

# REVISED UNIFORM UNCLAIMED PROPERTY ACT\*

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT  
IN ALL THE STATES

at its

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MEETING IN ITS ONE-HUNDRED-AND-TWENTY-FIFTH YEAR  
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WITHOUT PREFATORY NOTE AND COMMENTS

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By

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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**REVISED UNIFORM UNCLAIMED PROPERTY ACT**

**[ARTICLE] 1**

**IN GENERAL**

**SECTION 101. SHORT TITLE.** This [act] may be cited as the Revised Uniform Unclaimed Property Act.

**SECTION 102. DEFINITIONS.** In this [act]:

(1) “Administrator” means [insert name of the state official with responsibility to administer this [act]].

(2) “Administrator’s agent” means a person with whom the administrator contracts to conduct an examination under [Article] 10 on behalf of the administrator and an independent contractor of the person. The term includes each individual participating in the examination on behalf of the person or contractor.

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

(4) “Business association” means a for profit or nonprofit corporation, joint stock company, investment company other than an investment company registered under the Investment Company Act of 1940[, as amended,], 15 U.S.C. Sections 80a-1 through 80a-64, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity.

(5) “Confidential information” means confidential information as defined in Section 1402.

(6) “Domicile” means:

(A) for a corporation, the state of its incorporation;

(B) for a business association, other than a corporation, whose formation requires a filing with a state, the state of its filing;

(C) for a federally chartered entity or an investment company registered under the Investment Company Act of 1940[, as amended,], 15 U.S.C. Sections 80a-1 through 80a-64, the state of its home office; and

(D) for any other holder, the state of its principal place of business.

(7) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(8) “Electronic mail” means any communication of information by electronic means which is automatically retained and stored and may be readily accessed or retrieved.

(9) “Financial organization” means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union.

(10) “Game-related digital content” means digital content that exists only in an electronic game or electronic-game platform. The term:

(A) includes:

(i) game-play currency such as a virtual wallet, even if denominated in United States currency; and

(ii) the following if for use or redemption only within that game or platform or another electronic game or electronic-game platform:

(I) points sometimes referred to as gems, tokens, gold, and similar names; and

(II) digital codes; and

(B) does not include an item that the issuer:

(i) permits to be redeemed for use outside of a game or platform for:

(I) money; or

(II) goods or services that have more than minimal value; or

(ii) otherwise monetizes for use outside of a game or platform.

(11) “Gift card” means:

(A) a stored-value card:

(i) the value of which does not expire;

(ii) that may be decreased in value only by redemption for merchandise,

goods, or services; and

(iii) that, unless required by law, may not be redeemed for or converted

into money or otherwise monetized by the issuer; and

(B) includes a prepaid commercial mobile radio service, as defined in 47 C.F.R.

20.3[, as amended].

(12) “Holder” means a person obligated to hold for the account of, or to deliver or pay to, the owner property that is subject to this [act].

(13) “Insurance company” means an association, corporation, or fraternal or mutual-benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit-life, contract-performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage-protection, and worker-compensation insurance.

(14) “Loyalty card” means a record given without direct monetary consideration, under

an award, reward, benefit, loyalty, incentive, rebate, or promotional program which may be used or redeemed only to obtain goods or services or a discount on goods or services. The term does not include a record that may be redeemed for money or otherwise monetized by the issuer.

(15) “Mineral” means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by law of this state other than this [act].

(16) “Mineral proceeds” means an amount payable for extraction, production, or sale of minerals, or, on the abandonment of the amount, the amount that becomes payable after abandonment. The term includes an amount payable:

(A) for the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental;

(B) for the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, and production payment; and

(C) under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement, and farm out agreement.

(17) “Money order” means a payment order for a specified amount of money and includes an express money order and a personal money order on which the remitter is the purchaser.

(18) “Municipal bond” means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

(19) “Net card value” means the original purchase price or original issued value of a

stored-value card, plus amounts added to its original value and minus amounts used and any service charge, fee, or dormancy charge permitted by law.

(20) “Non-freely transferable security” means a security that cannot be delivered to the administrator by the Depository Trust Clearing Corporation or a similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. The term includes a worthless security.

(21) “Owner” means a person that has a legal, beneficial, or equitable interest in property subject to this [act] or the person’s legal representative when acting on behalf of the owner. The term includes:

(A) a depositor, for a deposit;

(B) a beneficiary, for a trust other than a deposit in trust;

(C) a creditor, claimant, or payee, for other property; and

(D) the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

(22) “Payroll card” means a record that evidences a payroll-card account as defined in Regulation E, 12 C.F.R. Part 1005[, as amended].

(23) “Person” means an individual, estate, business association, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(24) “Property” means tangible property described in Section 205 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder’s business or by a government, governmental subdivision, agency, or instrumentality. The term:

(A) includes all income from or increments to the property;

(B) includes property referred to as or evidenced by:

(i) money, virtual currency, interest, dividend, a check, draft, deposit, or payroll card;

(ii) a credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;

(iii) a security except for:

(I) a worthless security; or

(II) a security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, which restricts the holder's or owner's ability lawfully to receive, transfer, sell, or otherwise negotiate the security;

(iv) a bond, debenture, note, or other evidence of indebtedness;

(v) money deposited to redeem a security, make a distribution, or pay a dividend;

(vi) an amount due and payable under the terms of an annuity contract or insurance policy; and

(vii) an amount 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; and

(C) does not include:

(i) game-related digital content; [or]

(ii) a loyalty card.[:] [or]

[(iii) an in-store credit for returned merchandise][:] [or]

[(iv) a gift card].

(25) “Putative holder” means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to this [act] or a final determination is made that the person is a holder.

(26) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(27) “Security” means:

(A) a security as defined in [cite to appropriate section of Article 8 of the Uniform Commercial Code]; or

(B) a security entitlement as defined in [cite to appropriate section of Article 8 of the Uniform Commercial Code], including a customer security account held by a registered broker-dealer to the extent that the financial assets held in the security account are neither registered on the books of the issuer in the name of, nor are payable to the order of nor specifically indorsed to, the person for which the broker-dealer holds the assets.

(28) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(29) “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(30) “Stored-value card”:

(A) means a record evidencing a promise made for consideration by the seller or



issuer of the record that goods, services, or money will be provided to the owner of the record to the value or amount shown in the record;

(B) includes:

(i) a record that contains or consists of a microprocessor chip, magnetic strip, or other means for the storage of information, which is prefunded and whose value or amount is decreased on each use and increased by payment of additional consideration; and

(ii) [a gift card and] a payroll card; and

(C) does not include a loyalty card[, gift card,] or game-related digital content.

(31) “Utility” means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:

(A) transmission of communications or information;

(B) production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or

(C) provision of sewage and septic services, or trash, garbage, or recycling disposal.

(32) “Virtual currency” means a digital representation of value used as a medium of exchange, unit of account, or a store of value, but does not have legal tender status as recognized by the United States. The term does not include:

(A) the software or protocols governing the transfer of the digital representation of value;

(B) game-related digital content; or

(C) a loyalty card[ or gift card].

(33) “Worthless security” means a security whose cost of liquidation and delivery would

exceed the value of the security on the date a report is due under this [act].

**SECTION 103. INAPPLICABILITY TO WHOLLY FOREIGN TRANSACTION.**

This [act] does not apply to property held, due, and owing in a foreign country if the transaction involving the property was a wholly foreign transaction.

**SECTION 104. RULE MAKING.** The administrator may adopt under [the state administrative procedures act] rules to implement and administer this [act].

**[ARTICLE] 2**

**PRESUMPTION OF ABANDONMENT**

**SECTION 201. WHEN PROPERTY PRESUMED ABANDONED.** Subject to Section 210, property is presumed abandoned if it is unclaimed by the apparent owner at the time specified for the following property:

- (1) a traveler's check, 15 years after issuance;
- (2) a money order, seven years after issuance;
- (3) a state or municipal bond, a bearer bond, or an original-issue-discount bond, three years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;
- (4) a debt of a business association, three years after the obligation to pay arises;
- (5) a payroll card or demand, savings, or time deposit, including a deposit that is automatically renewable, three years after the earlier of maturity or the date of the last indication of interest in the property by the apparent owner, except a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to a renewal at or about the time of the renewal;
- (6) money or credits owed to a customer as a result of a retail business transaction,[ other

than in-store credit for returned merchandise,] three years after the obligation arose;

(7) an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant, three years after the earlier of the date:

(A) the insurance company has knowledge of the death of the insured or annuitant; or

(B) the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy or contract is based;

(8) property distributable by a business association in the course of dissolution, one year after the property becomes distributable;

(9) property held by a court, including property received as proceeds of a class action, one year after the property becomes distributable;

(10) property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one year after the property becomes distributable;

(11) wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, other than amounts held in a payroll card, one year after the amount becomes payable;

(12) a deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable; and

(13) all other property not specified in this section or Sections 202, 203, 204, 205, 206[, 207], or 208, the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

**SECTION 202. WHEN TAX-DEFERRED RETIREMENT OR HEALTH-SAVINGS ACCOUNT PRESUMED ABANDONED.**

(a) Subject to Section 210, property held in a pension account, retirement account, or health-savings account, that qualifies for tax deferral under the income-tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner three years after the later of:

(1) the date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service, but if the second communication is sent later than 30 days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States Postal Service; or

(2) the earlier of:

(A) the date the apparent owner becomes 70.5 years of age, if determinable by the holder; or

(B) if the Internal Revenue Code[, as amended], 26 U.S.C. Section 1 et seq., requires distribution, two years after the date the holder in the ordinary course of its business receives confirmation of the death of the apparent owner.

(b) If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner and subsection (a)(2) applies, the holder shall attempt not later than 90 days after receipt of the notice or indication to confirm whether the apparent owner is

deceased.

(c) If the apparent owner of an account described in subsection (a) does not receive communications from the holder by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the property. If the holder receives notification that the electronic-mail communication was not received or if the apparent owner does not respond to the electronic-mail communication not later than 30 days after the communication was sent, the holder promptly shall attempt to contact the apparent owner by first-class United States mail. If the mail is returned to the holder undelivered by the United States Postal Service, the property is presumed abandoned three years after the later of:

(1) the date a second consecutive communication to contact the apparent owner sent by first-class United States mail is returned to the holder undelivered by the United States Postal Service, but if the second communication is sent later than 30 days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States Postal Service; or

(2) the date established by subsection (a)(2).

**SECTION 203. WHEN OTHER TAX-DEFERRED ACCOUNT PRESUMED ABANDONED** Subject to Section 210 and except for property described in Section 202 and property held in a plan described in Section 529A of the Internal Revenue Code[, as amended], 26 U.S.C. §529A, property held in an account or plan that qualifies for tax deferral under the income-tax laws of the United States is presumed abandoned if it is unclaimed by the owner three years after the earlier of:

(1) the date, if determinable by the holder, specified in the income-tax laws and regulations of the United States by which distribution of the property must begin to avoid a tax penalty, with no distribution having been made; or

(2) 30 years after the date the account was opened.

**SECTION 204. WHEN CUSTODIAL ACCOUNT FOR MINOR PRESUMED ABANDONED.**

(a) Subject to Section 210, property held in an account established under the [insert citation to state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act] is presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account was opened three years after the later of:

(1) the date a second consecutive communication sent by the holder by first-class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States Postal Service, but if the second communication is sent later than 30 days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States Postal Service; or

(2) the date on which the minor on whose behalf the account was opened reaches the statutory age of majority in accordance with the [insert citation to state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act] under which the account was opened.

(b) If the custodian of the minor on whose behalf an account described in subsection (a) was opened does not receive communications from the holder by first-class United States mail, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic-mail communication not later than two years after the custodian's last

indication of interest in the property. If the holder receives notification that the electronic-mail communication was not received or if the custodian does not respond to the electronic-mail communication not later than 30 days after the communication was sent, the holder promptly shall attempt to contact the custodian by first-class United States mail. If the mail is returned undelivered to the holder by the United States Postal Service, the property is presumed abandoned three years after the later of:

(1) the date a second consecutive communication to contact the custodian by first-class United States mail is returned to the holder undelivered by the United States Postal service; or

(2) the date established by subsection (a)(2).

(c) When the minor on whose behalf an account described in subsection (a) reaches the age required for transfer to a minor of custodial property under applicable law, the property in the account is no longer subject to this section.

**SECTION 205. WHEN CONTENTS OF SAFE-DEPOSIT BOX PRESUMED ABANDONED.** Tangible property held in a safe-deposit box and proceeds from a sale of the property by the holder permitted by law of this state other than this [act] are presumed abandoned if the property remains unclaimed by the apparent owner five years after the earlier of the:

(1) expiration of the lease or rental period for the box; or

(2) earliest date when the lessor of the box is authorized by law of this state other than this [act] to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

**SECTION 206. WHEN STORED-VALUE CARD PRESUMED ABANDONED.**

(a) Subject to Section 210, a stored-value card other than a payroll card [or a gift card] is presumed abandoned on the latest of three years after:

(1) December 31 of the year in which the card is issued or additional funds are deposited into it;

(2) the most recent indication of interest in the card by the apparent owner; or

(3) a verification or review of the balance by or on behalf of the apparent owner.

(b) The amount abandoned by the owner in a stored-value card is the net card value at the time it is presumed abandoned.

**[SECTION 207. WHEN GIFT CARD PRESUMED ABANDONED.** Subject to Section 210, a gift card is presumed abandoned if it is unclaimed by the apparent owner five years after the later of the date of purchase or its most recent use.]

**SECTION 208. WHEN SECURITY PRESUMED ABANDONED.**

(a) Subject to Section 210, a security is presumed abandoned three years after:

(1) the date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or

(2) if the second communication is made later than 30 days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States Postal Service.

(b) If the apparent owner of a security does not receive communications from the holder by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an electronic-mail communication not later than



two years after the apparent owner's last indication of interest in the security. If the holder receives notification that the electronic-mail communication was not received or if the apparent owner does not respond to the electronic-mail communication not later 30 days after the communication was sent, the holder promptly shall attempt to contact the apparent owner by first-class United States mail. If the mail is returned to the holder undelivered by the United States Postal Service, the security is presumed abandoned three years after the date the mail is returned.

**SECTION 209. WHEN RELATED PROPERTY INTEREST PRESUMED ABANDONED.** At the time an interest is presumed abandoned under this [act], any other property right accrued or accruing to the apparent owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

**SECTION 210. INDICATION OF APPARENT OWNER INTEREST IN PROPERTY.**

(a) Property is not presumed abandoned if the apparent owner indicates an interest in the property during the applicable periods in this [article].

(b) Under this [act], an indication of an apparent owner's interest in property includes:

(1) a record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

(2) an oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

(3) presentment of a check or other instrument of payment of a dividend, interest

payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an:

(A) account;

(B) underlying security; or

(C) interest in a business association;

(4) activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

(5) making a deposit into or withdrawal from an account at a financial organization, including an automatic deposit or withdrawal previously authorized by the apparent owner other than an automatic reinvestment of dividends or interest;

(6) subject to subsection (e), payment of a premium on an insurance policy; and

(7) any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner is aware that the property exists.

(c) An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.

(d) A communication with an apparent owner by a person other than the holder or the holder's representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner's knowledge of a right to the property.

(e) Application of an automatic-premium-loan provision or other nonforfeiture provision

contained in an insurance policy is not an indication of interest in the policy and does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before depletion of the cash surrender value of the policy by application of the provision.

**SECTION 211. KNOWLEDGE OF DEATH OF INSURED OR ANNUITANT.**

(a) In this section, “death master file” means the United States Social Security Administration’s Death Master File or other database or service that is at least as comprehensive as the United States Social Security Administration’s Death Master File for determining that a person reportedly has died.

(b) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant, the company has knowledge of the death of an insured or annuitant when:

(1) the company receives a death certificate or a court order determining that the insured or annuitant has died;

(2) due diligence performed as required under [insert applicable state law or regulations relating to the business of insurance] to maintain contact with the insured or annuitant or determine whether the insured or annuitant has died, results in validation of the death of the insured or annuitant;

(3) a comparison is conducted by the company for any purpose between a death master file and the names of some or all of the company’s insureds or annuitants, a match is found providing notice that the insured or annuitant has died and the company validates the death;

(4) a comparison is conducted by the administrator or the administrator’s agent

for the purpose of finding matches during an examination conducted under [Article] 10 between a death master file and the names of some or all of the company's insureds or annuitants, a match is found providing notice that the insured or annuitant has died and the company validates the death; or

(5) the company:

(A) receives notice of the death of the insured or annuitant from an administrator, beneficiary, policy owner, relative of the insured, or trustee or from a [personal representative], [executor], or other legal representative of the insured's or annuitant's estate; and

(B) validates the death of the insured or annuitant.

(c) The following rules apply to a death-master-file comparison under subsection (b)(3) and (b)(4):

(1) A death-master-file match occurs if the criteria for an exact or partial match are satisfied as provided by:

(A) law of this state other than this [act];

(B) a rule or policy adopted by [insert name of the state insurance official or department authorized to adopt rules]; or

(C) absent a law, rule, or policy, under subparagraph (A) or (B) standards in the [National Conference of Insurance Legislators' "Model Unclaimed Life Insurance Benefits Act" as published in 2014];

(2) A death-master-file match does not constitute proof of death for purposes of submission of a claim by a beneficiary, annuitant, or owner of the policy or contract to an insurance company for amounts due under an insurance policy or annuity contract; and

(3) A death-master-file match under either subsection (b)(3) or (b)(4) or

validation of the insured's or annuitant's death does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract; and

(4) Absent a provision in [state insurance laws or rules] which establishes a time for the validation of a death of an insured or annuitant, the insurance company shall make a good faith effort using other available records and information to validate the death and document the effort taken not later than 90 days after the insurance company has notice of the death.

(d) This [act] does not affect the determination of the extent to which an insurance company before the effective date of this [act] had knowledge of the death of an insured or annuitant or was required to conduct a death-master-file comparison to determine whether amounts owed by the company on a life or endowment insurance policy or annuity contract were presumed abandoned or unclaimed.

**SECTION 212. RETAINED ASSET ACCOUNT FOR INSURANCE POLICY OR ANNUITY CONTRACT.** If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check or draft writing privileges for the beneficiary of the policy or contract and the proceeds are retained by the insurance company or its agent under a supplementary contract not involving annuity benefits other than death benefits, the policy or contract includes the assets in the account.

### **[ARTICLE] 3**

#### **RULES FOR TAKING CUSTODY OF ABANDONED PROPERTY**

**SECTION 301. ADDRESS OF APPARENT OWNER TO ESTABLISH PRIORITY.** In this [article]:

(1) the last-known address of an apparent owner is any description, code, or other

indication of the location of the apparent owner which identifies the state, regardless of whether the description, code, or indication of location is sufficient to direct the delivery of first-class United States mail to the apparent owner;

(2) if the United States postal zip code associated with the apparent owner is for a post office located in this state, this state is deemed to be the state of the last-known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in a different state;

(3) if the address under paragraph (2) is in a different state, the different state is deemed to be the state of the last-known address of the apparent owner; and

(4) the address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under Section 302.

**SECTION 302. ADDRESS OF APPARENT OWNER IN THIS STATE.** The administrator may take custody of property that is presumed abandoned, whether located in this state or another state, or in a foreign country if:

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

(2) the records of the holder do not reflect the identity or last-known address of the apparent owner, but the administrator has determined that the last-known address of the apparent owner is in this state.

**SECTION 303. WHEN RECORDS SHOW MULTIPLE ADDRESSES OF**

**APPARENT OWNER.**

(a) Except as otherwise provided in subsection (b), if records of a holder reflect multiple addresses for an apparent owner and if this state is the state of the most recently recorded address, this state may take custody of property presumed abandoned, whether located in this state or another state.

(b) If it appears from records of the holder that the most recently recorded address of the apparent owner under subsection (a) is a temporary address and if this state is the state of the next most recently recorded address that is not a temporary address, this state may take custody of the property presumed abandoned.

**SECTION 304. HOLDER DOMICILED IN THIS STATE.**

(a) Except as otherwise provided in subsection (b) or in Section 302 or 303, the administrator may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state or is the state or a governmental subdivision, agency, or instrumentality of this state, and

(1) another state or foreign country is not entitled to the property because there is no last-known address in the records of the holder of the apparent owner or other person entitled to the property; or

(2) the state or foreign country of the last known address of the apparent owner or other person entitled to the property does not provide for custodial taking of the property.

(b) The property is not subject to the custody of the administrator under subsection (a) if:

(1) the property is specifically exempt from custodial taking under the law of the state or foreign country of the last-known address of the apparent owner; or

(2) the property is specifically exempt from custodial taking under the law of this state.

(c) If the holder's state of domicile has changed since the time the property was presumed abandoned, the holder's state of domicile in this section is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.

**SECTION 305. CUSTODY IF TRANSACTION OCCURRED IN THIS STATE.**

Except as otherwise provided in Sections 302, 303, and 304, the administrator may take custody of property presumed abandoned whether located in this or another state if:

(1) the transaction involving the property occurred in this state;

(2) the holder is domiciled in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the holder's domicile, the property is not subject to the custody of the administrator; and

(3) the last-known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the last-known address, the property is not subject to the custody of the administrator.

**SECTION 306. TRAVELER'S CHECK, MONEY ORDER OR SIMILAR**

**INSTRUMENT.** The administrator may take custody of sums payable on a traveler's check, money order, or similar instrument presumed abandoned to the extent permissible under [12 U.S.C. Sections 2501 through 2503[, as amended]] [federal law].

**SECTION 307. BURDEN OF PROOF TO ESTABLISH ADMINISTRATOR'S RIGHT TO CUSTODY.** When an administrator asserts a right to custody of unclaimed



property, the administrator has the burden to prove:

- (1) the existence and amount of the property;
- (2) the property is presumed abandoned; and
- (3) the property is subject to the custody of the administrator.

#### **[ARTICLE] 4**

#### **REPORT BY HOLDER**

#### **SECTION 401. REPORT REQUIRED BY HOLDER.**

(a) A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property. The administrator may not require a holder to file a paper report.

(b) A holder may contract with a third party to make the report required under subsection (a).

(c) Whether or not a holder contracts with a third party under subsection (b), the holder is:

(1) responsible to the administrator for the complete, accurate, and timely reporting of property presumed abandoned; and

(2) responsible for paying or delivering to the administrator property described in the report filed under this section.

#### **SECTION 402. CONTENT OF REPORT.**

(a) The report required under Section 401 must:

(1) be signed by or on behalf of the holder and verified as to its completeness and accuracy;

(2) if filed electronically, be in a secure format approved by the administrator that

protects confidential information of the apparent owner in the same manner as required of the administrator and the administrator's agent under [Article] 14;

(3) describe the property;

(4) except for a traveler's check, money order, or similar instrument contain the name, if known, last-known address, if known, and Social Security number or taxpayer identification number, if known or readily ascertainable, of the apparent owner of property with a value of \$[50] or more;

(5) in the case of an amount held or owing under a life or endowment insurance policy or annuity contract, contain the full name and last-known address of the insured, annuitant or other apparent owner of the policy or contract and of the beneficiary;

(6) in the case of property held in or removed from a safe-deposit box, indicate the location of the property, where it may be inspected by the administrator, and any amounts owed to the holder under Section 606;

(7) contain the commencement date for determining abandonment under [Article] 2;

(8) state that the holder has complied with the notice requirements of Section 501;

(9) identify property that is a non-freely transferable security, and explain why it is a non-freely transferable security; and

(10) contain other information the administrator prescribes by rules necessary for the administrator.

(b) A report under Section 401 may include in the aggregate items valued under \$[50] each. If the report includes items in the aggregate valued under \$[50] each, the administrator may not require the holder to provide the name and address of an apparent owner of an item

unless the information is necessary to verify or process a claim in progress by the apparent owner.

(c) A report under Section 401 may include personal information as defined in Section 1402(a) about the apparent owner or the apparent owner's property to the extent not otherwise prohibited by federal law.

(d) If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder shall include in the report under Section 401 its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.

#### **SECTION 403. WHEN REPORT TO BE FILED.**

(a) Except as otherwise provided in subsection (b) and subject to subsection (c), the report under Section 401 must be filed before November 1 of each year and cover the 12 months preceding July 1 of that year.

(b) Subject to subsection (c), the report required to be filed by an insurance company under Section 401 must be filed before May 1 of each year for the immediately preceding calendar year.

(c) Before the date for filing the report under Section 401, the holder of property presumed abandoned may request the administrator to extend the time for filing. The administrator may grant an extension for good cause. If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.

**SECTION 404. RETENTION OF RECORDS BY HOLDER.** A holder required to file a report under Section 401 shall retain records for 10 years after the later of the date the

report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the administrator. A holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

- (1) the information required to be included in the report;
- (2) the date, place, and nature of the circumstances that gave rise to the property right;
- (3) the amount or value of the property;
- (4) the last address of the apparent owner, if known to the holder; and

(5) if the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third-party bank checks, on which the holder is directly liable a record of the instruments while they remain outstanding indicating the state and date of issue.

**SECTION 405. WHEN PROPERTY REPORTABLE AND PAYABLE OR DELIVERABLE.** Property is reportable and payable or deliverable under this [act] even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

## [ARTICLE] 5

### NOTICE TO APPARENT OWNER OF PROPERTY PRESUMED ABANDONED

#### SECTION 501. NOTICE TO APPARENT OWNER BY HOLDER.

(a) Subject to subsection (b), the holder of property presumed abandoned shall send to the apparent owner notice that complies with Section 502 to the apparent owner in a format acceptable to the administrator, by first-class United States mail, not more than 180 days nor less than 60 days before filing the report under Section 401 if the:

- (1) holder has in its records an address for the apparent owner sufficient to direct

the delivery of first-class United States mail to the apparent owner which the holder's records do not disclose to be invalid; and

(2) value of the property is \$[50] or more.

(b) If an apparent owner has consented to receive electronic-mail delivery from the holder, the holder shall send the notice described in subsection (a) both by first-class United States mail to the apparent owner's last-known mailing address and by electronic mail, unless the holder has reason to believe that the apparent owner's electronic-mail address is not valid.

#### **SECTION 502. CONTENTS OF NOTICE BY HOLDER.**

(a) The notice under Section 501 must contain a heading that reads substantially as follows: "Notice. The [State] of [insert name of state] requires us to notify you that your property may be transferred to the custody of the [state's unclaimed property administrator] if you do not contact us before [insert date that is 30 days after the date of this notice.]"

(b) The notice under Section 501 must:

(1) state that the property will be turned over to the administrator;

(2) state that after the property is turned over to the administrator an apparent owner that seeks return of the property must file a claim with the administrator;

(3) identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;

(4) state that property that is not legal tender of the United States may be sold by the administrator; and

(5) provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the administrator.

#### **SECTION 503. NOTICE TO APPARENT OWNER BY ADMINISTRATOR.**

(a) The administrator shall give notice to an apparent owner that property presumed abandoned and appears to be owned by the apparent owner is held by the administrator under this [act].

(b) In providing notice under subsection (a), the administrator shall:

(1) except as otherwise provided in paragraph (2), send written notice by first-class United States mail to each apparent owner of property valued at \$[50] or more held by the administrator, unless the administrator determines that a mailing by first-class United States mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner had consented to receiving electronic mail from the holder, send notice by electronic mail if the electronic-mail address of the apparent owner is known to the administrator instead of by first-class United States mail;

(2) send the notice to the apparent owner's electronic-mail address if the administrator does not have a valid United States mail address for an apparent owner, but has an electronic-mail address that the administrator does not know to be invalid;

(3) publish every [six] months in at least one newspaper of general circulation in this state notice of property held by the administrator which must include:

(A) the total value of property received by the administrator during the preceding [six]-month period, taken from the reports under Section 401;

(B) the total value of claims paid by the administrator during the preceding [six]-month period;

(C) the Internet web address of the unclaimed property website maintained by the administrator;

(D) a telephone number and electronic-mail address to contact the

administrator to inquire about or claim property; and

(E) a statement that a person may access the Internet by a computer to search for unclaimed property and a computer may be available as a service to the public at a local public library; and

(4) maintain a website or database accessible by the public and electronically searchable which contains the names reported to the administrator of all apparent owners for whom property is being held by the administrator.

(c) The website or database maintained under subsection (b)(4) must include instructions for filing with the administrator a claim to property and a printable claim form with instructions for its use.

(d) In addition to giving notice under subsection (b), the administrator may use printed publication, telecommunication, the Internet, or other media to inform the public of the existence of unclaimed property held by the administrator.

#### **SECTION 504. COOPERATION AMONG AGENCIES TO LOCATE**

**APPARENT OWNER.** Unless prohibited by law of this state other than this act, on request of the administrator, each officer, agency, board, commission, division, and department of this state, any body politic and corporate created by this state for a public purpose, and each political subdivision of this state shall make its books and records available to the administrator and cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator under this [act].

### **[ARTICLE] 6**

#### **TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR**

**SECTION 601. DEFINITION OF GOOD FAITH.** In this [article], payment or

delivery of property is made in good faith if a holder:

(1) had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator under this [act]; or

(2) made payment or delivery:

(A) in response to a demand by the administrator or administrator's agent; or

(B) pursuant to a guidance or ruling issued by the administrator which the holder reasonably believed required or permitted the property to be paid or delivered.

#### **SECTION 602. DORMANCY CHARGE.**

(a) A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:

(1) a valid and enforceable contract between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and

(2) the holder regularly imposes the charge and does not regularly reverse or otherwise cancel the charge.

(b) The amount of the deduction under subsection (a) is limited to an amount that is not unconscionable considering all relevant factors, including the marginal transactional costs incurred by the holder in maintaining the apparent owner's property and any services received by the apparent owner.



**SECTION 603. PAYMENT OR DELIVERY OF PROPERTY TO ADMINISTRATOR.**

(a) Except as otherwise provided in this section, on filing a report under Section 401, the holder shall pay or deliver to the administrator the property described in the report.

(b) If property in a report under Section 401 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.

(c) Tangible property held in a safe-deposit box may not be delivered to the administrator until [120] days after filing the report under Section 401.

(d) If property reported to the administrator under Section 401 is a security, the administrator may:

(1) make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, its transfer agent, or the securities intermediary to transfer the security; or

(2) dispose of the security under Section 702.

(e) If the holder of property reported to the administrator under Section 401 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form under [Section 8-405 of the Uniform Commercial Code]. An indemnity bond is not required.

(f) The administrator shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the administrator by a holder.

(g) An issuer, holder, and transfer agent or other person acting under instructions of and on behalf of the issuer or holder under this section is not liable to the apparent owner for, and must be indemnified by the state against, any claim arising with respect to the property after the property has been delivered to the administrator.

(h) A holder is not required to deliver to the administrator a security identified by the holder as a non-freely transferable security. Upon determination by the administrator or the holder that a security is no longer a non-freely transferable security, the security shall be subsequently remitted on the next regular date prescribed for delivery of securities pursuant to this [act]. The holder shall make a determination annually whether a security identified in a report filed under Section 401 as a non-freely transferable security is no longer a non-freely transferable security.

**SECTION 604. EFFECT OF PAYMENT OR DELIVERY OF PROPERTY TO ADMINISTRATOR.**

(a) On payment or delivery of property to the administrator under this [act], the administrator as agent for the state assumes custody and responsibility for the safekeeping of the property. A holder that pays or delivers property to the administrator in good faith and who has substantially complied with Sections 501 and 502 is relieved of liability arising thereafter with respect to payment and delivery of the property to the administrator.

(b) This state shall defend and indemnify a holder against liability on a claim against the holder resulting from the payment or delivery of property to the administrator made in good faith and after the holder has substantially complied with Sections 501 and 502.

**SECTION 605. RECOVERY OF PROPERTY BY HOLDER FROM ADMINISTRATOR.**

(a) A holder that pays money to the administrator under this [act] may claim reimbursement from the administrator of the amount paid if the holder:

(1) paid the money in error; or

(2) after paying the money to the administrator, paid the money to a person the holder reasonably believed to be entitled to the money.

(b) If a claim for reimbursement under subsection (a) is made for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder must submit proof that the instrument was presented and that payment was made to a person the holder reasonably believed to be entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order.

(c) If a holder is reimbursed by the administrator under subsection (a)(2), the holder may also recover from the administrator dividends, interest or other increments under Section 607 that would have been paid to the owner if the money had been claimed from the administrator by the owner to the extent the increment was paid by the holder to the owner.

(d) A holder that delivers property other than money to the administrator under this [act] may claim the property in the possession of the administrator by filing a claim under Section 903, together with evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the administrator in error.

(e) The administrator may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this section.

(f) A holder is not required to pay a fee or other charge for reimbursement or return of property under this section.

(g) Not later than 90 days after receiving a claim from a holder under subsection (a) or (c), the administrator shall determine whether to approve or deny the claim and advise the holder in a record of the administrator's determination.

(h) Not later than 30 days after receiving the administrator's determination under subsection (g), the holder may initiate a proceeding under the [state's administrative procedures act] for review of the administrator's determination.

(i) A final decision in an administrative proceeding initiated under subsection (h) is subject to judicial review by the [court][as a matter of right in a de novo proceeding on the record in which either party is entitled to introduce evidence in addition to or as a supplement to the record].

**SECTION 606. PROPERTY REMOVED FROM SAFE-DEPOSIT BOX.** Property removed from a safe-deposit box and delivered to the administrator under this [act] is subject to the holder's right to reimbursement for the cost of opening the box and any valid lien or contract providing reimbursement to the holder for unpaid rent charges for the box. The administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the administrator in selling the property.

**SECTION 607. CREDITING DIVIDENDS, INTEREST, AND INCREMENTS TO OWNER'S ACCOUNT.** If property other than money is delivered to the administrator, the

owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold. If the property was an interest-bearing demand, savings, or time deposit, the administrator shall pay interest at the lesser of the rate of [insert legal rate] or the rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the administrator and ends on the earlier of the expiration of 10 years after its delivery or the date on which payment is made to the owner.

**SECTION 608. ADMINISTRATOR'S OPTIONS AS TO CUSTODY.**

(a) The administrator may decline to take custody of property reported under Section 401 if the administrator determines that:

(1) the property has a value less than the estimated expenses of notice and sale of the property; or

(2) taking custody of the property would be unlawful.

(b) A holder may pay or deliver property to the administrator before the property is presumed abandoned under this [act] if the holder:

(1) sends the apparent owner of the property the notice or notices required by Section 501 and conforming to Section 502 and provides the administrator evidence of the holder's compliance with this paragraph;

(2) includes with the payment or delivery a report regarding the property conforming to Section 402; and

(3) first obtains the administrator's consent in a record to accept payment or delivery.

(c) The holder must request the administrator's consent under subsection (b)(3) in a record. If the administrator fails to respond to the request not later than 30 calendar days after

receipt of the request, the administrator is deemed to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.

(d) On payment or delivery of the property under subsection (b), the property is presumed abandoned.

**SECTION 609. DISPOSITION OF PROPERTY HAVING NO SUBSTANTIAL VALUE; IMMUNITY FROM LIABILITY.**

[(a)] If the administrator takes custody of property delivered under this [act] and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the administrator may return the property to the holder or destroy or otherwise dispose of the property.

[(b) An action or proceeding may not be commenced against the state, an agency of the state, the administrator, another officer, employee, or agent of the state, or a holder for or because of an act of the administrator under this section, except for intentional misconduct or malfeasance.]

**SECTION 610. PERIODS OF LIMITATION AND REPOSE.**

(a) Expiration, before, on, or after [the effective date of this [act]], of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order does not prevent the property from being presumed abandoned or affect the duty of a holder to file a report or pay or deliver property to the administrator under this [act].

(b) The administrator may not commence an action or proceeding to enforce this [act] with respect to the reporting, payment, or delivery of property more than five years after the holder filed a non-fraudulent report with the administrator under Section 401. The parties may agree in a record to extend the limitation in this subsection.

(c) The administrator may not commence an action, proceeding, or examination with respect to a duty of a holder under this [act] more than 10 years after the duty arose.

## **[ARTICLE] 7**

### **SALE OF PROPERTY BY ADMINISTRATOR**

#### **SECTION 701. PUBLIC SALE OF PROPERTY.**

(a) Subject to Section 702, not earlier than [three] years after receipt of property that has been presumed abandoned, the administrator may sell the property.

(b) A sale under subsection (a) shall be preceded by notice to the public of:

(1) the date of sale; and

(2) a reasonable description of the property.

(c) A sale under subsection (a) shall be to the highest bidder:

(1) at public sale at a location in this state which the administrator determines to be the most favorable market for the property; or

(2) on the Internet or another forum the administrator determines is likely to yield the highest net proceeds of sale.

(d) The administrator may decline the highest bid at a sale under subsection (a) and reoffer the property for sale if the administrator determines the highest bid is insufficient.

(e) If a sale held under this section is to be conducted other than by electronic means, the administrator must publish not less than one notice of the sale at least [three] weeks but not more than [five] weeks before sale, in a newspaper of general circulation in the [county] in which the property is sold.

#### **SECTION 702. DISPOSAL OF SECURITIES.**

(a) The administrator may not sell or otherwise liquidate a security until three years after

the administrator receives the security and gives the apparent owner notice under Section 503 that the administrator holds the security.

(b) The administrator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any commercially-reasonable method.

**SECTION 703. RECOVERY OF SECURITIES OR VALUE BY OWNER.**

(a) If the administrator sells a security before the expiration of six years following delivery to the administrator, an apparent owner that makes a valid claim under this [act] of ownership of the security before the six-year period expires is entitled, at the option of the administrator, to receive:

(1) a replacement of the security; or

(2) the market value of the security at the time the claim is made, plus dividends, interest, and other increments on the security up to the time the claim is paid.

(b) Replacement of the security or calculation of market value under subsection (a) must take into account a stock split, reverse stock split, stock dividend, and similar corporate action.

(c) A person that makes a valid claim under this [act] of ownership of a security after expiration of six years following delivery of a security to the administrator is entitled to receive:

(1) the security the holder delivered to the administrator, if it is in the custody of the administrator, plus dividends, interest, and other increments on the security up to the time the claim is paid; or

(2) the net proceeds of the sale of the security, plus dividends, interest, and other increments on the security up to the time the security is sold.

**SECTION 704. PURCHASER OWNS PROPERTY AFTER SALE.** A purchaser of



property at a sale conducted by the administrator under this [act] takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or the holder. The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser.

**SECTION 705. MILITARY MEDALS.**

(a) The administrator may not sell a medal or decoration awarded for military service in the armed forces of the United States.

(b) The administrator, with the consent of the respective organization under subsection (b)(1), entity under subsection (b)(2), or agency under subsection (b)(3), may deliver a medal or decoration described in subsection (a) to be held in custody for the owner, to:

(1) a military veteran's organization qualified under Section 501(c)(19) of the Internal Revenue Code[,as amended], 26 U.S.C. §501(c)(19);

(2) the agency that awarded the medal or decoration; or

(3) a governmental entity.

(c) On delivery under subsection (b), the administrator is not responsible for safekeeping the medal or decoration.

**[ARTICLE] 8**

**ADMINISTRATION OF PROPERTY**

**SECTION 801. DEPOSIT OF FUNDS BY ADMINISTRATOR.**

(a) Except as otherwise provided in this section, the administrator shall deposit in the [general fund of the state] all funds received under this [act], including proceeds from the sale of property under [Article] 7.

(b) The administrator shall maintain an account with an amount of funds the

administrator reasonably estimates to be sufficient to pay claims allowed under this [act] [in each fiscal [year] [quarter]]. If the aggregate amount of claims by owners allowed at any time exceeds the amount held in the account, an excess claim must be paid as a priority claim out of the general funds of the state.

**SECTION 802. ADMINISTRATOR TO RETAIN RECORDS OF PROPERTY.**

The administrator shall:

(1) record and retain the name and last-known address of each person shown on a report filed under Section 401 to be the apparent owner of the property delivered to the administrator;

(2) record and retain the name and last-known address of each insured or annuitant and beneficiary shown on the report;

(3) with respect to each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company, and the amount due or paid; and

(4) with respect to each apparent owner listed in the report, record and retain the name of the holder who filed the report and the amount due or paid.

**SECTION 803. EXPENSES OF ADMINISTRATOR.** Before making a deposit of funds received under this [act] to the [general fund of the state], the administrator may deduct:

(1) expenses of disposition of abandoned property;

(2) costs of mailing and publication in connection with abandoned property;

(3) reasonable service charges; and

(4) expenses incurred in examining records of a putative holder of property and collecting property from a putative holder determined by the administrator to hold property required to be delivered to the administrator under this [act].

**SECTION 804. ADMINISTRATOR HOLDS PROPERTY AS CUSTODIAN FOR OWNER.** Property received by the administrator under this [act] is held in custody for the benefit of the owner and is not owned by the state.

**[ARTICLE] 9**

**CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR**

**SECTION 901. CLAIM OF ANOTHER STATE TO RECOVER PROPERTY.**

(a) If the administrator knows that property held by the administrator under this [act] is subject to a superior claim of another state, the administrator shall:

(1) report and pay or deliver the property to the other state; or

(2) return the property to the holder so that the holder may pay or deliver the property to the other state.

(b) The administrator is not required to enter into a formal agreement to transfer the property to the other state under subsection (a).

**SECTION 902. WHEN PROPERTY SUBJECT TO RECOVERY BY ANOTHER STATE.**

(a) Property held by the administrator under this [act] is subject to the right of another state to take custody of the property if:

(1) the property was paid or delivered to the administrator because the records of the holder did not reflect a last-known address in the other state of the apparent owner and:

(A) the other state establishes that the last-known address of the apparent owner or other person entitled to the property was in the other state; or

(B) under the law of the other state, the property has become subject to a claim of abandonment by the other state;

(2) the records of the holder did not accurately identify the owner of the property, the last-known address of the owner was in another state, and, under the law of the other state, the property has become subject to a claim of abandonment by the other state;

(3) the property was subject to the custody of the administrator of this state under Section 305 and, under the law of the state of domicile of the holder, the property has become subject to a claim of abandonment by the state of domicile of the holder; or

(4) the property:

(A) is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered to the administrator under Section 306; and

(B) under the law of the other state, has become subject to a claim of abandonment by the other state.

(b) A claim by another state to recover property under this section must be presented in a form prescribed by the administrator unless the administrator waives presentation of the form.

(c) The administrator shall decide a claim under this section not later than [90] days after it is presented. If the administrator determines that the other state is entitled under subsection (a) to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.

(d) The administrator may 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.

**SECTION 903. CLAIM FOR PROPERTY BY PERSON CLAIMING TO BE OWNER.**

(a) A person claiming to be the owner of property held by the administrator may file a claim for the property on a form prescribed by the administrator and verified by the claimant.

(b) The administrator may waive the requirement in subsection (a) to file a claim and pay or deliver property directly to a person if:

(1) the person receiving the property or payment is shown to be the same person as the apparent owner included on a report filed under Section 401;

(2) the administrator reasonably believes the person is entitled to receive the property or payment; and

(3) the property has a value of less than \$[250].

**SECTION 904. WHEN ADMINISTRATOR MUST HONOR CLAIM FOR PROPERTY.**

(a) The administrator shall pay or deliver property to a claimant under Section 903 if the administrator receives evidence sufficient to establish to the reasonable satisfaction of the administrator that the claimant is the owner of the property.

(b) Not later than [90] days after a claim is filed under Section 903, the administrator shall allow or deny the claim and give the claimant notice of the decision in a record. If the claim is denied:

(1) the administrator shall inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be allowed;

(2) the claimant may file an amended claim with the administrator or commence an action under Section 906; and

(3) the administrator shall treat an amended claim as an initial claim under this section.

## **SECTION 905. ALLOWANCE OF CLAIM FOR PROPERTY.**

(a) Not later than [30] days after a claim is allowed by the administrator under Section 904(b), the administrator shall pay or deliver to the owner the property or the net proceeds of a sale of the property, together with dividends, interest, or other increments to which the owner is entitled under Section 607. On request of the owner, the administrator may sell or liquidate a security and pay the net proceeds to the owner, even if the security had been held by the administrator for less than three years or the administrator has not complied with the notice requirements under Section 702.

(b) Property held by the administrator is subject to a claim for the payment of an enforceable debt that the owner owes in this state for:

(1) child-support arrearages, including child-support collection costs and child-support arrearages that are combined with maintenance;

(2) a civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or a final court judgment; or

(3) state [or local] taxes, penalties, and interest that have been determined to be delinquent or as to which notice has been recorded with the [Secretary of the State] [or local taxing authority].

(c) The administrator may make periodic inquiries of state [and local] agencies in the absence of a claim filed under Section 903 to determine whether apparent owners included in the unclaimed-property records of this state have enforceable debts described in subsection (b). The administrator first shall apply the property or net proceeds of a sale of property held by the administrator to a debt under subsection (b) of an apparent owner that appears in the records of the administrator and deliver the amount to the appropriate state [or local] agency. The

administrator shall notify the apparent owner of the payment.

(d) Before delivery or payment to an owner under subsection (a) of property or net proceeds of a sale of the property, the administrator first shall apply the property or net proceeds to a debt under subsection (b) the administrator has determined is owed by the owner. The administrator shall pay the amount to the appropriate state [or local] agency and notify the owner of the payment.

**SECTION 906. ACTION BY PERSON WHOSE CLAIM IS DENIED.** Not later than one year after filing a claim with the administrator under Section 903, the claimant may commence an action against the administrator in the [appropriate court] to establish a claim that has been denied or on which the administrator has not acted not later than [90] days after the filing of the claim. [On final determination of the action, the court may award reasonable attorney's fees, costs and expenses of litigation incurred by the [claimant] [prevailing party].]

## [ARTICLE] 10

### **REPORT OF PROPERTY; EXAMINATION OF RECORDS**

**SECTION 1001. REQUEST FOR REPORT OF PROPERTY.** If a person does not file a report required by Section 401 or the administrator believes that a person may have filed an inaccurate, incomplete, or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator. The report must:

- (1) state whether the person is holding property reportable under this [act];
- (2) describe property not previously reported or as to which the administrator has enquired; and
- (3) specifically identify property described under paragraph (2) as to which there is a dispute whether it is reportable under this [act] and state the amount or value of the property.

**SECTION 1002. EXAMINATION OF RECORDS TO DETERMINE**

**COMPLIANCE WITH [ACT].** The administrator, at reasonable times and on reasonable notice, may:

(1) examine the records of a person to determine whether the person has complied with this [act], including examination of appropriate records in the possession of an agent of the person under examination, if such records are reasonably necessary for the determination of compliance of the person under examination with this [act];

(2) issue an administrative subpoena requiring the person or an agent of the person to make records available for examination; and

(3) bring an action seeking judicial enforcement of the subpoena.

**SECTION 1003. RULES AND PROCEDURES FOR CONDUCTING EXAMINATION.**

(a) The administrator shall adopt rules governing procedures and standards for an examination under Section 1002, including rules for use of an estimation, extrapolation, and statistical sampling in conducting an examination.

(b) An examination under Section 1002 must be performed in accord with rules adopted under subsection (a) and with generally accepted examination practices and standards applicable to unclaimed-property examinations.

(c) If the person subject to examination under Section 1002 has filed all reports required by Section 401 and has retained the records required by Section 404, the following rules apply:

(1) The examination must include a review of the person's records.

(2) The examination may not be based on an estimate unless the person expressly consents in a record to the use of an estimate.



(3) The person conducting the examination shall consider all evidence presented by the person in good faith in preparing the findings of the examination under Section 1007.

**SECTION 1004. RECORDS OBTAINED IN EXAMINATION.** Records obtained and records, including work papers, compiled by the administrator in the course of conducting an examination under Section 1002:

(1) are subject to the confidentiality and security provisions of [Article] 14 and are not public records;

(2) may be used by the administrator in an action to collect property or otherwise enforce this [act];

(3) may be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity if the other person conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to [Article] 14;

(4) must be disclosed to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in this [article], if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to [Article] 14;

(5) must be produced by the administrator under an administrative or judicial subpoena or administrative or court order; and

(6) must be produced by the administrator on request of a person that is the subject of the examination in an administrative or judicial proceeding relating to the property.

**SECTION 1005. EVIDENCE OF UNPAID DEBT OR UNDISCHARGED**

## **OBLIGATION.**

(a) A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation.

(b) A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation with respect to debt or obligation described in subsection (a) or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.

(c) A putative holder may overcome prima facie evidence under subsection (a) by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:

(1) issued as an unaccepted offer in settlement of an unliquidated amount;

(2) issued but later was replaced with another instrument because the earlier instrument was lost or contained errors that were corrected;

(3) issued to a party affiliated with the issuer;

(4) paid, satisfied, or discharged;

(5) issued in error;

(6) issued without consideration;

(7) issued but there was a failure of consideration;

(8) voided [not later than 90 days] [within a reasonable time] after issuance for a valid business reason set forth in a contemporaneous record; or

(9) issued but was not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.

(d) In asserting a defense under this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice.

**SECTION 1006. FAILURE OF PERSON EXAMINED TO RETAIN RECORDS.**

If a person subject to examination under Section 1002 does not retain the records required by Section 404, the administrator may determine the amount of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under Section 1003(a).

**SECTION 1007. REPORT TO PERSON WHOSE RECORDS WERE**

**EXAMINED.** At the conclusion of an examination under Section 1002, the administrator shall provide to the person whose records were examined a complete and unredacted examination report, which must identify in detail:

- (1) the work performed;
- (2) the property types reviewed;
- (3) the methodology of any estimation technique, extrapolation, or statistical sampling method used in conducting the examination;
- (4) each calculation showing the value of property determined to be due; and
- (5) the findings of the person conducting the examination.

**SECTION 1008. COMPLAINT TO ADMINISTRATOR ABOUT CONDUCT OF PERSON CONDUCTING EXAMINATION.**

(a) If a person subject to examination under Section 1002 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the administrator to intervene and take remedial action the circumstances require, including countermanding the request of the person conducting the examination, imposing a time limit for completion of the

examination, or reassigning the examination to another person.

(b) If a person in a record requests a conference with the administrator to present matters that are the basis of a request for intervention under subsection (a), the administrator shall hold the conference not later than [30] days after receiving the request. The administrator may hold the conference in person, by telephone, or by electronic means.

(c) If a conference is held under subsection (b), the administrator shall provide a report in a record of the conference to the person that requested the conference not later than 30 days after the conference ends.

**SECTION 1009. ADMINISTRATOR’S CONTRACT WITH ANOTHER TO CONDUCT EXAMINATION.**

(a) In this section, an individual is “related to the administrator” if the individual is the administrator’s spouse, partner in a civil union, domestic partner, reciprocal beneficiary, child, stepchild, grandchild, parent, stepparent, sibling, step-sibling, half-sibling, aunt, uncle, niece, or nephew, spouse, partner in a civil union, domestic partner, or reciprocal beneficiary of any of them, or any other person residing in the administrator’s home.

(b) The administrator may contract with a person to conduct an examination under this [article].

(c) If the person with whom the administrator contracts under subsection (b) is:

(1) an individual, the individual must not be related to the administrator; or

(2) a business entity, the entity must not be owned in whole or in part by the administrator or an individual related to the administrator.

(d) Not less than 60 days before contracting with a person to conduct an examination for the administrator under subsection (b), the administrator shall give the person to be examined a

demand in a record to submit a report and deliver property that is subject to this [act].

(e) If the administrator contracts with a person under subsection (b):

(1) the terms of the contract may provide for compensation of the person based on a fixed fee, hourly fee, or contingent fee;

(2) a contingent fee arrangement may not provide for a payment that exceeds [10] percent of the amount or value of property paid or delivered as a result of an examination; and

(3) on request by a person subject to examination by a contractor, the administrator shall deliver to the person a complete unredacted copy of the contract between the administrator and the contractor relating to the examination and any contract between the contractor and a person employed or engaged by the contractor to conduct the examination.

(f) A contract under subsection (b) may be awarded only under [insert reference to statute regarding this state's competitive procurement of services by private contractors].

(g) A contract under subsection (b) is subject to public disclosure without redaction under [the state's freedom of information act].

**SECTION 1010. LIMIT ON FUTURE EMPLOYMENT.** The administrator or an individual employed by the administrator who participates in, recommends, or approves the award of a contract under this [article] on or after [the effective date of this [act]] may not be employed by, contracted with, or compensated in any capacity by the contractor or an affiliate of the contractor whose contract the administrator or employee participated in, recommended, or approved, for [two] years after the latest of participation in, recommendation of, or approval of the award or conclusion of the contract.

**SECTION 1011. REPORT BY ADMINISTRATOR TO STATE OFFICIAL.**

(a) Not later than three months after the end of the state fiscal year, the administrator

shall compile and submit a report to the [Governor,] [Treasurer,] [Comptroller,] [Speaker of the Senate,] [and] [Speaker of the House] which must contain the following information about property presumed abandoned for the preceding state fiscal year:

(1) the total amount and value of all property paid or delivered to the administrator under this act, separated into:

(A) the part voluntarily paid or delivered; and

(B) the part paid or delivered as a result of an examination under Section 1002, which amount must be separated into the part recovered as a result of an examination conducted by:

(i) a state employee; and

(ii) a person under contract under Section 1009;

(2) the name and amount paid to each contractor under Section 1009 and the percentage the total compensation paid to all contractors under Section 1009 bears to the total amount paid or delivered to the administrator as a result of examinations;

(3) the total amount and value of all property paid or delivered by the administrator to persons that made claims for property held by the administrator and the percentage the total payments made or value of property delivered to claimants bears to the total amounts paid or value delivered to the administrator; and

(4) the total amount of:

(A) claims made by persons claiming to be owners which were denied;

(B) claims made by persons claiming to be owners which were allowed;

and

(C) funds received and the value of property held by the administrator

subject to claims of owners.

(b) The report submitted by the administrator under subsection (a) is a public record subject to public disclosure without redaction under [the state's freedom of information act].

**SECTION 1012. DETERMINATION OF LIABILITY FOR UNREPORTED REPORTABLE PROPERTY.** If the administrator determines from an examination conducted under Section 1002 that a putative holder has failed or refused to pay or deliver property to the administrator which is reportable under this [act], the administrator shall issue a determination of the putative holder's liability to pay or deliver and provide to the putative holder notice in a record of the determination.

## [ARTICLE] 11

### **DETERMINATION OF LIABILITY; HOLDER REMEDIES**

#### **SECTION 1101. INFORMAL CONFERENCE.**

(a) Not later than 30 days after receipt of a notice of determination of liability under Section 1012, a putative holder may request an informal conference with the administrator to review the determination. Except as otherwise provided in this section, the administrator may designate an employee to act on behalf of the administrator for all purposes of this section.

(b) If a putative holder makes a timely request under subsection (a) for an informal conference:

(1) the administrator shall set a place for the conference and a time for it not later than [20] days after the date of the request;

(2) the administrator shall give the putative holder notice of the time and place of the conference;

(3) the conference may be held in person, by telephone, or by electronic means, as

determined by the administrator;

(4) the request tolls the 90-day period under Sections 1103 and 1104 until notice of a decision under paragraph (7) has been given to the putative holder or the putative holder withdraws the request for the conference;

(5) the conference may be postponed, adjourned, and reconvened as the administrator determines appropriate;

(6) the administrator or administrator's designee with the approval of the administrator may modify a determination made under Section 1012 in part or withdraw it in its entirety; and

(7) the administrator shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than [20] days after the conference ends.

(c) A conference under subsection (b) is not an administrative remedy and is not a contested case subject to the [state administrative procedures act]. An oath is not required and rules of evidence do not apply in the conference.

(d) At a conference under subsection (b), the putative holder must be given an opportunity to confer informally with the administrator and the person who examined the records of the putative holder to:

(1) discuss the determination made under Section 1012; and

(2) present any issue the putative holder raises concerning the validity of the determination.

(e) If the administrator fails to act within a period prescribed in subsection (b), the failure does not affect a right of the administrator, except that interest does not accrue on the amount for which the holder was determined to be liable under Section 1012 during the period in which the



administrator failed to act until the earlier of:

(1) the date under Section 1103 when the putative holder initiates administrative review or files an action under Section 1104; or

(2) the 90-day period for initiating administrative review under Section 1103 or filing an action under Section 1104 and no review was initiated and no action was filed.

(f) The administrator may hold an informal conference with the putative holder without a request at any time before a putative holder initiates administrative review under Section 1103 or files suit under Section 1104.

(g) Interest and penalties under section 1204 shall continue to accrue on property not reported, paid or delivered as required by this [act] following the initiation, and during the pendency, of an informal conference under this section.

**SECTION 1102. REVIEW OF DETERMINATION BY ADMINISTRATOR.** A putative holder may seek relief for a determination under Section 1012 that the putative holder believes is illegal, unjust, incorrect, or in error, in whole or in part, by seeking:

(1) administrative review of the determination under Section 1103; or

(2) judicial review of the determination under Section 1104.

**SECTION 1103. ADMINISTRATIVE REVIEW.**

(a) Not later than 90 days after receiving notice of the administrator's determination under Section 1012, a putative holder may initiate a proceeding under the [state's administrative procedures act] for review of the administrator's determination.

(b) A final decision in an administrative proceeding initiated under subsection (a) is subject to judicial review by the [court] [as a matter of right in a de novo proceeding on the record in which either party is entitled to introduce evidence in addition to or as a supplement to

the record].

#### **SECTION 1104. JUDICIAL REMEDY.**

(a) Not later than 90 days after receiving notice of the administrator's determination under Section 1012, the putative holder may:

(1) file an action against the administrator in the [court] challenging all or part of the administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or

(2) pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than six months after payment or delivery, initiate an action against the administrator in the [court] for a refund of all or part of the amount paid or return of all or part of the property delivered.

(b) If a putative holder pays or delivers property determined by the administrator to be paid or delivered to the administrator at any time after the putative holder files an action under subsection (a)(1), the court shall continue the action as if it had been filed originally as an action for a refund or return of property under subsection (a)(2).

[(c) On the final determination of an action filed under subsection (a), the court [may] [shall], on application, award to the [plaintiff] [prevailing party] its reasonable attorney's fees and expenses of litigation.]

[(c)][(d)]A putative holder that is the prevailing party in an action under subsection (a) for refund of money paid to the administrator is entitled to interest, at the same rate a holder is required to pay to the administrator under Section 1204(a), on the amount refunded, from the date paid to the administrator until the date of the refund.

[ARTICLE] 12

**ENFORCEMENT BY ADMINISTRATOR**

**SECTION 1201. JUDICIAL ACTION TO ENFORCE LIABILITY.**

(a) When a determination under Section 1012 becomes final and is not subject to administrative or judicial review, the administrator may commence an action in the [court] or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property. The action must be brought not later than [one] year after the determination becomes final.

(b) In an action under subsection (a), if no court in this state has jurisdiction over the defendant, the administrator may commence an action in a federal court or state court having jurisdiction over the defendant.

**SECTION 1202. INTERSTATE AND INTERNATIONAL AGREEMENT AND COOPERATION.**

(a) Subject to subsection (b), the administrator may:

(1) exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and

(2) authorize in a record another state or foreign country or a person acting on behalf of the other state or country to examine its records of a putative holder as provided in [Article] 10.

(b) An exchange or examination under subsection (a) may be done only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in [Article] 14 or agrees in a record to be bound by this state's confidentiality and security

requirements.

**SECTION 1203. ACTION INVOLVING ANOTHER STATE OR FOREIGN COUNTRY.**

(a) The administrator may join other states or foreign countries to examine and seek enforcement of this [act] against any person believed to be holding property reportable under this [act].

(b) On request of another state or foreign country, the [Attorney General] may commence an action on behalf of the other state or country to enforce, in this state, the law of the other state or foreign country against a putative holder of property presumed abandoned and therefore subject to a claim by the other state or country, if the other state or country agrees to pay costs incurred by the [Attorney General] in the action.

(c) The administrator may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or country on behalf of the administrator. This state shall pay all costs, including reasonable attorney's fees and expenses, incurred by the other state or foreign country in an action under this subsection.

(d) The administrator may pursue an action on behalf of this state to recover property subject to this [act] but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.

(e) The administrator may retain a private attorney in this state or another state or foreign country to commence an action to recover property on behalf of the administrator and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee, or a percentage of the amount or value of property recovered in the action.

(f) Expenses incurred by this state in an action under this section may be paid from property received under this [act] or net proceeds of the property. Expenses paid to recover property may not be deducted from the amount that is subject to a claim under this [act] by the owner.

**SECTION 1204. INTEREST AND PENALTY FOR FAILURE TO ACT IN TIMELY MANNER.**

(a) A holder that fails to report, pay, or deliver property within the time prescribed by this [act] shall pay to the administrator interest at an annual rate of [[\_] percent] [the rate of interest payable to the department of revenue of this state on delinquent taxes] on the property or value of the property from the date the property should have been reported, paid, or delivered to the administrator until reported, paid, or delivered.

(b) Except as otherwise provided in Section 1205 or 1206, the administrator may require a holder who fails to report, pay, or deliver property within the time prescribed by this [act] to pay to the administrator, in addition to interest that may be included under subsection (a), a civil penalty of \$[200] for each day the duty is not performed, up to a cumulative maximum amount of \$[5,000].

**SECTION 1205. OTHER CIVIL PENALTIES.**

(a) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this [act] or otherwise willfully fails to perform a duty imposed on the holder under this [act], the administrator may require the holder to pay the administrator, in addition to interest as provided in Section 1204(a), a civil penalty of \$[1,000] for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$[25,000], plus [25] percent of the amount or value of any property that should have been but was not reported,

paid, or delivered as a result of the evasion or failure to perform.

(b) If a holder makes a fraudulent report under this [act], the administrator may require the holder to pay to the administrator, in addition to interest as provided in Section 1204(a), a civil penalty of \$[1,000] for each day from the date the report was made until corrected, up to a cumulative maximum of \$[25,000], plus [25] percent of the amount or value of any property that should have been reported but was not included in the report or was under reported.

**SECTION 1206. WAIVER OF INTEREST AND PENALTY.** The administrator:

(1) for good cause may waive, in whole or in part, [interest under Section 1204(a) and] penalties under Section 1204(b) or 1205; and

(2) shall waive a penalty under Section 1204(b) if the administrator determines that the holder acted in good faith and without negligence.

### [ARTICLE] 13

#### **AGREEMENT TO LOCATE PROPERTY OF APPARENT OWNER HELD BY ADMINISTRATOR**

##### **SECTION 1301. WHEN AGREEMENT TO LOCATE PROPERTY**

**ENFORCEABLE.** An agreement by an apparent owner and a person, the primary purpose of which is to locate, deliver, recover, or assist in the location, delivery, or recovery of property held by the administrator, is enforceable only if the agreement:

(1) is in a record that clearly sets forth the nature of the property and the services to be provided;

(2) is signed by or on behalf of the apparent owner; and

(3) states the amount or value of the property reasonably estimated or expected to be recovered computed both before and after a fee or other compensation to be paid to the other

person has been deducted.

## **SECTION 1302. WHEN AGREEMENT TO LOCATE PROPERTY**

### **UNENFORCEABLE.**

(a) Subject to subsection (b), an agreement under Section 1301 is void and unenforceable if it is entered into during the period beginning on the date the property was paid or delivered by a holder to the administrator and ending 24 months after the payment or delivery.

(b) If a provision in an agreement described in subsection (a) applies to mineral proceeds for which compensation is to be paid to the other person based in whole or in part on a portion of the underlying minerals or mineral proceeds not then presumed abandoned, the provision is void and unenforceable regardless of when the agreement is entered into.

(c) An agreement under subsection (a) which provides for compensation in an amount that is unconscionable is unenforceable except by the apparent owner. An apparent owner that believes the compensation the apparent owner has agreed to pay is unconscionable or the administrator, acting on behalf of an apparent owner, or both, may commence an action to reduce the compensation to the maximum amount that is not unconscionable. [The court may award reasonable attorney's fees and expenses of litigation to the prevailing party in the action.]

(d) An apparent owner or the administrator may assert that an agreement described in this section is invalid on the ground other than it provides for payment of unconscionable compensation.

(e) This section does not apply to an apparent owner's agreement with an attorney to pursue a claim for recovery of specifically identified property held by the administrator or to contest the administrator's denial of a claim for recovery of the property.

**SECTION 1303. RIGHT OF APPARENT OWNER'S AGENT TO RECOVER  
PROPERTY HELD BY ADMINISTRATOR.**

(a) An apparent owner that contracts with a person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner that is held by the administrator may appoint or designate the person as the apparent owner's agent. The appointment or designation must be in a record signed by the apparent owner.

(b) An apparent owner's agent is entitled to receive from the administrator all information concerning the property which the apparent owner would be entitled to receive, including information that would otherwise be confidential information under Section 1402.

(c) If authorized by the apparent owner, the apparent owner's agent may bring an action against the administrator on behalf of and in the name of the apparent owner.

**[ARTICLE] 14**

**CONFIDENTIALITY AND SECURITY OF INFORMATION**

**SECTION 1401. DEFINITIONS; APPLICABILITY.**

(a) In this [article], "personal information" means:

(1) information that identifies or reasonably can be used to identify an individual, such as first and last name in combination with the individual's:

(A) social security number or other government-issued number or identifier;

(B) date of birth;

(C) home or physical address;

(D) electronic-mail address or other online contact information or Internet provider address;



- (E) financial account number or credit or debit card number;
- (F) biometric data, health or medical data, or insurance information; or
- (G) passwords or other credentials that permit access to an online or other

account;

(2) personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and

(3) any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of the data or is lost or misused, would require notice or reporting under applicable federal and state privacy and data security law, whether or not the administrator or the administrator's agent is subject to the law.

(b) Provisions of this [article] applicable to the administrator also apply to an administrator's agent.

#### **SECTION 1402. CONFIDENTIAL INFORMATION.**

(a) Except as otherwise provided in this [act], the following are confidential and exempt from public inspection or disclosure:

(1) records of the administrator and the administrator's agent related to the administration of this [act];

(2) reports and records of a holder in possession of the administrator or the administrator's agent; and

(3) personal information and other information derived or otherwise obtained by or communicated to the administrator or the administrator's agent from an examination under this [act] of the records of a person.

(b) A record or other information that is confidential under law of this state other than

this [act], another state, or the United States continues to be confidential when disclosed or delivered under this [act] to the administrator or administrator's agent.

**SECTION 1403. WHEN CONFIDENTIAL INFORMATION MAY BE DISCLOSED.**

(a) The administrator, for good cause reasonably necessary for enforcement or implementation of this act, may disclose confidential information concerning property held by the administrator or the administrator's agent only to:

(1) an apparent owner or the apparent owner's personal representative, next of kin, attorney-at-law, or agent designated under Section 1303 to have the information;

(2) the personal representative of a deceased apparent owner, next-of-kin, attorney-at-law, or agent designated under Section 1303 by the deceased apparent owner or a person entitled to inherit from a deceased apparent owner;

(3) another department or agency of this state or the United States;

(4) the person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator of this state and the other state has legal requirements of confidentiality and security of records substantially equivalent to those of this state; and

(5) a person that is the subject of an examination as provided for in Section 1004(a)(6).

(b) Except as otherwise provided in Section 1402(a), the administrator shall include in published notices and on a website or database required by Section 503(b)(4) the name of each apparent owner of property held by the administrator. The administrator may include in published notices and on the website or database additional information concerning the apparent

owner's property if the administrator believes the information will assist in facilitating identification and return of property to the owner and does not disclose personal information except the home or physical address of an apparent owner.

(c) The administrator and the administrator's agent may not use confidential information provided to them or in their possession for any purpose except as expressly authorized by this [act] or required by law other than this [act].

**SECTION 1404. CONFIDENTIALITY AGREEMENT.** A person to be examined under Section 1002 may require, as a condition of disclosure of the records of the person to be examined, that each person having access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

(1) is in a form that is reasonably satisfactory to the administrator; and

(2) requires the person to comply with the provisions of this [article] applicable to the person.

**SECTION 1405. NO CONFIDENTIAL INFORMATION IN NOTICE.** Except as otherwise provided in Sections 501 and 502, a holder is not required under this [act] to include confidential information in a notice the holder is required to provide to an apparent owner under this [act].

**SECTION 1406. SECURITY OF INFORMATION.**

(a) If a holder is required to include confidential information in a report to the administrator, the information must be provided by a secure means.

(b) If confidential information in a record is provided to and maintained by the administrator and administrator's agent as required by this [act], the administrator and administrator's agent shall:

(1) implement administrative, technical and physical safeguards designed to protect the security, confidentiality, and integrity of the information as required by law of this state and federal law;

(2) protect against reasonably anticipated threats or hazards to the security, confidentiality, or integrity of the information; and

(3) protect against unauthorized access to or use of the information which could result in substantial harm or inconvenience to a holder or the holder's customers, including insureds, annuitants, or policy or contract owners or their beneficiaries.

(c) The administrator:

(1) shall, after notice and comment, adopt and implement a security plan that identifies and assesses reasonably foreseeable internal and external risks to confidential information in the administrator's possession and seeks to mitigate the risks; and

(2) shall ensure that an administrator's agent adopts and implements a similar plan with respect to confidential information in the agent's possession.

(d) The administrator and the administrator's agent shall educate and train their employees regarding the plan adopted under subsection (c).

(e) The administrator and the administrator's agent shall in a secure manner return or destroy all confidential information no longer reasonably needed under this [act].

#### **SECTION 1407. SECURITY BREACH.**

(a) Except to the extent prohibited by law other than this [act], the administrator or administrator's agent shall notify a holder as soon as practicable of:

(1) any suspected loss or misuse or an unauthorized access, disclosure, modification, or destruction of any confidential information in the possession of the

administrator or administrator's agent; and

(2) interference with operations in any system hosting or housing confidential information which:

(A) compromises the security, confidentiality, or integrity of the information; or

(B) otherwise creates a substantial risk of identity fraud or theft.

(b) Except as necessary to inform insurers, legal counsel, investigators, or others as required by law, the administrator and administrator's agent may not disclose, without the express consent in a record of the holder, an event described in subsection (a) to a person whose confidential information was supplied by the holder.

(c) If an event described in subsection (a) occurs, the administrator and the administrator's agent shall:

(1) take action necessary for the holder to understand and minimize the effects of the event and determine its scope; and

(2) cooperate with respect to:

(A) any data breach notifications required by law; and

(B) a regulatory inquiry, litigation, and other similar action.

#### **SECTION 1408. INDEMNIFICATION FOR BREACH.**

[(a) If a claim is made or action commenced arising out of an event described in Section 1407(a) relating to confidential information possessed by the administrator, this state shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:

(1) a third-party claim or action; and

(2) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or other expense, including reasonable attorney's fees and costs.]

[(a)][(b)] If a claim is made or action commenced arising out of an event described in Section 1407(a) relating to confidential information possessed by an administrator's agent, the administrator's agent shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:

(1) a third-party claim or action and

(2) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or other expense, including reasonable attorney's fees and costs.

[(b)][(c)] The administrator shall require an administrator's agent that will receive confidential information required under this [act] to maintain adequate insurance for indemnification obligations of the administrator's agent under subsection (b). The agent required to maintain the insurance shall provide evidence of the insurance to:

(1) the administrator no less frequently than annually; and

(2) the holder on commencement of an examination and annually thereafter until all confidential information is returned or destroyed under Section 1406(e).

## **[ARTICLE] 15**

### **MISCELLANEOUS PROVISIONS**

**SECTION 1501. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this uniform [act] consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**SECTION 1502. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the

Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

**SECTION 1503. TRANSITIONAL PROVISION.**

(a) An initial report filed under this [act] for property that was not required to be reported before [the effective date of this [act]], but that is required to be reported under this [act], must include all items of property that would have been presumed abandoned during the 10-year period preceding [the effective date of this [act]] as if this [act] had been in effect during that period.

(b) This [act] does not relieve a holder of a duty that arose before [the effective date of this [act]] to report, pay, or deliver property. Except as otherwise provided in Section 610, a holder that did not comply with the law governing unclaimed property before [the effective date of this [act]] is subject to applicable provisions for enforcement and penalties in effect before [the effective date of this [act]].

(c) Interest on interest-bearing property is not payable for any period before the effective date of this [act], unless authorized by law superseded by this [act].

**[SECTION 1504. SEVERABILITY.** If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

**SECTION 1505. REPEALS; CONFORMING AMENDMENTS.**

(a) . . . .

(b) . . . .

(c) . . . .

**SECTION 1506. EFFECTIVE DATE.** This [act] takes effect....