-Jun	1-Nov	5	1	5	\$ -
ILLINOIS	31-Dec	1-May	5	5	5	\$ 25.00
INDIANA	30-Jun	1-Nov	5	1	3	\$ 50.00
IOWA	30-Jun	1-Nov	3	1	3	\$ 25.00
KANSAS	30-Jun	1-Nov	5	1	5	\$ 100.00
KENTUCKY	30-Jun	1-Nov	3	3	3	\$ 100.00
LOUISIANA	30-Jun	1-Nov	5	1	3	\$ 50.00
MAINE	30-Jun	1-Nov	3	1	3	\$ 50.00
MARYLAND	30-Jun	31-Oct	3	3	3	\$ 100.00
MASSACHUSETTS	30-Jun	1-Nov	3	3	3	\$ 100.00
MICHIGAN	30-Jun	1-Nov	5	1	5	\$ 50.00
MINNESOTA	30-Jun	1-Nov	3	1	3	\$ 100.00
MISSISSIPPI**	30-Jun	1-Nov	5	5	5	\$ 100.00
MISSOURI	30-Jun	1-Nov	5	5	5	\$ 50.00
MONTANA	30-Jun	1-Nov	5	1	5	\$ 50.00
NEBRASKA	30-Jun	1-Nov	5	1	5	\$ 25.00
NEVADA	30-Jun	1-Nov	3	1	3	\$ 50.00
NEW HAMPSHIRE	30-Jun	1-Nov	5	1	5	\$ 50.00
NEW JERSEY	30-Jun	1-Nov	3	1	3	\$ 50.00
NEW MEXICO	30-Jun	1-Nov	5	1	5	\$ 50.00
NEW YORK***	31-Dec	10-Mar	3	3	3	\$ 20.00
NORTH CAROLINA	30-Jun	1-Nov	5	2	3	\$ 50.00
NORTH DAKOTA	30-Jun	1-Nov	2	2	2	\$ 50.00
OHIO	30-Jun	1-Nov	1	1	5	\$ 50.00
OKLAHOMA	1-Sep	1-Nov	5	1	3	\$ 50.00
OREGON	30-Jun	1-Nov	3	3	3	\$ 50.00
PENNSYLVANIA	31-Dec	15-Apr	5	2	5	\$ 50.00
PUERTO RICO	30-Jun	10-Aug	5	5	5	\$ 1.00
RHODE ISLAND	30-Jun	1-Nov	3	1	3	\$ 50.00
SOUTH CAROLINA	30-Jun	1-Nov	5	1	5	\$ 50.00
SOUTH DAKOTA	30-Jun	1-Nov	5	1	5	\$ 50.00
TENNESSEE	31-Dec	1-May	3	1	3	\$ 50.00
TEXAS	30-Jun	1-Nov	3	1	3	\$ 50.00

Changes to the chart (since the last release) are denoted in italic-bold.

State	Period Ending	Due Date	Accounts Payable	Wages	Dividends	Aggregate Amount
UTAH	30-Jun	1-Nov	3	1	3	\$50.00
VERMONT	31-Dec	1-May	3	1	3	\$ 25.00
VIRGIN ISLANDS	30-Jun	1-Nov	5	1	5	\$ 25.00
VIRGINIA	30-Jun	1-Nov	5	1	5	\$ 100.00
WASHINGTON	30-Jun	1-Nov	3	1	3	\$ 50.00
WEST VIRGINIA	30-Jun	1-Nov	5	1	5	\$ 50.00
WISCONSIN	31-Dec	1-Nov	5	1	3	\$ 50.00
WYOMING	30-Jun	1-Nov	5	1	3	\$ 50.00

* Report of amounts under aggregate are not mandatory, but voluntary

** Report due every third year

*** Periods for Corporations only; banks, insurers and utilities should consult NY-7

[2] In General

In Volumes 2 through 2B each state's unclaimed property law is set forth together with a comprehensive table identifying the most important features of that state's law. Volumes 3 through 6 contain each state's official forms and reporting instructions. Copies of the forms may be used for filing with the state.

The Quick Access Tables in this section allow the user to quickly ascertain all state provisions which a holder needs to know in order to timely prepare unclaimed property reports. These tables eliminate the necessity of analyzing each of the laws of the fifty-one jurisdictions which have enacted some type of abandoned property legislation. The essential information which a holder needs to know on a continuing basis is set forth as follows:

Date report due:	§ 5.21[6], life insurers; § 5.21[7], all others.
Date payment due:	§ 5.21[8].
Cut-off date for reports:	§ 5.21[9], life insurers; § 5.21[10], all others.
States requiring negative report:	§ 5.21[11].
Aggregation amounts:	§ 5.21[12].
Payment to owner:	§ 5.21[13].
Abandonment periods:	
Miscellaneous intangible property: ¹	§ 5.21[16].
Dividends and other distributions	§ 5.21[17].

¹ Most types of property fall into this category except as indicated in the text. In addition, wages, deposits held by financial institutions, utility deposits, liquidations, and property held by fiduciaries may have differing abandonment periods. See Volumes 2 through 2B, state synopses.

Underlying shares:² § 5.21[18].
 Life insurance proceeds: § 5.21[19].

[3] Preparing the Holder’s First Unclaimed Property Report

If the holder has never filed a report of unclaimed property with the state, it should consider the following tables and text discussion:

- A. Determine which state is entitled to claim the property § 5.02 *supra*.
- B. Ascertain if holder required to file report with the state § 5.21[5] *infra*, and § 5.02[2] *supra*.
- C. Ascertain if any other state can require report of the property § 5.02 *supra*.
- D. Determine what period must be included in initial report and consider provisions which exclude property from coverage of the law § 5.21[5] *infra* and §§ 5.06 and 5.20 *supra*.
- E. If property is not to be reported to any state, consider statute of limitations issue § 5.07 *supra*.

(Text continued on page 5-63)

² See § 5.18[1][a] *supra*.

State	Date	Statutory Citation
(brokers)	March 10	§ 502
(corporations)	March 10	§§ 512, 1315
(non-life insurers)	April 1	§ 1316
(utilities)	August 1	§ 403
(all others)		<i>See</i> Art. XIII
North Carolina	November 1	§ 116B-60(d)
North Dakota	November 1	§ 47-30.1-17(4)
Ohio	November 1	§ 169.03(C)
Oklahoma	November 1	§ 60-661(D)
Oregon	November 1	§ 98.352(4)
Pennsylvania	April 15	§ 1301.11(d)
Prince Edward Island (Canada)	—	To be determined by regulation; see § 5.20[24] <i>supra</i> .
Puerto Rico	August 10	Article 5(a)
Quebec (Canada)	Within 90 days of close of company's fiscal year	Regulation C-81(6.2); see also § 5.20[25] <i>supra</i> .
Rhode Island	November 1	§ 33-21.1-17(d)
South Carolina	November 1	§ 27-18-180(D)
South Dakota	November 1	§ 43-41B-18(d)
Tennessee	May 1	§ 66-29-113(d)
Texas	November 1	§ 74.101(a)
Utah	November 1	§ 67-4a-301(1)(a)(i)
Vermont	May 1	§ 1247(d)
(banks and financial organizations)		
Virgin Islands	November 1	§ 668(d)
Virginia	November 1	§ 55-210.12(d)
(insurance companies)	May 1	§ 55-210.12(d)
Washington	November 1	§ 63.29.170(4)
West Virginia	November 1	§ 36-8-7(d)
Wisconsin	November 1	§ 177.17(4)(a)
Wyoming	November 1	§ 34-24-118(d)

[8] Date Payment Due

Virtually all states¹ have amended their unclaimed property laws to provide for the delivery of property contemporaneous with the filing of the report. Through this approach, the reporting process is greatly streamlined, and holders can operate under a specific date on which to transfer unclaimed assets to the state.

The 1954 Uniform Act, its 1966 Revision and the 1981 Uniform Act all provided for a bifurcated report/delivery process and did not include a fixed payment date.² Previously, states uniformly required a preliminary or “advertising” report. The only

¹ Currently, the only wholesale exceptions are California (see Cal. Civ. Proc. Code 1532), Hawaii (see Hawaii Rev. Stat. 523A-19), Puerto Rico (see 2000 P.R. Laws 346, Section 6) and the U.S. Virgin Islands (see V.I. Code Ann. tit. 28, Section 670(a)). Additionally, the states of Delaware and New York require some industries to deliver property at the time of the filing of the report, while other industries are required to file both a preliminary and a final report.

² 1954 Uniform Act, Section 13; 1981 Uniform Act, Section 19.

property delivered to the state at the time of the filing of the report consisted of types of property where the address of the owner was not available, either because it was never obtained (e.g., travelers checks and money orders) or because it was discarded, in addition to property below the state's aggregation amount. For all other unclaimed property, prior to delivery to the state, the state would first arrange for the advertising of the names of missing owners. Owners responding to the publication (or, in some cases, owners responding to letters which were also, based on the preliminary report, mailed by the state to the owner's last known address) were directed to the holder to claim the abandoned property. Thereafter, the holder deleted the names of the owners who had reclaimed their assets, and filed with the state a final or "delivery" report, and along with remitting the remaining property.

The bifurcated report/delivery procedure was found to be cumbersome by both holders and states.³ The 1995 Uniform Act provided for the delivery of all property at the time the report became due.⁴ However, by the time this most recent of the uniform acts was promulgated, virtually all states had already amended their existing unclaimed property laws to provide for contemporaneous reporting and delivery of property.

The 1954 Uniform Act and 1966 Revision did not include a fixed payment date. Instead, payment was to be made within specified time periods after publication of the state's advertisement. Virtually all states have now either amended their laws to specify a certain delivery date or provide such a date in their reporting instructions or have administratively adopted a date. The following table includes these dates. If the state does not provide a predetermined payment date, it is required to send a notification to the holder of when payment is due.

Alabama

Life insurance company.—(All insurance corporations) November 1, § 35-12-77(a), with report.

All others.—November 1, § 35-12-77(a), with report.

Exceptions.—Safe deposit box contents, January 31, § 35-12-77(b).

Alaska

Life insurance company.—November 1, § 34.45.320(a), with report.

All others.—November 1, § 34.45.320(a), with report.

Exceptions.—None, § 34.45.320(a).

Arizona

Life insurance company.—May 1, § 44-308A, with report.

³ Convenience notwithstanding, the United States Court of Appeals for the Ninth Circuit has ruled that with respect to California's unclaimed property law, federal constitutional considerations require that the state must notify owners prior to taking possession of or otherwise "disturbing" an owner's unclaimed property. This requirement of prior notification necessarily requires that holders file a preliminary report (without an accompanying remittance of property) with the state, so that the state may mail notices to owners; consequently, in 2007, California enacted S.B. 86 and reinstated bifurcated reporting. See *Taylor v. Westly*, 488 F.3d 1197 (9th Cir. 2007).

⁴ 1995 Uniform Act, Section 8. The contemporaneous reporting/delivery requirement does not include contents of safe deposit boxes.

All others.—November 1, § 44–308A, with report.

Exceptions.—None.

Arkansas

Life insurance company.—May 1, § 18–28–208(a), with report.

All others.—November 1, § 18–28–208(a), with report.

Exceptions.—Automatic renewable deposits, § 18–28–208(a).

California

Life insurance company.—Not prior to December 1 or later than December 15, § 1532(a).

All others.—Not prior to June 1 or later than June 15, § 1532(a).

Exceptions.—None.

Colorado

Life insurance company.—May 1, § 38–13–110(4)(b), with report.

All others.—November 1, § 38–13–110(4)(a), with report.

Exceptions.—None.

Connecticut

Life insurance company.—April 1, § 3–65a(b), with report.

All others.—April 1, § 3–65a(b), with report.

Exceptions.—None.

Delaware

Life insurance company.—December 20, § 1185(a).

All others.—March 1, § 1201.

Exceptions.—November 10: banking organizations, § 1173(a).

District of Columbia

Life insurance company.—May 1, § 41–119(a), with report.

All others.—November 1, § 41–119(a), with report.

Florida

Life insurance company.—May 1, § 717.119(1), with report.

All others.—May 1, § 717.119(1), with report.

Exceptions.—None.

Georgia

Life insurance company.—(All insurance corporations). May 1, with report, § 44–12–214(d).

All others.—November 1, with report, § 44–12–214(d).

Exceptions.—None.

Hawaii

Life insurance company.—May 1, § 523A–19(a).

All others.—November 1, § 19(a).

Exceptions.—At time of filing report: all items under \$50; property where name of owner unknown; traveler's checks and money orders, § 19(c).

Idaho

Life insurance company.—November 1, with report, § 14-519(1).

All others.—November 1, with report, § 14-519(1).

Exceptions.—None.

Illinois

Life insurance company.—May 1, § 111(d), with report.

All others.—Business associations and utilities, May 1, § 111(d), with report; all others, November 1, § 111(d), with report.

Exceptions.—None.

Indiana

Life insurance company.—May 1, § 32-34-1-27(a), with report.

All others.—November 1, § 32-34-1-27(a), with report.

Exceptions.—Automatically renewable deposits at the earliest date upon which a penalty or forfeiture would not result, § 32-34-1-27(b).

Iowa

Life insurance company.—November 1, § 556.13.1, with report.

All others.—November 1, § 556.13.1, with report.

Exceptions.—Safe deposit boxes, See § 556.13.1.

Kansas

Life insurance company.—May 1, § 58-3952(a), with report.

All others.—November 1, § 58-3952(a), with report.

Exceptions.—None.

Kentucky

Life insurance company.—November 1, § 393.110(3), with report.

All others.—November 1, § 393.110(3), with report.

Exceptions.—None.

Louisiana

Life insurance company.—November 1, § 9:160(A), with report.

All others.—November 1, § 9:160(A), with report.

Exceptions.—None.

Maine

Life insurance company.—May 1, § 1959(1), with report.

(Text continued on page 5-81)

UNCLAIMED PROPERTY LAW AND REPORTING FORMS

by

DAVID J. EPSTEIN

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LYNDEN LYMAN

ROBERT P. KRENKOWITZ

VOLUME 2

STATUTES AND REGULATIONS

Alabama through Louisiana

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MATTHEW  BENDER

17. "State" means a state of the United States, the district of Columbia, the commonwealth of Puerto Rico or any territory or insular possession that is subject to the jurisdiction of the United States.

18. "Utility" has the same meaning prescribed in section 40-491.

§ 44-302 Presumptions of abandonment

A. Property is presumed abandoned if it is unclaimed by the apparent owner according to the following schedule:

1. A traveler's check is presumed abandoned fifteen years after issuance.
2. A money order or similar written instrument, other than a third party bank check, is presumed abandoned seven years after issuance.
3. Any stock or other equity interest in a business association or financial organization, including a security entitlement under title 47, chapter 8, is presumed abandoned three years after any of the following, whichever occurs first:
 - (a) The date of the most recent dividend, stock split or other distribution that is unclaimed by the apparent owner.
 - (b) The date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable.
 - (c) The date the holder discontinued mailings, notifications or communications to the apparent owner.
4. The principal on debt, other than a bearer bond or an original issue discount bond, of a business association or financial organization is presumed abandoned three years after the maturity date and the interest on the debt is presumed abandoned three years after the payment date.
5. A demand, savings or time deposit, including a deposit that is automatically renewable, and any interest or dividends are presumed abandoned five years after maturity or the date of the last indication by the owner of interest in the property, whichever occurs first. For the purposes of this paragraph, a deposit that is automatically renewable is deemed matured on its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by any memorandum or other record on file with the holder.
6. Credits owed to a customer as a result of a retail business transaction are presumed abandoned five years after the obligation accrued.
7. An amount owed by an insurance company on a life or endowment insurance policy or an annuity that has matured or terminated is presumed abandoned five years after the obligation to pay arose or, in the case of a policy or annuity that is payable on proof of death, the amount is presumed abandoned two years after the insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based. For the purposes of this paragraph all of

the following conditions apply:

(a) If a person other than the insured or annuitant is entitled to the owed amount and the person's address is not known to the company or it is not definite and certain from the records of the company who is entitled to the amount, it is presumed that the last known address of the person who is entitled to the amount is the same as the last known address of the insured or annuitant according to the company's records.

(b) Notwithstanding any law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(c) Every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state shall request the following information:

(i) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class.

(ii) The address of each beneficiary.

(iii) The relationship of each beneficiary to the insured.

8. A life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the company's records is deemed matured and the proceeds are deemed due and payable and are presumed abandoned after two years if all of the following conditions apply:

(a) The insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based.

(b) The policy was in force at the time the insured attained or would have attained the limiting age specified in subdivision (a) of this paragraph.

(c) Neither the insured nor any other person who appears to have an interest in the policy within the last two years according to the company's records has assigned, readjusted or paid premiums on the policy or subjected the policy to a loan, corresponded in writing with the company concerning the policy or otherwise indicated an interest as evidenced by a memorandum or any other record on file with and prepared by an employee of the company.

9. Property that is distributable by a business association or financial organization in a course of dissolution is presumed abandoned one year after the property becomes distributable.

10. Property that is received by a court as proceeds of a class action and that is not distributed pursuant to the judgment is presumed abandoned one year after the distribution date.

11. Property that is held by a court, government, governmental subdivision, agency or instrumentality, except for support as defined in section 25-500 or for spousal

maintenance, is presumed abandoned one year after the property becomes distributable. Monies held for the payment of warrants by a state agency that remain unclaimed by the owner at the time of the void date printed on the face of the warrant are presumed abandoned. For the purposes of this paragraph, governmental subdivision does not include a special taxing district as defined in section 48-241.

12. Wages or other compensation for personal services is presumed abandoned one year after the compensation becomes payable.

13. Property in any individual retirement account, defined benefit plan or other account or plan that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned three years after any of the following, whichever occurs first:

(a) The date of the distribution or attempted distribution of the property.

(b) The date of the required distribution as stated in the plan or trust agreement that governs the plan.

(c) If determinable by the holder, the date specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty.

14. Any amount that is payable on a check, draft or similar instrument on which a financial organization or business association is directly liable, including a cashier's check and a certified check, and that has been outstanding for more than five years after the check, draft or similar instrument was payable or after issuance if payable on demand is presumed abandoned unless within five years the owner has communicated in writing with the financial organization or business association concerning the check, draft or similar instrument or otherwise indicated an interest as evidenced by a memorandum or any other record on file and prepared by an employee of the financial organization or business association.

15. All other property is presumed abandoned five years after the owner's rights to demand the property or after the obligation to pay or distribute the property arises, whichever occurs first.

16. Excess proceeds deposited with the county treasurer pursuant to section 33-812 are presumed abandoned if the monies remain with the treasurer for at least three years from the date of deposit and there is no pending application for distribution.

17. Any dividend, profit, distribution, interest, redemption, payment on principal or other sum held or owing by a business association for or to its shareholder, certificate holder, member, bondholder or other security holder who has not claimed it, or corresponded in writing with the business association concerning it, is presumed abandoned three years after the date prescribed for payment or delivery.

B. At the time that an interest is presumed abandoned under subsection A, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

C. Property is unclaimed if, for the applicable period prescribed in subsection A of this section, the apparent owner has not communicated in writing with the holder or communicated by other means reflected in a contemporaneous record that is prepared by or on behalf of the holder and that concerns the property or the account or accounts in which the property is held and has not otherwise indicated an interest in the property and if the holder has not communicated in writing with regard to the property that would otherwise be unclaimed. A communication with an owner by a person other than the holder or the holder's representative who has not identified the property in writing to the owner is not an indication of interest in the property by the owner.

D. An indication of an owner's interest in property includes:

1. The presentment of any check or other instrument of payment of any dividend or other distribution that is made with respect to any account, underlying stock or other interest in a business association or financial organization. If the distribution is made by electronic or similar means an indication of an owner's interest includes evidence that the distribution has been received.

2. Activity directed by the owner in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account.

3. The making of a deposit to or withdrawal from a bank account.

4. The payment of a premium with respect to a property interest in an insurance policy. The application of an automatic premium loan provision or any other nonforfeiture provision in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or if the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

E. Property is payable or distributable notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

§ 44-303 Contents of safe deposit box or other safekeeping depository

Tangible property that is held in a safe deposit box or any other safekeeping depository in this state in the ordinary course of the holder's business and the

(Text continued on page AZ-15)

3. The holder regularly ceases payment of interest and does not regularly retroactively credit interest on that type of property.

B. If property other than money is delivered to the department pursuant to this chapter, the department shall provide the owner with any income or gain realized or accruing on the property at or before liquidation or conversion of the property to money. If the property delivered to the department is an interest bearing demand, savings or time deposit, including a deposit that is automatically renewable, the department shall pay interest at the legal rate or any lesser rate that the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the department and ceases ten years after delivery or on the date the department pays the owner, whichever occurs first.

§ 44-312 Public sale of abandoned property

A. Except as otherwise provided in this section, within three years after receiving abandoned property the department shall sell the property to the highest bidder at a public sale at a location in this state that in the judgment of the department affords the most favorable market for the property. The department may decline the highest bid and reoffer the property for sale if the department considers the bid to be insufficient. The department is not required to offer the property for sale if the department determines that the probable cost of the sale will exceed the proceeds from the sale. Before conducting a sale pursuant to this section, the department shall cause a notice to be published at least three weeks before the sale in a newspaper of general circulation in the county in which the sale will occur.

B. The department shall sell securities that are listed on an established stock exchange at prices prevailing on the exchange at the time of the sale. The department may sell other securities over the counter at prices prevailing at the time of the sale or by any reasonable method selected by the department.

C. A person who makes a claim pursuant to this chapter for securities entitled to receive from the department the securities that the holder delivered to the department if the securities remain in the department's custody or the person is entitled to receive the net proceeds of the sale. Except in a case of intentional misconduct or malfeasance by the department, the person is not entitled to receive any appreciation in the value of the property that occurred after the delivery to the department.

D. A purchaser of property at a sale conducted by the department pursuant to this chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under the owner or previous holder. The department shall execute all documents necessary to complete the transfer of ownership.

§ 44-313 Deposit of monies; definition

A. Except as otherwise provided in this section or section 44-314, the department shall deposit, pursuant to sections 35-146 and 35-147, in the state general fund all monies received pursuant to this chapter, including the proceeds from the sale of abandoned property pursuant to section 44-312, except that:

1. Thirty-five per cent of the monies shall be deposited in the housing trust fund established by section 41-3955.

2. Twenty per cent of the monies shall be deposited in the housing trust fund established by section 41-3955. These monies shall be used exclusively for the development of eligible and viable housing in rural areas and for the purposes authorized under the housing development fund established by section 41-3956.

3. Twenty per cent of the monies to the funds in the amounts provided in section 5-113, subsection A.

B. The department shall deposit monies from unclaimed shares and dividends of any corporation incorporated under the laws of this state in the permanent state school fund pursuant to article XI, section 8, Constitution of Arizona.

C. The department shall deposit monies from unclaimed victim restitution payments in the victim compensation and assistance fund established by section 41-2407 for the purpose of establishing, maintaining and supporting programs that compensate and assist victims of crime.

D. The department shall retain in a separate trust fund at least one hundred thousand dollars from which the department shall pay claims.

E. Before making the deposit, the department shall record the name and last known address of each person who appears from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary. The department shall also record the policy or contract number of each policy or contract of an insurance company that is listed in the report, the name of the company and the amount due. The department shall make the record available for public inspection during reasonable business hours.

F. Before making any deposit to the credit of the state general fund, the department may deduct, subject to legislative appropriation, administrative

(Text continued on page AZ-23)

California

SYNOPSIS

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CALIFORNIA STATUTORY SUMMARY

TYPE OF STATUTE: Substantial modification of 1954 Uniform Act

Statutory Citation: UPL, Ch. 7, CCP § 1500 *et seq.*

1. Must holder be doing business in state:
 - a. Banking and financial organization.—No, § 1510.
 - b. Business association (dividends, stock, etc.).—No, § 1510.
 - c. Life insurance company.—No, § 1510.
2. Date report due:
 - a. Life insurance company.—May 1, § 1530(d).
 - b. All others.—November 1, § 1530(d).
3. Date payment due:
 - a. Life insurance company.—Not prior to December 1 or later than December 15, § 1532(a).
 - b. All others.—Not prior to June 1 or later than June 15, § 1532(a) (with respect to safe deposit box contents, see § 1532.1).
 - c. Exceptions.—None.
4. Report period:
 - a. Life insurance company.—December 31, § 1530(d).
 - b. All others.—June 30, (or fiscal year-end next preceding) § 1530(d).
5. Negative report required.—Yes, if requested, Reg. § 1173.
6. Turnover prior to expiration of abandonment period.—Yes, according to administrator.
7. Aggregation amount:
 - a. Amount.—\$50, § 1530(b)(4).
 - b. Mandatory.—No.
8. Must holder give notice to owner.—Yes, § 1520(b), if address not inaccurate and value of property exceeds \$50. Banks and financial organizations to give notice on form prescribed by Controller where value is \$50 or more, § 1513.5. Business association must give notice if owner's interest in the business association will escheat to the state, § 1516(d).
9. Owner entitled to income on reported property.—Yes, for dividends, interest, and other increments accruing on property other than money at or prior to liquidation of property, § 1562.
10. Interest paid by state to owner.—No.
11. May holder reimburse owner.—Yes, § 560(b). Holder may add interest.
12. Liability of holder:

- a. Relief from liability.—Yes, § 1560(a). Limited to value of property.
 - b. Indemnification.—Yes, § 1561(a). Holder held harmless from all liability.
13. Anti-limitation provision.—Yes, § 1570.
 14. Statutory limitations on right of state to sue to recover property.—See *Travelers Express Co., Inc. v. Cory*, 664 F.2d 763 (9th Cir. 1981).
 15. Period covered by initial report.—See § 1503 and discussion in Volume I, § 5.21[3].
 16. Penalties:
 - a. Failure to report.—\$100 each day not to exceed \$10,000, § 1576(a).
 - b. Failure to pay.—\$5,000—\$50,000, § 1576(b).
 - c. Interest.—12%, § 1577.
 - d. Additional penalty.—25% damages & 10% interest, Govt. Code § 12419(b).
 17. Retention of records:
 - a. Generally.—Yes, Reg. § 1175, 7 years after report is filed unless Controller consents to prior destruction.
 - b. Exceptions.—Traveler's checks, money orders, and other similar written instruments, records shall be retained for such time as designated by regulation, § 1581(a) and (b).
 18. Limitation on heir finder agreements.—Yes, § 1582.
 19. Abandonment period:
 - a. Savings account.—3 years, § 1513(b).
 - b. Checking account.—3 years, § 1513(a).
 - c. Money orders, cashier's checks and certified checks.—Money orders, 7 years, § 1513(e); cashier's checks and certified checks, 5 years, § 1513(d).
 - d. Traveler's checks.—15 years, § 1513(c).
 - e. Safe deposit boxes.—3 years, § 1514.
 - f. Life insurance.—3 years for matured policies or policies deemed mature; other property 5 years, § 1515(a).
 - g. Utilities.—Deposits, 3 years, § 1520; refunds, 1 year, § 1519.5.
 - h. Dividends.—3 years, § 1516(a).
 - i. Underlying shares.—3 years, § 1516(b).
 - j. Dissolutions.—6 months, § 1517.
 - k. Fiduciaries.—3 years, § 1518.
 - l. State courts and agencies.—3 years, § 1519.

Unclaimed Property

CA-4

- m. Federal courts and agencies.—3 years, § 1519.
 - n. Wages.—1 year, §§ 1513(g). Labor Code § 96.7 allows Labor Commissioner to collect unpaid wages without limitation as to time of abandonment.
 - o. All other property.—3 years, § 1520.
 - p. Other.—All employee benefit trust distributions, unless plan provides for forfeiture, 3 years, § 1521.
 - q. Other.—I.R.A. accounts & Keogh plans, 3 years, § 1513(f).
20. Property exempted from law.—Various property in possession of local agencies, § 1502. Proprietary interests in consumer cooperatives, see Cal. Corp. Code § 12446. Gift cards and gift certificates, unless gift certificate has an expiration date and is given in exchange for money or other thing of value (see also Cal. Civ. Code § 1749.5, regulating gift certificate/card dormancy fees).

Contact person:

(Text continued on page CA-5)

(b) The Legislature finds and declares that this section is declaratory of the existing law and sets forth the intent of the Legislature regarding the Uniform Disposition of Unclaimed Property Act (Chapter 1809, Statutes of 1959) and all amendments thereto and revisions thereof. Any opinions, rulings, orders, judgements, or other statements to the contrary by any court are erroneous and inconsistent with the intent of the Legislature.

(c) It is the intent of the Legislature that property owners be reunited with their property. In making changes to the unclaimed property program in conjunction with the Budget Act of 2007, the Legislature intends to adopt a more expansive notification program that will provide all of the following:

(1) Notification by the state to all owners of unclaimed property prior to escheatment.

(2) A more expansive postescheatment policy that takes action to identify those owners of unclaimed property.

(3) A waiting period of not less than 18 months from delivery of property to the state prior to disposal of any unclaimed property deemed to have no commercial value.

§ 1502 Property exempt from chapter

(a) This chapter does not apply to either of the following:

(1) Any property in the official custody of a municipal utility district.

(2) Any property in the official custody of a local agency if such property may be transferred to the general fund of such agency under the provisions of Sections 50050–50053 of the Government Code.

(b) None of the provisions of this chapter applies to any type of property received by the state under the provisions of Chapter 1 (commencing with Section 1300) to Chapter 6 (commencing with Section 1440), inclusive, of this title.

§ 1502.5 [Repealed.]

§ 1503 Property not subject to old act

(a) As used in this section:

(1) “Old act” means this chapter as it existed prior to January 1, 1969.

(2) “New act” means this chapter as it exists on and after January 1, 1969.

(3) “Property not subject to the old act” means property that was not presumed abandoned under the old act and would never have been presumed abandoned under the old act had the old act continued in existence on and after January 1, 1969, without change.

(b) The holder is not required to file a report concerning, or to pay or deliver to the State Controller, any property not subject to the old act if an action by the owner

against the holder to recover such property was barred by an applicable statute of limitations prior to January 1, 1969.

(c) The holder is not required to file a report concerning, or to pay or deliver to the State Controller, any property not subject to the old act, or any property that was not required to be reported under the old act, unless on January 1, 1969, such property has been held by the holder for less than the escheat period. "Escheat period" means the period referred to in Sections 1513 to 1521, inclusive, of the new act, whichever is applicable to the particular property.

§ 1504 Property escheated under laws of another state

(a) As used in this section:

(1) "Old act" means this chapter as it existed prior to January 1, 1969.

(2) "New act" means this chapter as it exists on and after January 1, 1969.

(3) "Property not subject to the old act" means property that was not presumed abandoned under the old act and would never have been presumed abandoned under the old act had the old act continued in existence on and after January 1, 1969, without change.

(b) This chapter does not apply to any property that was escheated under the laws of another state prior to September 18, 1959.

(c) This chapter does not require the holder to pay or deliver any property not subject to the old act to this state if the property was escheated under the laws of another state prior to January 1, 1969, and was delivered to the custody of that state prior to January 1, 1970, in compliance with the laws of that state. Nothing in this subdivision affects or limits the right of the State Controller to recover such property from the other state.

§ 1505 Continued existence of provision of old law to file report with State Controller

This chapter does not affect any duty to file a report with the State Controller or to pay or deliver any property to him that arose prior to January 1, 1969, under the provisions of this chapter as it existed prior to January 1, 1969. Such duties may be enforced by the State Controller, and the penalties for failure to perform such duties may be imposed, under the provisions of this chapter as it existed prior to January 1, 1969. The provisions of this chapter as it existed prior to January 1, 1969, are continued in existence for the purposes of this section.

§ 1506 Same subject matter construed as restatements and continuations

The provisions of this chapter as it exists on and after January 1, 1969, insofar as they are substantially the same as the provisions of this chapter as it existed prior to January 1, 1969, relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

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California

§ 1509

§§ 1507, 1508 Renumbered. §§ 1519, 1520

§ 1509 [Repealed.]

(Text continued on page CA-13)

Article 3 Identification of Escheated Property

Sec.

- 1530 Report of escheated funds or property controller**
- 1531 Publication, contents, and mailing of notice to owners**
- 1531.1 [Repealed.]**
- 1531.5 Outreach**
- 1532 Delivery of property to controller; electronic funds transfer**
- 1532.1 Controller's receipt of escheated contents of safe deposit box**
- 1533 Discretion of controller to exclude tangible personal property**
- 1534 [Blank.]**
- 1535 [Blank]**
- 1536 [Repealed.]**

§ 1530 Report of escheated funds or property to controller

(a) Every person holding funds or other property escheated to this state under this chapter shall report to the Controller as provided in this section.

(b) The report shall be on a form prescribed or approved by the Controller and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of at least fifty dollars (\$50) escheated under this chapter.

(2) In case of escheated funds of life insurance corporations, the full name of the insured or annuitant, and his or her last known address, according to the life insurance corporation's records.

(3) In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where it is held and may be inspected by the Controller. The report shall set forth any amounts owing to the holder for unpaid rent or storage charges and for the cost of opening the safe deposit box or other safekeeping repository, if any, in which the property was contained.

(4) The nature and identifying number, if any, or description of any intangible property and the amount appearing from the records to be due, except that items of value under fifty dollars (\$50) each may be reported in aggregate.

(5) Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property.

(6) Other information which the Controller prescribes by rule as necessary for the

administration of this chapter.

(c) If the holder is a successor to other persons who previously held the property for the owner, or if the holder has changed his or her name while holding the property, he or she shall file with his or her report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 or fiscal yearend next preceding, but the report of life insurance corporations, and the report of all insurance corporation demutualization proceeds subject to Section 1515.5, shall be filed before May 1 of each year as of December 31 next preceding. The initial report for property subject to Section 1515.5 shall be filed on or before May 1, 2004, with respect to conditions in effect on December 31, 2003, and all property shall be determined to be reportable under Section 1515.5 as if that section were in effect on the date of the insurance company demutualization or related reorganization. The Controller may postpone the reporting date upon his or her own motion or upon written request by any person required to file a report.

(e) The report, if made by an individual, shall be verified by the individual; if made by a partnership, by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer or other employee authorized by the holder.

§ 1531 Publication, contents, and mailing or notice to owners

(a) Within one year after payment or delivery of escheated property as required by Section 1532, the Controller shall cause a notice to be published, in a newspaper of general circulation which the Controller determines is most likely to give notice to the apparent owner of the property.

(b) Each published notice shall be entitled “notice to owners of unclaimed property.”

(c) Each published notice shall also contain a statement that information concerning the amount or description of the property may be obtained by any persons possessing an interest in the property by addressing any inquiry to the Controller.

(d) Within 165 days after the final date for filing the report required by Section 1530, the Controller shall mail a notice to each person having an address listed in the report who appears to be entitled to property of the value of fifty dollars (\$50) or more escheated under this chapter. If the report filed pursuant to Section 1530 includes a social security number, the Controller shall request the Franchise Tax Board to provide a current address for the apparent owner on the basis of that number. The Controller shall mail the notice to the apparent owner for whom a current address is obtained if the address is different from the address previously reported to the Controller. If the Franchise Tax Board does not provide an address or a different address, then the Controller shall mail the notice to the address listed in the report required by Section 1530.

(e) The mailed notice shall contain all of the following:

(1) A statement that, according to a report filed with the Controller, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the notice, the property will be placed in the custody of the Controller and may be sold or destroyed pursuant to this chapter, and all further claims concerning the property or, if sold, the net proceeds of its sale, must be directed to the Controller.

(f) This section is intended to inform owners about the possible existence of unclaimed property identified pursuant to this chapter.

§ 1531.1 [Repealed.]

§ 1531.5 Outreach

(a) The Controller shall establish and conduct a notification program designed to inform owners about the possible existence of unclaimed property received pursuant to this chapter.

(b) Any notice sent pursuant to this section shall not contain a photograph or likeness of an elected official.

(c) (1) Notwithstanding any other law, upon the request of the Controller, a state or local governmental agency may furnish to the Controller from its records the address or other identification or location information that could reasonably be used to locate an owner of unclaimed property.

(2) If the address or other identification or location information requested by the Controller is deemed confidential under any laws or regulations of this state, it shall nevertheless be furnished to the Controller. However, neither the Controller nor any officer, agent, or employee of the Controller shall use or disclose that information except as may be necessary in attempting to locate the owner of unclaimed property.

(3) This subdivision shall not be construed to require disclosure of information in violation of federal law.

(4) If a fee or charge is customarily made for the information requested by the Controller, the Controller shall pay that customary fee or charge.

(d) Costs for administering this section shall be subject to the level of appropriation in the annual Budget Act.

§ 1532 Delivery of property to controller; electronic funds transfer

(a) Every person filing a report as provided by Section 1530 shall, no sooner than seven months and no later than seven months and 15 days after the final date for filing the report, pay or deliver to the Controller all escheated property specified in the report. Any payment of unclaimed cash in an amount of at least twenty thousand

dollars (\$20,000) shall be made by electronic funds transfer pursuant to regulations adopted by the Controller.

(b) If a person establishes his or her right to receive any property specified in the report to the satisfaction of the holder before that property has been delivered to the Controller, or it appears that, for any other reason, the property may not be subject to escheat under this chapter, the holder shall not pay or deliver the property to the Controller but shall instead file a report with the Controller, on a form and in a format prescribed or approved by the Controller, containing information pertaining to the property not subject to escheat.

(c) Any property not paid or delivered pursuant to subdivision (b) that is later determined by the holder to be subject to escheat under this chapter shall not be subject to the interest provision of Section 1577.

(d) The holder of any interest under subdivision (b) of Section 1516 shall deliver a duplicate certificate to the Controller or shall register the securities in uncertificated form in the name of the Controller. Upon delivering a duplicate certificate or providing evidence of registration of the securities in uncertificated form to the Controller, the holder, any transfer agent, registrar, or other person acting for or on behalf of the holder in executing or delivering the duplicate certificate or registering the uncertificated securities, shall be relieved from all liability of every kind to any person including, but not limited to, any person acquiring the original certificate or the duplicate of the certificate issued to the Controller for any losses or damages resulting to that person by the issuance and delivery to the Controller of the duplicate certificate or the registration of the uncertificated securities to the Controller.

(e) Payment of any intangible property to the Controller shall be made at the office of the Controller in Sacramento or at another location as the Controller by regulation may designate. Except as otherwise agreed by the Controller and the holder, tangible personal property shall be delivered to the Controller at the place where it is held.

(f) Payment is deemed complete on the date the electronic funds transfer is initiated if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(g) Any person required to pay cash by electronic funds transfer who makes the payment by means other than an authorized electronic funds transfer shall be liable for a civil penalty of 2 percent of the amount of the payment that is due pursuant to this section, in addition to any other penalty provided by law. Penalties are due at the time of payment. If the Controller finds that a holder's failure to make payment by an appropriate electronic funds transfer in accordance with the Controller's procedures is due to reasonable cause and circumstances beyond the holder's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that holder shall be relieved of the penalties.

(h) An electronic funds transfer shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, a Federal Reserve Wire Transfer (Fedwire), or by an international funds transfer. Banking costs incurred for the automated clearinghouse debit transaction by the holder shall be paid by the state. Banking costs incurred by the state for the automated clearinghouse credit transaction may be paid by the holder originating the credit. Banking costs incurred for the Fedwire transaction charged to the holder and the state shall be paid by the person originating the transaction. Banking costs charged to the holder and to the state for an international funds transfer may be charged to the holder.

(i) For purposes of this section:

(1) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, modem, computer, or magnetic tape, so as to order, instruct, or authorize a financial institution to credit or debit an account.

(2) “Automated clearinghouse” means any federal reserve bank, or an organization established by agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and that authorizes an electronic transfer of funds between those banks or bank accounts.

(3) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the holder’s bank account and crediting the state’s bank account for the amount of payment.

(4) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the holder, through its own bank, originates an entry crediting the state’s bank account and debiting the holder’s bank account.

(5) “Fedwire” means any transaction originated by the holder and utilizing the national electronic payment system to transfer funds through federal reserve banks, pursuant to which the holder debits its own bank account and credits the state’s bank account.

(6) “International funds transfer” means any transaction originated by the holder and utilizing the international electronic payment system to transfer funds, pursuant to which the holder debits its own bank account, and credits the funds to a United States bank that credits the Unclaimed Property Fund.

(Text continued on page CA-31)

for amounts so credited the owner is not entitled to receive income or other increments on money or other property paid or delivered to the State Controller under this chapter. All interest received and other income derived from the investment of moneys deposited in the Unclaimed Property Fund under the provisions of this chapter shall, on order of the State Controller, be transferred to the General Fund.

§ 1563 Sale by Controller

(a) Except as provided in subdivisions (b) and (c), all escheated property delivered to the Controller under this chapter shall be sold by the Controller to the highest bidder at public sale in whatever city in the state affords in his or her judgment the most favorable market for the property involved, or the Controller may conduct the sale by electronic media, including, but not limited to, the Internet, if in his or her judgment it is cost effective to conduct the sale of the property involved in that manner. However, no sale shall be made pursuant to this subdivision until 18 months after the final date for filing the report required by Section 1530. The Controller may decline the highest bid and reoffer the property for sale if he or she considers the price bid insufficient. The Controller need not offer any property for sale if, in his or her opinion, the probable cost of sale exceeds the value of the property. Any sale of escheated property held under this section shall be preceded by a single publication of notice thereof, at least one week in advance of sale, in an English language newspaper of general circulation in the county where the property is to be sold.

(b) Securities listed on an established stock exchange shall be sold at the prevailing prices on that exchange. Other securities may be sold over the counter at prevailing prices or, with prior approval of the California Victim Compensation and Government Claims Board, by any other method that the Controller may determine to be advisable. These securities shall be sold by the Controller no sooner than 18 months, but no later than 20 months, after the final date for filing the report required by Section 1530. If securities delivered to the Controller by a holder of the securities remain in the custody of the Controller, a person making a valid claim for those securities under this chapter shall be entitled to receive the securities from the Controller. If the securities have been sold, the person shall be entitled to receive the net proceeds received by the Controller from the sale of the securities. United States government savings bonds and United States war bonds shall be presented to the United States for payment. Subdivision (a) does not apply to the property described in this subdivision.

(c) (1) All escheated property consisting of military awards, decorations, equipment, artifacts, memorabilia, documents, photographs, films, literature, and any other item relating to the military history of California and Californians that is delivered to the Controller is exempt from subdivision (a) and shall be held in trust for the Controller at the California State Military Museum and Resource Center. All escheated property held in trust pursuant to this subdivision is subject to the applicable regulations of the United States Army governing Army museum activities as described in Section 179 of the Military and Veterans Code. Any person claiming an interest in the escheated property may file a claim to the property pursuant to Article 4 (commencing with Section 1540).

(2) The California Military Museum and Resource Center shall be responsible for the costs of storage and maintenance of escheated property delivered by the Controller under this subdivision.

(d) The purchaser at any sale conducted by the Controller pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The State Controller shall execute all documents necessary to complete the transfer of title.

§ 1564 Purposes of expenditures from abandoned property account

(a) All money received under this chapter, including the proceeds from the sale of property under Section 1563, shall be deposited in the Unclaimed Property Fund in an account titled "Abandoned Property."

(b) Notwithstanding Section 13340 of the Government Code, all money in the Abandoned Property Account in the Unclaimed Property Fund is hereby continuously appropriated to the Controller, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(1) For payment of claims allowed by the Controller under the provisions of this chapter.

(2) For refund, to the person making such deposit, of amounts, including overpayments, deposited in error in such fund.

(3) For payment of the cost of appraisals incurred by the Controller covering property held in the name of an account in such fund.

(4) For payment of the cost incurred by the Controller for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the Controller, or which arose from complying with this chapter with respect to such property or funds.

(5) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(6) For payment of costs incurred by the Controller for the repair, maintenance, and upkeep of property held in the name of an account in such fund.

(7) For payment of costs of official advertising in connection with the sale of property held in the name of an account in such fund.

(8) For transfer to the General Fund as provided in subdivision (c).

(9) For transfer to the Inheritance Tax Fund of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him or her under the provisions of this chapter.

(c) At the end of each month, or more often if he or she deems it advisable, the

Controller shall transfer all money in the Abandoned Property Account in excess of fifty thousand dollars (\$50,000) to the General Fund. Before making this transfer, the Controller shall record the name and last known address of each person appearing from the holders' report to be entitled to the escheated property and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, and the name of the corporation. The record shall be available for public inspection at all reasonable business hours.

§ 1565 Disposition of property of no commercial value

Any property delivered to the State Controller pursuant to this chapter that has no apparent commercial value shall be retained by the Controller for a period of not less than 18 months from the date the property is delivered to the Controller. If the Controller determines that any property delivered to him or her pursuant to this chapter has no apparent commercial value, he or she may at any time thereafter destroy or otherwise dispose of the property, and in that event no action or proceeding shall be brought or maintained against the state or any officer thereof, or against the holder for, or on account of any action taken by, the Controller pursuant to this chapter with respect to the property.

§ 1566 Suits by any other claimant following payment or delivery not permitted

(a) When payment or delivery of money or other property has been made to any claimant under the provisions of this chapter, no suit shall thereafter be maintained by any other claimant against the state or any officer or employee thereof for or on account of such property.

(b) Except as provided in Section 1541, no suit shall be maintained by any person against the state or any officer or employee thereof for or on account of any transaction entered into by the State Controller pursuant to this chapter.

§ 1567 Director of Parks and Recreation may examine property delivered to State Controller to determine if useful to park department

The Director of Parks and Recreation may examine any tangible personal property delivered to the Controller under this chapter for purposes of determining whether such property would be useful under the provisions of Section 512 of the Public Resources Code. If the director makes such a determination with respect to the property, the Controller may deliver the property to the director for use in carrying out the purposes of Section 512 of the Public Resources Code. Upon the termination of any such use, the director shall return the property to the Controller.

§ 1568 [Repealed.]

§ 1569 [Repealed.]

Article 6 Compliance and Enforcement

Sec.

1570 Effect of expiration of time to make claim

1571	Examination of records of holders
1572	Authority of State Controller to bring action in court of appropriate jurisdiction
1573	Agreement to provide information to another state concerning escheatable property
1574	Action brought by Attorney General in behalf of another state
1575	Request by Attorney General to bring action in name of state
1576	Violation of chapter
1576a	[Repealed.]
1577	Interest payable on property not paid or delivered
1577.5	Application of code provisions
1577a–1579	[Repealed.]

§ 1570 Effect of expiration of time to make claim

The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property from the holder, does not prevent the money or property from being escheated, nor affect any duty to file a report required by this chapter or to pay or deliver escheated property to the State Controller.

§ 1571 Examination of records of holders

(a) The State Controller may at reasonable times and upon reasonable notice examine the records of any person if he has reason to believe that such person has failed to report property that should have been reported pursuant to this chapter.

(b) When requested by the Controller, the examination shall be conducted by any licensing or regulating agency otherwise empowered by laws of this state to examine the records of the holder. For purpose of determining compliance with this chapter, the Commissioner of Financial Institutions is vested with full authority to examine the records of any banking organization and any savings association doing business within this state but not organized under the laws of or created in this state.

(c) Following a public hearing, the Controller shall adopt guidelines as to the policies and procedures governing the activity of third-party auditors who are hired by the Controller.

(d) Following a public hearing, the Controller shall adopt guidelines, on or before July 1, 1999, establishing forms, policies, and procedures to enable a person to dispute or appeal the results of any record examination conducted pursuant to this section.

§ 1572 Authority of State Controller to bring action in court of appropriate jurisdiction

(a) The State Controller may bring an action in a court of appropriate jurisdiction,

as specified in this section, for any of the following purposes:

(1) To enforce the duty of any person under this chapter to permit the examination of the records of such person.

(2) For a judicial determination that particular property is subject to escheat by this state pursuant to this chapter.

(3) To enforce the delivery of any property to the State Controller as required under this chapter.

(b) The State Controller may bring an action under this chapter in any court of this state of appropriate jurisdiction in any of the following cases:

(1) Where the holder is any person domiciled in this state, or is a government or governmental subdivision or agency of this state.

(2) Where the holder is any person engaged in or transacting business in this state, although not domiciled in this state.

(3) Where the property is tangible personal property and is held in this state.

(c) In any case where no court of this state can obtain jurisdiction over the holder, the State Controller may bring an action in any federal or state court with jurisdiction over the holder.

§ 1573 Agreement to provide information to another state concerning escheatable property

The State Controller may enter into an agreement to provide information needed to enable another state to determine unclaimed property it may be entitled to escheat if such other state or an official thereof agrees to provide this state with information needed to enable this state to determine unclaimed property it may be entitled to escheat. The State Controller may, by regulation, require the reporting of information needed to enable him to comply with agreements made pursuant to this section and may, by regulation, prescribe the form, including verification, of the information to be reported and the times for filing the reports.

§ 1574 Action brought by Attorney General in behalf of another state

At the request of another state, the Attorney General of this state may bring an action in the name of the other state, in any court of appropriate jurisdiction of this state or federal court within this state, to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat by the other state, if:

(a) The courts of the other state cannot obtain jurisdiction over the holder;

(b) The other state has agreed to bring actions in the name of this state at the request of the Attorney General of this state to enforce the provisions of this chapter against any person in the other state believed by the State Controller to hold property subject to escheat under this chapter, where the courts of this state cannot obtain jurisdiction

over such person; and

(c) The other state has agreed to pay reasonable costs incurred by the Attorney General in bringing the action.

§ 1575 Request by Attorney General to bring action in name of this state

(a) If the State Controller believes that a person in another state holds property subject to escheat under this chapter and the courts of this state cannot obtain jurisdiction over that person, the Attorney General of this state may request an officer of the other state to bring an action in the name of this state to enforce the provisions of this chapter against such person.

(b) This state shall pay all reasonable costs incurred by the other state in any action brought under the authority of this section. The State Controller may agree to pay to any state bringing such an action a reward not to exceed fifteen percent of the value, after deducting reasonable costs, of any property recovered for this state as a direct or indirect result of such action. Any costs or rewards paid pursuant to this section shall be paid from the Abandoned Property Account in the Unclaimed Property Fund and shall not be deducted from the amount that is subject to be claimed by the owner in accordance with this chapter.

§ 1576 Violation of chapter

(a) Any person who willfully fails to render any report or perform other duties required under this chapter shall be punished by a fine of one hundred dollars (\$100) for each day such report is withheld or such duty is not performed, but not more than ten thousand dollars (\$10,000).

(b) Any person who willfully refuses to pay or deliver escheated property to the State Controller as required under this chapter shall be punished by a fine of not less than five thousand dollars (\$5000) nor more than fifty thousand dollars (\$50,000).

(c) No person shall be considered to have willfully failed to report, pay, or deliver escheated property, or perform other duties unless he or she has failed to respond within a reasonable time after notification by certified mail by the Controller's office of his or her failure to act.

§ 1576a [Repealed.]

§ 1577 Interest payable on property not paid or delivered

In addition to any damages, penalties, or fines for which a person may be liable under other provisions of law, any person who fails to report or pay or deliver unclaimed property within the time prescribed by this chapter, unless that failure is due to reasonable cause, shall pay to the State Controller interest at the rate of 12 percent per annum on that property or value thereof from the date the property should have been reported or paid or delivered.

§ 1577.5 Application of code provisions

(a) Section 1577 does not apply to, and interest may not be imposed upon, any

escheated property paid or delivered to the Controller at any time on or before December 31, 2002.

(b) Subdivision (a) shall apply only if the following requirements are met:

(1) On or before January 1, 2003, the holder of the property was not the subject of an investigation by the Attorney General or a party to litigation with the Controller, relating to the property. "Investigation by the Attorney General" means an investigation being conducted under any law authorizing the investigation, including, but not limited to, investigations authorized by or conducted pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code by the office of the Attorney General relating to the escheat of property subject to subdivision (a).

(2) On or before January 3, 2000, the holder of the property was not the subject of an audit by the Controller relating to the property. "Audit by the Controller" means a formal field audit of the propertyholder's books and records by audit personnel of the Controller's office for the purpose of determining compliance with this chapter.

(3) The property was required to be reported on or before November 1, 1999.

(4) The property is surrendered directly to the state or its authorized agent.

(5) Reports respecting the property are reported by electronic media satisfactory to the Controller, provided that paper reports shall be permitted with respect to holders reporting fewer than 50 accounts or other items.

(6) All property reported after the effective date of this act shall be reported on a report separate from property currently reportable, and may not be reported with property not eligible for the amnesty program.

(7) The property is paid or delivered to the Controller at the time the report is made.

(8) Securities are remitted in accordance with Section 1532.

(9) Records shall be maintained in a manner satisfactory to the Controller, to permit verification and compliance audits.

(c) Nothing in subdivision (a) shall create an entitlement to a refund of interest paid to the Controller prior to the effective date of this section.

(d) The Controller shall conduct an outreach and publicity program regarding the provisions of this section.

(e) The Controller shall submit a report to the Legislature on the amnesty program. The report shall include a comprehensive accounting of all unclaimed property surrendered under the amnesty program, the date the property was surrendered, and the identities of the holders of surrendered unclaimed property. The report shall be published no later than July 31, 2003.

(f) Nothing in this section shall preclude liability pursuant to Article 9 (commencing with Section 12650) of Chapter 6 of Title 2 of Division 3 of the Government Code

regarding false claims. Reporting or filing extensions shall not be granted for property under this section.

§ 1577a–1579 [Repealed.]

Article 7 Miscellaneous

Sec.

1580 Rules and regulations

1581 Requirements of business association that sells travelers checks, money orders, or similar written instruments

1582 Agreements to locate, deliver, recover, or assist in recovery of property

1583–1592 [Repealed.]

1593–1596 [Reserved.]

1597–1599 [Repealed.]

§ 1580 Rules and regulations

The State Controller is hereby authorized to make necessary rules and regulations to carry out the provisions of this chapter.

§ 1581 Requirements of business association that sells travelers checks, money orders, or similar written instruments

(a) Any business association that sells in this state its travelers checks, money orders, or other similar written instruments (other than third-party bank checks) on which such business association is directly liable, or that provides such travelers checks, money orders, or similar written instruments to others for sale in this state, shall maintain a record indicating those travelers checks, money orders, or similar written instruments that are purchased from it in this state.

(b) The record required by this section may be destroyed after it has been retained for such reasonable time as the State Controller shall designate by regulation.

(c) Any business association that willfully fails to comply with this section is liable to the state for a civil penalty of five hundred dollars (\$500) for each day of such failure to comply, which penalty may be recovered in an action brought by the State Controller.

§ 1582 Agreements to locate, deliver, recover, or assist in recovery of property

No agreement to locate, deliver, recover, or assist in the recovery of property reported under Section 1530, entered into between the date a report is filed under subdivision (d), of Section 1530 and the date of publication of notice under Section 1531 is valid. Such an agreement is valid if the fee or compensation agreed upon is not in excess of 10 percent of the recoverable property and the agreement is in writing and signed by the owner after disclosure in the agreement of the nature and value of the property and the name and address of the person or entity in possession of the property.

Nothing in this section shall be construed to prevent an owner from asserting, at any time, that any agreement to locate property is based upon an excessive or unjust consideration.

Notwithstanding any other provision of law, records of the Controller's office pertaining to unclaimed property are not available for public inspection or copying until after publication of notice of the property or, if publication of notice of the property is not required, until one year after delivery of the property to the Controller.

§§ 1583–1592 [Repealed.]

§§ 1593–1596 [Reserved.]

§§ 1597–1599 [Repealed.]

(Text continued on page CA-41)

COLORADO CODE OF REGULATIONS**DEPARTMENT OF TREASURY
STATE TREASURER
8 CCR 1508-1 (2007)****8 CCR 1508-1. UNCLAIMED PROPERTY****Colorado Department of the Treasury****Unclaimed Property Division****8 CCR 1508****Administrative rules****1.1 Authority**

This regulation is adopted pursuant to the authority in *section 38-13-131, C.R.S.* and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the “APA”), C.R.S. and the Unclaimed Property Act of 1987, as amended (the “Act”), Title 38, Article 13 et seq., C.R.S.

1.2 Scope and Purpose

It is the intent of the Colorado State Treasurer to enforce the unclaimed property statutes so that property presumed abandoned under those statutes is reported to and collected by the State of Colorado, and returned to its rightful owner through an efficient advertising and claims processing program. Transferring the unclaimed property and related information to the Colorado State Treasurer allows the property and information to be compiled in a single location for the convenience of the absent owner and makes it possible for the Colorado State Treasurer to better protect the interests of missing owners. The State of Colorado indemnifies the holder against claims by individuals or other states once the holder reports and delivers unclaimed property to the Colorado State Treasurer in accordance with the Unclaimed Property Act, as amended and enacted by the Colorado legislature July 1, 1987. This law shall also be observed by the Colorado State Treasurer when reporting and delivering property belonging to other states.

1.3 Applicability

The passage of amendments to the Unclaimed Property Act over the past ten years and changes in Treasury Department operating procedures necessitate changes to the Rules initially adopted following the Act’s passage in 1987. The Amendments to existing rules and the creation of new rules relate to the handling of unclaimed property owner records, the remittance of records to the Unclaimed Property program, and other administrative functions. The amendments ensure that the rules comply with State statutes and Treasury Department operating guidelines.

1.4 Definitions

The definition of any terms used herein specific to the Unclaimed Property Program are consistent with the definitions prescribed in *38-13-102 C.R.S.*

1.5 Rules

1.5.1 Knowledge of Owner

A. A holder of unclaimed property may establish its knowledge of the existence or whereabouts of the owner of that property by recording any owner-generated activity relating to that property. The mailing of a statement, confirmation or other correspondence by a holder of unclaimed property to the last known address of the owner of that property and the non-return of such mail to the holder is insufficient to establish that the holder has knowledge of the existence or whereabouts of the owner. A holder may cross-reference with another account in the same institution or business that has current owner generated activity. To cross-reference a dormant or inactive account with an active account the same names must appear in some form either on the account, signature card or contract.

B. A holder may establish a code for indicating “customer contact” or “owner-generated activity” for purposes of record-keeping. That code must be well documented.

1.5.2 Indemnification

A. Upon payment or delivery of property to the Administrator, the state assumes custody and responsibility for safekeeping of the property. A person who pays or delivers property in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim with respect to the property.

B. A holder who has paid or delivered property to the Administrator may make payment to a person who appears to be entitled to payment and upon filing proof of payment and proof that the payee was entitled to payment the Administrator shall promptly reimburse the holder for the payment without imposing any fee or charge.

C. If the holder pays or delivers property to the Administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its unclaimed property laws, the Administrator, upon written notice of claim, shall defend holder against the claim and indemnify the holder against liability on the claim.

1.5.3 Located Property

(Text continued on page CO-47)

CT-5**Connecticut**

- m. Federal courts and agencies.—4 years, § 3–62b(2) (repealed).
 - n. Wages.—1 year, § 3–60b.
 - o. Other.—I.R.A. accounts and Keogh plans, 3 years, § 3–57a(b).
 - p. All other property.—3 years, § 3–64a.
20. Property exempted from law.—Property presumed abandoned under laws of another state prior to January 1, 1962, § 3–73a(d), and property abandoned prior to January 1, 1947 if subject to statute of limitations, § 3–73a(b). Gift certificates, § 3–73a(e).

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Part III. Escheats (Title 3, Chapter 32, Conn. Gen. Stat.)

Sec.	
3-56a	Definitions
3-57a	Property held by banking organizations
3-58a	Funds held by life insurance corporation presumed abandoned, when
3-59a	Property held by a business association or payable in the course of demutualization of an insurance company presumed abandoned, when
3-59b	Ownership interest in a business association presumed abandoned, when
3-59c	Duties of holder of abandoned interests in business associations
3-59d	Delivery of duplicate certificates to treasurer. Holder relieved of liability to others upon such delivery
3-60a	Unclaimed property distributable on dissolutions or liquidations
3-60b	Wages, salary or other compensation for personal services presumed abandoned, when
3-60c	Deposit, refund or other sum owed by utility presumed abandoned, when
3-61a	Unclaimed property held by fiduciaries
3-62a	Unclaimed property held by public body or officer
3-62b	Unclaimed property held by federal court or agency
3-62c	Proceedings to recover unclaimed property
3-62d	Action to obtain decree of escheat
3-62e	Obligation of treasurer to pay costs and deposit funds into general fund
3-62g	Liability of state
3-62h	Special Abandoned Property Fund. Deposit of abandoned property receipts. Special obligation bond authorization. Disbursement of resources of fund
3-63a	Unclaimed property in decedent's estate
3-64a	Property presumed abandoned generally
3-65a	Duties of holders of abandoned property
3-65b	Assessment of interest penalty for failure to report or deliver abandoned property

(Text continued on page CT-7)

instruments presumed unclaimed on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

§ 717.1045 Gift certificates and similar credit items.

Notwithstanding s. 717.117, an unredeemed gift certificate or credit memo as defined in s. 501.95 is not required to be reported as unclaimed property.

(1) The consideration paid for an unredeemed gift certificate or credit memo is the property of the issuer of the unredeemed gift certificate or credit memo.

(2) An unredeemed gift certificate or credit memo is subject only to any rights of a purchaser or owner thereof and is not subject to a claim made by any state acting on behalf of a purchaser or owner.

(3) It is the intent of the Legislature that this section apply to the custodial holding of unredeemed gift certificates and credit memos.

(4) However, a gift certificate or credit memo described in s. 501.95(2)(b) shall be reported as unclaimed property.* The consideration paid for such a gift certificate or credit memo is the property of the owner of the gift certificate or credit memo.

§ 717.105 Checks, drafts, and similar instruments issued or certified by banking and financial organizations

(1) Any sum payable on a check, draft, or similar instrument, except those subject to ss. 717.104 and 717.115, on which a banking or financial organization is directly liable, including, but not limited to, a cashier's check or a certified check, which has been outstanding for more than 5 years after it was payable or after its issuance if payable on demand, is presumed unclaimed unless the owner, within 5 years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization.

(2) No holder may deduct from the amount of any instrument subject to this section any charges imposed by reason of the failure to present the instrument for encashment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose those charges and does not regularly reverse or otherwise cancel those charges with respect to the instrument.

§ 717.106 Bank deposits and funds in financial organizations

(1) Any demand, savings, or matured time deposit with a banking or financial organization, including deposits that are automatically renewable, and any funds paid toward the purchase of shares, a mutual investment certificate, or any other interest in a banking or financial organization is presumed unclaimed unless the owner has,

* FLA STAT ANN. Section 501.95(2)(b) covers open loop gift cards, or a "gift certificate or credit memo sold by a financial institution, as defined in s. 655.005, or by a money transmitter, as defined in s. 560.103, if the gift certificate or credit memo is redeemable by multiple unaffiliated merchants."

within 5 years:

(a) Increased or decreased the amount of the deposit or presented the passbook or other similar evidence of the deposit for the crediting of interest;

(b) Communicated in writing or by documented telephone contact with the banking or financial organization concerning the property;

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file with the banking or financial organization;

(d) Owned other property to which paragraph (a), paragraph (b), or paragraph (c) is applicable and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed unclaimed under this subsection at the address to which communications regarding the other property regularly are sent; or

(e) Had another relationship with the banking or financial organization concerning which the owner has:

1. Communicated in writing with the banking or financial organization; or

2. Otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be unclaimed under this subsection at the address to which communications regarding the other relationship regularly are sent.

(2) For purpose of paragraph (1)(a), property includes any interest or dividends thereon.

(3) No holder may impose with respect to property described in subsection (1) any charges due to dormancy or inactivity or cease payment of interest unless:

(a) There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose those charges or cease payment of interest.

(b) For property in excess of \$2, the holder, no more than 3 months prior to the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges shall be imposed or that interest shall cease, but the notice provided in this section need not be given with respect to charges imposed or interest ceased before July 1, 1987.

(c) The holder regularly imposes those charges or ceases payment of interest and does not regularly reverse or otherwise cancel those charges or retroactively credit interest with respect to such property.

(4) Any property described in subsection (1) that is automatically renewable is matured for purposes of subsection (1) upon the expiration of its initial time period except that, in the case of any renewal to which the owner consents at or about the time

of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in s. 717.119, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

(5) If the documents establishing a deposit described in subsection (1) state the address of a beneficiary of the deposit, and the account has a value of at least \$50, notice shall be given to the beneficiary as provided for notice to the apparent owner under s. 717.117(4). This subsection shall apply to accounts opened on or after October 1, 1990.

(Text continued on page FL-21)

in the value of the property occurring after delivery by the holder to the treasurer of state.

§ 556.18 Deposit of funds

1. Except as provided in subsection 3, all funds received under this chapter, including the proceeds from the sale of abandoned property under section 556.17, shall be deposited quarterly by the treasurer of state in the general fund of the state. However, the treasurer of state shall retain in a separate trust fund a sufficient amount from which the treasurer of state shall make prompt payment of claims duly allowed under section 556.20. Before making the deposit the treasurer of state shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

2. Before making any deposit to the credit of the general funds, the state treasurer may deduct:

- a. Any costs in connection with sale of abandoned property.
- b. Any costs of mailing and publication in connection with any abandoned property.
- c. Reasonable service charges.
- d. Any costs in connection with information on outstanding state warrants addressed pursuant to section 556.2C.

3. The treasurer of state shall annually credit all moneys received under section 556.4 to the general fund of the state. Moneys credited to the general fund of the state pursuant to this subsection are subject to the requirements of subsections 1 and 2 and section 8.60.

§ 556.19 Claim for abandoned property paid or delivered

Any person claiming an interest in any property delivered to the state under this chapter may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the state treasurer.

§ 556.20 Determination of claims

1. The treasurer of state shall consider any claim filed under this chapter and may hold a hearing and receive evidence concerning the claim. If a hearing is held, he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.

2. If the claim is allowed, the treasurer of state shall make payment forthwith. The claim shall be paid without deduction costs of notices or sale or for service charges. The treasurer of any employee thereof shall not be held liable in any action for any

claim paid in good faith pursuant to this section. However, a claimant, attorney in fact, or attorney or any other person representing a claimant to whom such payment is made may be held liable to a person who proves a superior right of payment.

3. As a condition precedent to payment of any claim filed under this chapter, the treasurer of state may require that the claimant or owner of the unclaimed or abandoned property furnish the treasurer with a surety bond containing terms and provisions acceptable to the treasurer and issued by a corporate surety authorized to do business in this state or with such other form of indemnification and protection that is determined by the treasurer to be acceptable and sufficient to protect the treasurer and the state against any loss, liability, or damage which may arise out of or result from the payment of the claim by the treasurer. The claimant or owner shall be responsible for all premiums, costs, fees, or other expenses associated with any such surety bond or other form of indemnification and protection required pursuant to this subsection.

§ 556.21 Judicial action upon determinations

Any person aggrieved by a decision of the state treasurer or as to whose claim the treasurer has failed to act within ninety days after the filing of the claim, may commence an action in the district court to establish his claim. The proceeding shall be brought within ninety days after the decision of the treasurer or within one hundred eighty days from the filing of the claim if the treasurer fails to act. The action shall be tried de novo without a jury.

§ 556.22 Elections by the treasurer of state

1. The treasurer of state may elect to allow a holder to file a report as provided in section 556.11, or to deliver or pay property to the treasurer, before the property is presumed abandoned, upon the consent of the treasurer and according to terms and conditions prescribed by the treasurer.

2. The treasurer of state, after receiving reports of property deemed abandoned pursuant to this chapter, may decline to receive any property reported which he deems to have a value less than the cost of giving notice and holding sale, or he may, if he deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within one hundred twenty days after filing the report required under section 556.11, the treasurer shall be deemed to have elected to receive the custody of the property.

§ 556.23 Examination of records

(Text continued on page IA-27)

thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.

G. Property removed from a safe deposit box or other safekeeping depository is received by the administrator subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The administrator shall reimburse the holder out of the proceeds remaining after deducting the expense incurred by the administrator in selling the property.

§ 9:163 Crediting of dividends, interest, and increments to owner's account

If property other than money is paid, delivered, or transferred to the administrator under this Chapter, the owner is entitled to receive from the administrator any gain realized or accruing on the property at or before liquidation or conversion of the property into money. If the property was interest bearing to the owner on the date of surrender by the holder, the administrator shall pay interest at a rate of five percent a year or any lesser rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the administrator and ceases on the earlier of the expiration of ten years after delivery or the date on which payment is made to the owner. Interest on interest bearing property is not payable for any period before the effective date of this Chapter, unless authorized by law superseded by this Chapter.

§ 9:164 Public sale of abandoned property

A. Except as otherwise provided in this Section, the administrator, within three years after the receipt of abandoned property, may sell it to the highest bidder at public sale at a location in the state which in the judgment of the administrator affords the most favorable market for the property. The administrator may decline the highest bid and reoffer the property for sale if the administrator considers the bid to be insufficient. The administrator need not offer the property for sale if the administrator considers that the probable cost of sale will exceed the proceeds of the sale. A sale held under this Section shall be preceded by a single publication of notice, at least three weeks before sale, in a newspaper of general circulation in the parish in which the property is to be sold.

B. Securities listed on an established stock exchange shall be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers reasonable.

C. Securities constituting stock or other interest in a business association shall be held for at least three years before being sold and all other securities shall be held for at least one year before being sold, unless the administrator considers an earlier sale to be in the best interest of the state.

D. If securities constituting stock or other interest in a business association are sold by the administrator before the expiration of three years from their delivery to the administrator, a person making a claim under this Chapter before the end of the three-year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, plus dividends, interest, or other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this Chapter after the expiration of the three-year period is entitled to receive the securities delivered to the administrator by the holder, if they still remain in the custody of the administrator, or the net proceeds received from sale, and is entitled to receive any dividends, interest, or other increments thereon occurring after delivery to the administrator.

E. A purchaser of property at a sale conducted by the administrator pursuant to this Chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

§ 9:165 Deposit of funds

A. Except as otherwise provided by this Section, the administrator shall promptly deposit in the Bond Security and Redemption Fund of this state all funds received under this Chapter, including the proceeds from the sale of abandoned property under R.S. 9:164. The administrator shall retain in a separate trust fund at least five hundred thousand dollars from which the administrator shall pay claims duly allowed. Before making the deposit, the administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and, with respect to each policy or contract listed in the report of an insurance company, its number, the name of the company, and the amount due.

B. The administrator may deduct an amount equal to the costs incurred for authorized external auditing from total gross collections during any fiscal year, and an amount not to exceed seven percent of the total gross collections during any fiscal year for the remaining costs of administering this Chapter.

C. (1). The Unclaimed Property Leverage Fund is created as a special fund in the state treasury for the deposit of a portion of the funds received by the administrator under this Chapter. The state treasurer shall deposit into the Unclaimed Property Leverage Fund each fiscal year fifteen million dollars.

(a) There is hereby created as a special account in the Unclaimed Property Leverage Fund, the I-49 North Account. The source of monies in the I-49 North Account shall be fifty percent of the funds deposited in the Unclaimed Property Leverage Fund each fiscal year, and monies appropriated to the fund by the legislature, including federal funds, donations, gifts, or grants, and any other monies as may be provided by law.

(b) There is hereby created, as a special account in the Unclaimed Property

Leverage Fund, the I-49 South Account. The source of monies in the I-49 South Account shall be fifty percent of the funds deposited in the Unclaimed Property Leverage Fund each fiscal year, any moneys appropriated to the fund by the legislature, including federal funds, donations, gifts, or grants, and any other monies as provided by law.

(2) Monies appropriated from the funds shall only be expended in accordance with the provisions of this Paragraph:

(a) For transfer to the Louisiana Transportation Authority, hereinafter referred to as the “authority,” to pay the principal and interest of unclaimed property bonds issued by the Authority as the bonds become due and payable, and to fund such reserve for contingencies, costs, and expenses as may be required by the resolution authorizing the issuance of such bonds. These proceeds shall be expended, utilizing any or all powers granted to the Authority, including the funding or securitization of revenue bonds, funds from the I-49 North account exclusively to match federal funds to be used for the costs for and associated with the construction of Interstate 49 North from Interstate 20 in the City of Shreveport to the Louisiana/Arkansas border and funds from the I-49 South account for Interstate 49 South from Interstate 10 in the City of Lafayette to the West Bank Expressway in the City of New Orleans.

(b) For transfer to the Department of Transportation and Development:

(i) Funds from the I-49 North Account to be used exclusively to match federal funds to be used for the costs for and associated with the construction of the Interstate 49 North from Interstate 20 in the city of Shreveport to the Louisiana/Arkansas border; provided, however, that the monies in the fund shall first be applied to that portion of the project from I-220 to the Louisiana/Arkansas border; and

(ii) Funds from the I-49 South Account to be used exclusively to match federal funds to be used for the costs for and associated with the construction of Interstate 49 South from Interstate 10 in the city of Lafayette to the West Bank Expressway in the city of New Orleans.

(3) All unexpended and unencumbered monies in the Unclaimed Property Leverage Fund, the I-49 North Account and the I-49 South Account at the end of the fiscal year shall remain in the Unclaimed Property Leverage Fund, the I-49 North Account and the I-49 South Account and interest earned on the investment of these monies shall be credited to the Unclaimed Property Leverage Fund, the I-49 North Account and the I-49 South Account.

§ 9:166 Claim of another state to recover property

A. After property has been paid or delivered to the administrator under this Chapter, another state may recover the property if any of the following applies:

(1) The property was delivered to the custody of this state because the records of the holder did not reflect a last known location of the apparent owner within the borders

of the other state and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state, and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state.

(2) The property was delivered to the custody of this state because the laws of the other state did not provide for the escheat or custodial taking of the property, and under the laws of that state subsequently enacted the property has escheated or become subject to a claim of abandonment by that state.

(3) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state, and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state.

(4) The property was subjected to custody by this state under R.S. 9:156(5) and under the laws of the state of domicile of the holder the property has escheated or become subject to a claim of abandonment by that state.

(5) The property is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered into the custody of this state under R.S. 9:156(6), and under the laws of the other state the property has escheated or become subject to a claim of abandonment by that state.

B. A claim of another state to recover escheated or abandoned property shall be presented in a form prescribed by the administrator, who shall decide the claim within ninety days after it is presented. The administrator shall allow the claim upon determining that the other state is entitled to the abandoned property under Subsection A of this Section.

C. The administrator shall require another state, before recovering property under this Section, to agree to indemnify this state and its officers and employees against any liability on a claim to the property.

§ 9:167 Filing claim with administrator; handling of claims by administrator

A. A person, excluding another state, claiming an interest in property paid or delivered to the administrator may file a claim on a form prescribed by the administrator and verified by the claimant.

B. Within ninety days after a claim is filed, the administrator shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the administrator shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may refile the claim under Subsection A of this Section or maintain an action under R.S. 9:168.

C. Within thirty days after a claim is allowed, the property or the net proceeds of a sale of the property shall be delivered or paid by the administrator to the claimant, together with any additional amount to which the claimant is entitled under R.S. 9:163

and 164.

D. A holder who pays the owner for property that has been delivered to the state and which, if claimed from the administrator by the owner would be subject to an increment under R.S. 9:163 and 164, may recover from the administrator the amount of the increment.

§ 9:168 Action to establish claim

A person aggrieved by a decision of the administrator or whose claim has not been acted upon within ninety days after its filing may maintain an action de novo to establish the claim in a court of competent jurisdiction in this state, naming the administrator as a defendant. The action shall be brought within ninety days after the decision of the administrator or, if the administrator has failed to allow or deny the claim, within one hundred eighty days after its filing.

(Text continued on page LA-21)

UNCLAIMED PROPERTY LAW AND REPORTING FORMS

by

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VOLUME 2A

STATUTES AND REGULATIONS

Maine through New York

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MATTHEW  BENDER

- b. Checking account.—5 years, § 89–12–5(1)(a).
 - c. Money orders, cashier’s checks and certified checks.—cashier’s checks and certified checks, 5 years; money orders, 7 years, § 89–12–5(1)(b).
 - d. Traveler’s checks.—15 years, § 89–12–5(1)(b).
 - e. Safe deposit boxes.—No.
 - f. Life insurance.—5 years, § 89–12–7(1).
 - g. Utilities (deposits and refunds).—5 years, § 89–12–9(a) and (b).
 - h. Dividends.—5 years, § 89–12–11.
 - i. Underlying shares.—5 years, 89–12–11.
 - j. Dissolutions.—5 years, § 89–12–15.
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UNCLAIMED PROPERTY LAW AND REPORTING FORMS

by

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VOLUME 2B

STATUTES AND REGULATIONS

North Carolina through Wyoming

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MATTHEW  BENDER

for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

5. “Domicile” means the state of incorporation of a corporation or state of organization of a limited liability company and the state of the principal place of business of an unincorporated person.

6. “Financial organization” means a savings and loan association or credit union.

7. “Holder” means a person, wherever organized or domiciled, who is:

- a. In possession of property belonging to another;
- b. A trustee; or
- c. Indebted to another on an obligation.

8. “Insurance company” means an insurance company as defined by section 26.1-02-01 and also includes a benevolent society, nonprofit health service corporation, and health maintenance organization.

9. “Intangible property” includes:

- a. Moneys, checks, drafts, deposits, interest, dividends, and income.
- b. Credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.
- c. Stocks and other intangible ownership interests in business associations.
- d. Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions.
- e. Amounts due and payable under the terms of insurance policies.
- f. Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.
- g. Amounts distributable from a mineral interest in land.

10. “Mineral proceeds” means all obligations to pay resulting from the production and sale of minerals, including net revenue interest, royalties, overriding royalties, production payments, and joint operating agreements and all obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties.

11. “Owner” means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or that person’s legal representative.

12. “Person” means an individual, business association, state or other government including the government of the United States, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

13. “State” means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

14. “Utility” means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

§ 47-30.1-02. Property presumed abandoned—general rule.

1. Except as otherwise provided by this chapter, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued, or owing in the ordinary course of a holder’s business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.

2. Property is payable or distributable for the purpose of this chapter notwithstanding the owner’s failure to make demand or to present any instrument or document required to receive payment.

§ 47-30.1-02.1. Uncashed checks.

Except as provided in sections 47-30.1-04 and 47-30.1-05, any checks held, issued, or owing in the ordinary course of the holder’s business which remain uncashed by the owner for more than two years after becoming payable are presumed abandoned.

§ 47-30.1-03. General rules for taking custody of intangible unclaimed property.

Unless otherwise provided in this chapter or by other statute of this state, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under section 47–30.1–02 and sections 47–30.1–05 through 47–30.1–16 are satisfied and:

1. The last known address, as shown on the records of the holder, of the apparent owner is in this state;

(Text continued on page ND-11)

e. The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

f. Other information the administrator prescribes by rule as necessary for the administration of this chapter.

3. If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed the holder's name while holding the property, the report must include all known names and addresses of each previous holder of the property.

4. The report and property must be delivered by November first of each year for property deemed abandoned as of the preceding June thirtieth. The report and property of any life insurance company must be delivered by May first of each year for property deemed abandoned as of December thirty-first of the previous year. On written request by any person required to file a report, the administrator may postpone the reporting date.

5. Not more than one hundred twenty days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at the owner's last known address informing the owner that the holder is in possession of property subject to this chapter if:

a. The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

b. The claim of the apparent owner is not barred by the statute of limitations; and

c. The property has a value of fifty dollars or more.

6. The holder of an interest under section 47-30.1-10 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the administrator. Upon delivery of a duplicate certificate to the administrator, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with section 47-30.1-20 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the administrator, for any losses or damages resulting to any person by the issuance and delivery to the administrator of the duplicate certificate.

§ 47-30.1-18. Notice and publication of lists of abandoned property.

1. The administrator shall cause a notice to be published not later than March first of the year immediately following the report required by section 47-30.1-17 at least once a week for two weeks in a newspaper of general circulation in the county of this state in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in the county in which the holder of the property has its principal place of

business within this state.

2. One of the annual notices must be entitled “Notice of Names of Persons Appearing to be Owners of Abandoned Property” and contain:

a. The names in alphabetical order and last known address, if any, of persons listed in the report and entitled to notice within the county as specified in subsection 1.

b. A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the administrator.

3. One of the annual notices must be a display advertisement that contains information on abandoned property and contact information for making an inquiry.

4. The administrator is not required to publish in the notice any items of less than fifty dollars unless the administrator considers their publication to be in the public interest.

5. This section is not applicable to sums payable on traveler’s checks, money orders, and other written instruments for which the holder is not required to report the name of the apparent owner.

6. The administrator may not publish in the notice any property clearly identified as belonging to a state agency. Property presumed to be state agency property that cannot be clearly identified as belonging to a specific agency also is exempt from public notice requirements.

§ 47-30.1-19 [Repealed.]

§ 47-30.1-19.1. Abandoned property list—preparation—contents—exempt from open records.

The administrator shall annually prepare a list with information about property paid or delivered to the administrator under section 47-30.1-17.

1. The list must refer to all securities and unclaimed funds valued at fifty dollars or more in the administrator’s custody and must contain the following information:

a. The name and last known address of each person appearing from the holders’ report to be entitled to the property and the name and last known address of

(Text continued on page ND-23)

(12) “Person” means an individual, business association, state or other government or political subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

(13) “Service charge” means fees or charges that are limited to a specific situation and that meet basic contractual and notice requirements.

(14) “State” means any state, district, commonwealth, territory, insular possession or any other area subject to the legislative authority of the United States.

(15) “Utility” means a person who owns or operates for public use, any plant, equipment, property, franchise or license for the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas.

§ 98.304 General rules for taking custody of unclaimed property

Unless otherwise provided in ORS 98.302 to 98.436 and 98.992 or by other statute of this state, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under ORS 98.342 are satisfied, and one or more of the following is true:

(1) The last-known address, as shown on the records of the holder, of the apparent owner is in this state.

(2) The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last-known address of the person entitled to the property is in this state.

(3) The records of the holder do not reflect the address of the apparent owner, and one or more of the following is established:

(a) The last-known address of the person entitled to the property is in this state.

(b) The holder is a domiciliary or a government or political subdivision or agency of this state and has not previously paid or delivered the property to the state of the last-known address of the apparent owner or other person entitled to the property.

(c) The last-known address, as shown on the records of the holder, or the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or political subdivision or agency of this state.

(4) The last-known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or political subdivision or agency of this state.

(5) The transaction out of which the property arose occurred in this state, and:

(a) There is no known address of the apparent owner or other person entitled to the property;

(b) The last-known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheats or custodial taking of the property or its escheats or unclaimed property law is not applicable to the property; or

(c) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

§ 98.306 [Repealed.]

§ 98.308 Bank deposits and funds in financial organizations

(1) Any demand, savings or matured time deposit with a financial institution, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, mutual investment certificate or any other interest in a financial institution is presumed abandoned unless the owner, within three years has done one or more of the following:

(a) In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest.

(b) Communicated in writing with the financial institution concerning the property.

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the financial institution.

(d) Owned other property to which paragraph (a), (b) or (c) of this subsection applies, and the financial institution has communicated in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent.

(e) Had another relationship with the financial institution concerning which the owner has:

(A) Communicated in writing with the financial institution; or

(B) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the financial institution, and the financial institution has communicated in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

(2) With respect to property described in subsection (1) of this section, a holder may not impose any charge or cease payment of interest due to dormancy or inactivity unless:

(a) There is a written contractual agreement between the holder and the owner of the account clearly and prominently setting forth the conditions under which a service charge may be imposed or the payment of interest terminated;

(b) The establishment of a service charge, the change of an existing service charge or the change of a policy pertaining to the payment of interest is uniformly applied to all dormant or inactive accounts;

(c) The holder gives written notice to the owner at the owner's last-known address whenever an account becomes dormant or inactive; and

(d) Three months' written notice is given by first class mail to the last-known address of the owner of a dormant or inactive account before the holder applies a service charge to that account or stop paying interest on that account.

(3) A signature card is not a written contractual agreement for the purposes of subsection (2)(a) of this section. However, a signature card and a written contractual agreement may be contained in one instrument.

(4) Property described in subsection (1) of this section that is automatically renewable is matured for purposes of subsection (1) of this section upon the expiration of its initial time period. However, if the owner consents to a renewal at or about the time of renewal, the property is matured upon the expiration of the last time period for which consent was given. The owner shall be deemed to have consented to a renewal if:

(a) The owner communicates in writing with the financial institution or otherwise indicates consent as evidenced by a memorandum or other record on file prepared by an employee of the institution; or

(b) The financial institution has send an account statement or other written or electronic statement pertaining to the account by first class mail or by electronic mail and the statement has not been returned to the financial institution and the financial institution has not been notified that the statement was undeliverable as addressed.

(5) If the delivery of funds of property required by ORS 98.352 would result in a penalty or forfeiture in the payment of interest from the delivery of funds or property, the delivery may be delayed until the time when no penalty or forfeiture would result.

(6) Except for those instruments subject to ORS 98.309, any sum payable on a check, draft or similar instrument, on which a financial institution is directly liable, including a cashier's check and a certified check, which has been outstanding for more than three years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within three years, has communicated in writing with the financial institution concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee thereof.

(7) A holder may not deduct from the amount of any instrument subject to subsection (6) of this section any charge imposed by reason of the failure to present

the instrument for payment unless (a) there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge; (b) the holder regularly imposes such charges; and (c) the holder does not regularly reverse or otherwise cancel the charges.

(8) For purposes of subsection (1) of this section, “property” includes interest and dividends.

§ 98.309 Travelers checks and money orders

(1) Subject to subsection (4) of this section, any sum payable on a traveler’s check that has been outstanding for more than 15 years after its issuance is presumed abandoned unless the owner, within 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(2) Subject to subsection (4) of this section, any sum payable on a money order or similar written instrument, other than a third party bank check, that has been outstanding for more than seven years after its issuance is presumed abandoned unless the owner, within that seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(3) A holder may not deduct from the amount of a traveler’s check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them.

(4) Other than a third party bank check, no sum payable on a traveler’s check, money order or similar written instrument described in subsections (1) and (2) of this section may be subjected to the custody of this state as unclaimed property unless:

(a) The records of the issuer show that the traveler’s check, money order or similar written instrument was purchased in this state;

(b) The issuer has its principal place of business in this state and the records of the issuer do not show the state in which the traveler’s check, money order or similar written instrument was purchased; or

(c) The issuer has its principal place of business in this state, the records of the issuer show the state in which the traveler’s check, money order or similar written instrument was purchased and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

(5) Notwithstanding any other provision of ORS 98.302 to 98.436 and 98.992, subsection (4) of this section applies to sums payable on traveler’s checks, money orders and similar written instruments presumed abandoned on or after February 1,

1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

§ 98.310 [Repealed.]

§ 98.311 Service charge on unclaimed property

Notwithstanding the provisions in ORS 98.308, a holder may not deduct a service charge or fee or otherwise reduce an owner's unclaimed account unless:

- (1) There is a valid written contract between the holder and the owner that allows the holder to impose a charge;
- (2) The service charge or fee is imposed uniformly on all accounts; and
- (3) Three months' written notice is given by first class mail to the last-known address of all owners before the charge or fee is levied.

§ 98.312 [Repealed.]

§ 98.314 Funds owing under life insurance policies

(1) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than five years after the funds become due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection (3)(b)(A) of this section is presumed abandoned if unclaimed for more than two years.

(2) If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company.

(3) For purposes of ORS 98.302 to 98.436 and 98.992, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the company is matured and the proceeds due and payable if:

- (a) The company knows that the insured or annuitant has died; or
- (b) All of the following are true:
 - (A) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.
 - (B) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph (A) of this paragraph.
 - (C) Neither the insured nor any other person appearing to have an interest in the policy within the preceding two years, according to the records of the company, has assigned, readjusted or paid premiums on the policy, subjected the

policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

(4) For purposes of ORS 98.302 to 98.436 and 98.992, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection (1) of this section if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds of the policy before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last-known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(6) Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(7) Commencing two years after August 3, 1983, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request the following information:

- (a) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;
- (b) The address of each beneficiary; and
- (c) The relationship of each beneficiary to the insured.

§ 98.316 Deposits held by utilities

The following funds held or owing by any utility are presumed abandoned if unclaimed by the apparent owner for more than one year after the date of termination of services or when the funds otherwise become payable or distributable:

- (1) A deposit made by a subscriber with a utility to secure payment, or a sum paid in advance for utility services, less any lawful deductions.
- (2) A sum received for utility services which a utility has been ordered to refund, together with any interest thereon and less any lawful deductions.

§ 98.320 [Repealed.]

§ 98.322 Undistributed dividends and distributions of business associations

- (1) Stock, certificates of ownership or other intangible equity ownership interests in

a business association are presumed abandoned when all of the following occur:

(a) The interest is evidenced by records of the business association.

(b) A dividend, distribution or other sum payable as a result of the interest has remained unclaimed for three years.

(c) The owner has not otherwise communicated with the business association for five years from the date the sum was payable.

(d) The business association has sent written notice of the payment and underlying interest to the owner at the last-known address of the owner as shown in the records of the business association.

(2) With respect to any interest presumed abandoned under subsection (1) of this section, the business association is the holder.

(3) At the time an interest is presumed abandoned under subsection (1) of this section, any payment then held for or owing to the owner as a result of the interest is also presumed abandoned.

(4) Subsection (1) of this section shall not apply to any stock, certificate of ownership or other intangible equity ownership interests in a business association that provides for the automatic reinvestment of dividends, distributions or other sums payable as a result of the interests, unless:

(a) The records of the business association show that the person also owns any stock, certificate of ownership or other intangible equity ownership interest in the business association that is not enrolled in the reinvestment plan; and

(b) The interest referred to in paragraph (a) of this subsection has been presumed abandoned under subsection (1) of this section.

(5) Any dividend, profit distribution, interest, payment on principal or other sum held or owing by a business association is presumed abandoned if, within three years after the date prescribed for payment, all of the following have occurred:

(a) The owner has not claimed the payment or corresponded in writing with the business association concerning the payment.

(b) The business association has sent written notice of the payment to the owner at the last-known address of the owner as shown in the records of the business association.

§ 98.326 Property of business association and banking or financial organizations held in the course of dissolution

All intangible personal property distributable in the course of a dissolution of a business association or financial institution that is unclaimed by the owner for more than one year after the date for final distribution is presumed abandoned.

§ 98.328 Contents of safe deposit box or other safekeeping repository

Except property subject to ORS 711.582 and 711.590, all tangible and intangible

property held in a safe deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business, which remains unclaimed by the owner for more than two years after the lease or rental period on the box or other repository has expired, is presumed abandoned.

§ 98.329 Delivery of property before presumed abandoned; rules

A holder, with the written consent of the Division of State Lands, and in compliance with rules prescribed by the division, may report and deliver property before the property is presumed abandoned.

§ 98.330 [Repealed.]

§ 98.332 Property held by fiduciaries

(1) All intangible personal property and any income or increment thereon, held in a fiduciary capacity is presumed abandoned unless the owner has, within two years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary.

(2) Funds in an individual retirement account or a retirement plan for self-employed individuals or a similar account or plan established under the Internal Revenue laws of the United States are not payable or distributable within the meaning of subsection (1) of this section unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

§ 98.334 Wages

Unpaid wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business which remain unclaimed by the owner for more than three years after becoming payable are presumed abandoned.

(Text continued on page OR-23)

Pennsylvania Administrative Code

Chapter 951. **Abandoned and Unclaimed Property (Title 61, Part VIII)**
Sec.

951.1 Definitions.**951.2–951.7 [Reserved].****951.8 [Reserved].****§ 951.1. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Act—Article XIII.1 of The Fiscal Code (72 P. S. §§ 1301.1—1301.29), referred to the Disposition of Abandoned and Unclaimed Property Act.

Bureau—The Bureau of Unclaimed Property within the Department.

Claimant—One who submits a property claim or a claim for a payment otherwise alleged to be due from the Department.

Department—The Treasury Department of the Commonwealth.

Final demand—The Department's notification to a holder that unclaimed and abandoned property shall be paid or delivered within a given period of time. Notification may be in the form of a summary of audit findings or a final decision on a petition for review.

Holder—As defined in section 1301.1 of the act (72 P. S. § 1301.1).

Property claim—An assertion of ownership or the right to possess certain abandoned and unclaimed property held in the custody and control of the Department.

State Treasurer—The head of the Department, as set forth in section 206 of The Administrative Code of 1929 (71 P. S. § 66).

Summary of audit findings—

(i) Notice sent to a holder after an audit has been performed stating audit findings and notifying the holder of the abandoned and unclaimed property due the Department.

(ii) The term also includes an assessment made by the Department for late filing or late delivery of abandoned and unclaimed property.

951.2–951.7 [Reserved]**951.8 [Reserved]****SUBCHAPTER B REVIEW OF ADMINISTRATIVE DECISIONS****§ 951.21. Petitions for review.**

(a) A claimant or a holder who is aggrieved by a decision issued by the Department may file a petition for review as set forth in subsection (c).

(b) The State Treasurer will designate a presiding officer to exercise the powers and duties of the State Treasurer with respect to matters concerning petitions for review.

(1) Except as otherwise provided herein, practice and procedure before the presiding officer will be governed by 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 2 Pa.C.S.A. §§ 101—106, 501—507 and 701—704 (relating to general provisions; practice and procedure of Commonwealth agencies; and judicial review of Commonwealth agency action).

(2) The presiding officer will issue a final decision and order, including findings of fact and conclusions of law.

(c) A petition for review shall be filed within 30 days after the mailing date of the Department's decision.

(1) Petitions shall be filed with the Prothonotary, Office of Chief Counsel, Room 127, Finance Building, Harrisburg, Pennsylvania 17120.

(2) Petitions must be in writing, be signed by the petitioner and contain the following:

(i) The petitioner's name, address and telephone number.

(ii) The name, address and telephone number of the authorized representative, if any.

(iii) A detailed statement in separate numbered paragraphs of the facts and grounds relied upon. If based upon a written document, a copy of the document, or the material part of the document, shall be attached.

(iv) A statement specifying the relief to which the petitioner deems itself entitled, which cites the legal authority relied upon.

(v) A statement that either a hearing is requested or the right to a hearing is waived and the petitioner is resting the case on the petition and record, with or without a brief.

(vi) A signed statement certifying that the facts contained in the petition are true and correct to the petitioner's knowledge and belief, and that the petition is not made for purposes of delay.

(3) The presiding officer may, in writing, require a petitioner to furnish additional information that may be necessary to define the issues or to determine the case. The presiding officer may deny the petition for failure by the petitioner to furnish the additional information within a stated reasonable length of time.

SUBCHAPTER C ABANDONED AND UNCLAIMED PROPERTY

951.31 Audit of holder records.

951.32 Proceeding to compel payment or delivery.

951.33 Assertion of property claims.

§ 951.31. Audit of holder records.

(a) A holder subject to an examination of records as provided for in section 1301.23(a) of the act (72 P. S. § 1301.23(a)) shall comply with requests by the State Treasurer or an authorized third party to make records available for examination.

(b) When a holder's records do not exist or are insufficient for examination, the State Treasurer may apply sampling and estimation procedures to determine a holder's liability. These procedures will be applied in accordance with standards of the American Institute of Certified Public Accountants (AICPA) and the United States General Accounting Office (USGAO).

(c) A holder who is aggrieved by a summary of audit findings may file a petition for review under Subchapter B (relating to review of administrative decisions). If the petition is not timely filed, the summary of audit findings will be deemed to be a final demand due and payable within 30 days after the expiration of the filing period in § 951.21(c) (relating to petitions for review).

§ 951.32. Proceeding to compel payment or delivery.

If a holder fails to pay or deliver property subject to the Department's final demand, along with an accompanying holder report, the State Treasurer may bring an enforcement action in a court of appropriate jurisdiction under section 1301.24 of the act (72 P. S. § 1301.24).

§ 951.33. Assertion of property claims.

(a) A claimant for abandoned and unclaimed property under the custody and control of the Department shall submit forms and documentation required by the Bureau.

(b) A claimant upon whose claim the Bureau has taken no action within 90 days after all forms and documentation were submitted may bring an action in Commonwealth Court under section 1301.21 of the act (72 P. S. § 1301.21).

(c) A claimant whose claim the Bureau denies may file a petition for review under Subchapter B (relating to review of administrative decisions).

(d) A claimant who is aggrieved by the presiding officer's final decision and order on a petition for review of property claim may commence an action in Commonwealth Court within 30 days.

(e) after the entry of the order in accordance with section 1301.21 of the act. The action shall be tried de novo without a jury.

Chapter 21.1 Unclaimed Intangible and Tangible Property (Title 33, R.I. Gen. Laws)

Sec.

- 33-21.1-1 Definitions and use of terms**
- 33-21.1-2 Property presumed abandoned**
- 33-21.1-3 General rules for taking custody of intangible unclaimed property**
- 33-21.1-4 Travelers checks and money orders**
- 33-21.1-5 Checks, drafts and similar instruments issued or certified by banking and financial organizations**
- 33-21.1-6 Bank deposits and funds in financial organizations**
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- 33-21.1-9 Refunds held by business associations**
- 33-21.1-10 Stock and other intangible interests in business associations**
- 33-21.1-11 [Repealed.]**
- 33-21.1-12 Property held by agents and fiduciaries**
- 33-21.1-13 Property held by courts and public agencies**
- 33-21.1-14 Gift certificates and credit memos**
- 33-21.1-14.1 Property held by police departments**
- 33-21.1-14.2 Property held by hospitals, private, non-profit institutions of higher education or other domestic charitable corporations**
- 33-21.1-15 Wages**
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- 33-21.1-21 Crediting of dividends, interest or increments to owner's account**
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§ 33-21.1-1 Definitions and use of terms

As used in this chapter unless the context otherwise requires:

(1) “Administrator” means the general treasurer or his designee, including agents hired for the express purpose of auditing, assessing, and collecting unclaimed property.

(2) “Apparent owner” means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) “Banking organization” means a bank, trust, company, savings bank (industrial bank, land bank, safe deposit company) private banker, or any organization defined by any of the laws of this or any other state as a bank or banking organization.

(4) “Business association” means a public corporation, a non-public corporation, joint stock company, investment company, business trust, partnership, or

(Text continued on page RI-9)