

REVISED  
DRAFT

FOR DISCUSSION ONLY

# REVISED UNIFORM UNCLAIMED PROPERTY ACT

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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February 26 – 28, 2016 Drafting Committee Meeting

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ON UNIFORM STATE LAWS

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February 9~~1~~7, 2016

## **REVISED UNIFORM UNCLAIMED PROPERTY ACT**

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**REVISED UNIFORM UNCLAIMED PROPERTY ACT**

**TABLE OF CONTENTS**

**[ARTICLE] 1  
IN GENERAL**

SECTION 101. SHORT TITLE. ....11  
SECTION 102. DEFINITIONS. ....11  
SECTION 103. APPLICABILITY TO FOREIGN TRANSACTIONS. ....1010

**[ARTICLE] 2  
PRESUMPTIONS OF ABANDONMENT**

SECTION 201. WHEN SPECIFIC PROPERTY IS PRESUMED ABANDONED. ....1212  
SECTION 202. WHEN A TAX DEFERRED OR CUSTODIAL ACCOUNT IS PRESUMED  
ABANDONED. ....14  
SECTION 203. WHEN CONTENTS OF SAFE DEPOSIT BOX PRESUMED  
ABANDONED. ....1515  
SECTION 204. WHEN STORED-VALUE CARD PRESUMED ABANDONED. ....1515  
[SECTION 205. WHEN GIFT CARD PRESUMED ABANDONED.] ....1616  
SECTION 206. WHEN OTHER PROPERTY PRESUMED ABANDONED. ....1616  
SECTION 207. WHEN RELATED PROPERTY INTEREST PRESUMED  
ABANDONED. ....1616  
SECTION 208. INDICATION OF OWNER INTEREST IN PROPERTY. ....1616  
SECTION 209. KNOWLEDGE OF DEATH OF AN INSURED OR ANNUITANT;  
INSURANCE COMPANY DUE DILIGENCE REQUIREMENTS; MASTER DEATH  
FILE SEARCHES. ....1818  
SECTION 210. RETAINED ASSET ACCOUNT FOR INSURANCE POLICY OR ANNUITY  
CONTRACT. ....2121

**[ARTICLE] 3.  
PRIORITY OF CUSTODY OF ABANDONED PROPERTY**

SECTION 301. PRIORITY RULES. ....22  
SECTION 302. ADDRESS OF APPARENT OWNER FOR THE PURPOSE OF  
ESTABLISHING PRIORITY .....22  
SECTION 303. CUSTODY IF ADDRESS OF APPARENT OWNER IN THIS STATE. ....2222  
SECTION 304. CUSTODY WHEN RECORDS SHOW TWO OR MORE ADDRESSES OF  
APPARENT OWNER. ....24  
SECTION 305. CUSTODY IF TRANSACTION OCCURRED IN THIS STATE. ....2424  
SECTION 306. CUSTODY OF TRAVELER’S CHECK AND MONEY ORDER. ....2424  
SECTION 307. ADDRESS OF PERSON ENTITLED TO THE PROCEEDS OF AN  
INSURANCE POLICY OR ANNUITY CONTRACT. ....25  
SECTION 308. ADMINISTRATOR’S BURDEN OF PROOF. ....2525  
SECTION 309. EVIDENCE OF UNPAID DEBT OR UNDISCHARGED OBLIGATION. .2525



**[ARTICLE] 4**  
**REPORT BY HOLDER ~~OF UNCLAIMED PROPERTY~~**

SECTION 401. REPORT REQUIRED BY HOLDER <del>OF UNCLAIMED PROPERTY</del> .....	2626
SECTION 402. REQUIREMENTS FOR REPORT.....	2727
SECTION 403. WHEN REPORT TO BE FILED.....	2929
SECTION 404. RETENTION OF RECORDS BY HOLDER.....	2929

**[ARTICLE] 5**  
**NOTICE TO APPARENT OWNER OF UNCLAIMED PROPERTY**

SECTION 501. NOTICE TO APPARENT OWNER BY HOLDER.....	30
SECTION 502. CONTENTS OF NOTICE BY HOLDER TO APPARENT OWNER .....	3232
SECTION 503. PROGRAM OF ADMINISTRATOR TO GIVE NOTICE TO APPARENT OWNER.....	3232
SECTION 504. COOPERATION AMONG AGENCIES TO LOCATE APPARENT OWNER.....	3434

**[ARTICLE] 6**  
**TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR**

SECTION 601. DEFINITION OF GOOD FAITH.....	3535
SECTION 602. DORMANCY CHARGE.....	3535
SECTION 603. PAYMENT OR DELIVERY OF PROPERTY TO ADMINISTRATOR.....	3636
SECTION 604. CUSTODY OF PROPERTY BY THE ADMINISTRATOR.....	37
SECTION 605. HOLDER'S REIMBURSEMENT OR RECOVERY OF PROPERTY FROM ADMINISTRATOR. ....	37
SECTION 606. DEFENSE AND INDEMNITY OF HOLDER BY STATE. ....	3838
SECTION 607. PROPERTY REMOVED FROM SAFE DEPOSIT BOX. ....	3838
SECTION 608. CREDITING DIVIDENDS, INTEREST, AND INCREMENTS TO OWNER'S ACCOUNT. ....	39
SECTION 609. ADMINISTRATOR'S OPTIONS AS TO CUSTODY.....	3939
SECTION 610. DISPOSITION OF PROPERTY HAVING NO SUBSTANTIAL VALUE; IMMUNITY FROM LIABILITY.....	39
SECTION 611. PERIODS OF LIMITATION AND REPOSE.....	4040

**[ARTICLE] 7**  
**SALE OF PROPERTY BY ADMINISTRATOR**

SECTION 701. PUBLIC SALE OF PROPERTY.....	40
SECTION 702. DISPOSAL OF SECURITIES.....	41
SECTION 703. RECOVERY OF SECURITIES OR VALUE BY OWNER.....	41
SECTION 704. PURCHASER OWNS PROPERTY AFTER SALE. ....	4242
SECTION 705. CUSTODY OF MILITARY MEDALS.....	4343

**ARTICLE 8  
DEPOSIT OF FUNDS RECEIVED BY ADMINISTRATOR**

SECTION 801. DEPOSIT OF FUNDS BY ADMINISTRATOR. ....	43
SECTION 802. ADMINISTRATOR TO RETAIN RECORDS OF PROPERTY. ....	4343
SECTION 803. EXPENSES OF ADMINISTRATOR.....	4444
SECTION 804. ADMINISTRATOR HOLDS FUNDS AND PROPERTY AS CUSTODIAN FOR OWNER. ....	4444

**[ARTICLE] 9  
CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR**

SECTION 901. CLAIM OF ANOTHER STATE TO RECOVER PROPERTY.....	45
SECTION 902. WHEN PROPERTY SUBJECT TO RECOVERY BY ANOTHER STATE. ...	45
SECTION 903. CLAIM FOR PROPERTY BY PERSON CLAIMING TO BE THE OWNER.....	4747
SECTION 904. WHEN ADMINISTRATOR MUST HONOR CLAIM FOR PROPERTY. ...	4747
SECTION 905. PAYMENT TO OWNER OF CLAIM FOR PROPERTY. ....	4848
SECTION 906. WHEN HOLDER MAY RECOVER FOR INCREMENTS IN VALUE OF PROPERTY. ....	49
SECTION 907. COURT ACTION BY PERSON WHOSE CLAIM IS DENIED.....	4949

**[ARTICLE] 10  
REPORT OF PROPERTY; EXAMINATION OF RECORDS**

SECTION 1001. REQUEST FOR REPORT OF PROPERTY.....	49
SECTION 1002. EXAMINATION OF RECORDS TO DETERMINE COMPLIANCE WITH [ACT].....	5050
SECTION 1003. PROCEDURES FOR CONDUCTING EXAMINATION.....	5050
SECTION 1004. RECORDS OBTAINED IN EXAMINATION. ....	5151
SECTION 1005. FAILURE OF PERSON EXAMINED TO HAVE RECORDS.....	5252
SECTION 1006. REPORT TO PERSON WHOSE RECORDS EXAMINED.....	5252
SECTION 1007. COMPLAINT TO ADMINISTRATOR ABOUT CONDUCT OF EXAMINER. ....	5353
SECTION 1008. ADMINISTRATOR MAY CONTRACT WITH ANOTHER TO CONDUCT EXAMINATION. ....	53
SECTION 1009. LIMIT ON FUTURE EMPLOYMENT. ....	5454
SECTION 1010. REPORT BY ADMINISTRATOR TO STATE OFFICIAL[S] .....	5555
SECTION 1011. DETERMINATION OF LIABILITY FOR UNREPORTED REPORTABLE PROPERTY. ....	5656
SECTION 1012. [INFORMAL CONFERENCE] [ADMINISTRATIVE REVIEW] AND JUDICIAL REVIEW .....	56

**[ARTICLE] 11.  
ENFORCEMENT BY ADMINISTRATOR**

SECTION 1101. JUDICIAL ACTION TO ENFORCE LIABILITY .....	6060
SECTION 1102. INTERSTATE AND INTERNATIONAL AGREEMENT AND COOPERATION .....	6060
SECTION 1103. JOINT AND RECIPROCAL ACTIONS WITH OTHER STATES OR FOREIGN COUNTRIES.....	61
SECTION 1104. INTEREST AND PENALTY FOR FAILURE TO REPORT .....	6262
SECTION 1105. CIVIL PENALTY FOR INTENTIONAL EVASION OF OBLIGATION..	6363
SECTION 1106. CIVIL PENALTY FOR FRAUDULENT REPORT .....	6363
SECTION 1107. WHEN ADMINISTRATOR MAY WAIVE INTEREST AND PENALTY. ....	6363

**[ARTICLE] 12.  
AGREEMENT TO LOCATE PERSON’S PROPERTY**

SECTION 1201. WHEN AGREEMENT TO LOCATE PROPERTY ENFORCEABLE.....	64
SECTION 1202. WHEN AGREEMENT TO LOCATE PROPERTY IS UNENFORCEABLE. ....	6464
SECTION 1203. RIGHT OF OWNER’S AGENT TO RECOVER PROPERTY HELD BY ADMINISTRATOR. ....	6565

**[ARTICLE] 13  
CONFIDENTIALITY OF INFORMATION**

SECTION 1301. PERSONS SUBJECT TO CONFIDENTIALITY RULES.....	66
SECTION 1302. WHAT INFORMATION IS CONFIDENTIAL.....	6666
SECTION 1303. WHEN CONFIDENTIAL INFORMATION MAY BE DISCLOSED.....	6767
SECTION 1304. CONFIDENTIALITY AGREEMENT.....	6868
SECTION 1305. NO CONFIDENTIAL INFORMATION IN NOTICE.....	6868
SECTION 1306. CONFIDENTIAL INFORMATION IN REPORT TO BE SECURE.....	6868

**[ARTICLE] 14  
MISCELLANEOUS PROVISIONS**

SECTION 1401. ADDITIONAL RULES.....	6868
SECTION 1402. UNIFORMITY OF APPLICATION AND CONSTRUCTION.....	6868
SECTION 1403. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.....	69
SECTION 1404. TRANSITIONAL PROVISION.....	6969
SECTION 1405. SEVERABILITY.....	6969
SECTION 1406. REPEALS; CONFORMING AMENDMENTS.....	7070
SECTION 1407. EFFECTIVE DATE.....	7070

1                                   **REVISED UNIFORM UNCLAIMED PROPERTY ACT**

2   **[ARTICLE] 1**

3   **IN GENERAL**

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

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

7   **Reporter’s Note**

8                   **The definition of “address” has been located when used in the Act. See Sections 302 and**  
9 **501.**

10                   (1) “Administrator” means [insert name of the state official with responsibility to  
11 administer this [act] [and includes, as appropriate, any agent acting on behalf of the  
12 administrator].

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

15                   (3) “Business association” means a for profit or nonprofit corporation, joint stock  
16 company, investment company, partnership, unincorporated association, joint venture, limited  
17 liability company, business trust, trust company, [land bank], [safe deposit company,]  
18 [safekeeping depository,] financial organization, insurance company, federally chartered entity,  
19 utility, sole proprietorship, or other business entity.

20                   **[Depository Trust Clearing Corporation was (28), is now within (~~17~~18).]**

21                   (4) “Domicile” means:

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

23                                   (B) for a business association, other than a corporation, whose formation requires

1 a filing with a state, the state of its filing;

2 (C) for a federally chartered entity [or federally registered entity], the state of its  
3 home office; and

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

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

7 **Reporter’s Note**

8 **Standard ULC definition used in other Acts.**

9  
10 (6) “Electronic mail” means any communication of information by electronic ~~mail~~means  
11 that is automatically retained and stored and may be readily accessed or retrieved.

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

14 [“529 Plan” deleted – See § 202(c)]

15 (8) “Game-related digital content” means digital content that exists only in an electronic  
16 game or electronic game platform. The term does not include an item that may be redeemed for  
17 money or another thing of reasonably ascertainable value, or otherwise monetized by the issuer.

18 The term includes:

19 (A) game-play currency with names such as a virtual wallet, even if denominated  
20 in United States currency; and

21 (B) points such as gems, tokens, gold, and similar names, and digital codes that  
22 can be redeemed only for digital items or points which can be used only within the game.

23 **Reporter’s Note**

24 **The Entertainment Software Association has suggested modifying this definition to provide**  
25 **instead:**

1  
2 **“(8) Game-related digital content means paid for and non-paid for digital**  
3 **content that may be accessed by customers within a video game or on a video**  
4 **game platform.**

5  
6 **The term includes:**

7  
8 **(i) game play currency with names such as virtual wallets even if**  
9 **denominated in United States currency;**

10  
11 **(ii) points such as gems, tokens, gold and similar names;**

12  
13 **(iii) digital codes; and**

14  
15 **(iv) virtual items used in game play unrelated to currency or points.**

16  
17 **(B) The term does not include items that:**

18  
19 **(i) may be redeemed for money under the applicable rules governing**  
20 **the video game or platform, or**

21  
22 **(ii) may be monetized by the issues for use outside of the video game**  
23 **or platform environment.”**

24  
25 **The point is that items excluded under this definition have no value to an administrator**  
26 **and have no practical means of being transferred to or used by an administrator.**

27  
28 (9) “Gift card” means a stored-value card ~~that~~the value of which does not expire and may  
29 be decreased in value only by redemption for merchandise, goods, or services, and that may not  
30 be redeemed for or converted into money or otherwise monetized by the issuer, unless required  
31 by law, and includes a prepaid commercial mobile radio service, as defined in 47 C.F.R. 20.3.

32 (10) “Holder” means a person obligated to hold for the account of, or to deliver or pay to,  
33 the owner property that is subject to this [act]. The term includes a financial intermediary that  
34 holds the property in the name of the owner if the property is a securities distribution or a  
35 security that is not held in the name of the owner on the records of the issuer.

36 (11) “Insurance company” means an association, corporation, or fraternal or mutual  
37 benefit organization, whether or not for profit, engaged in the business of providing life

1 endowments, annuities, or insurance, and includes accident, burial, casualty, credit life, contract  
2 performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice,  
3 marine, mortgage, surety, wage protection, and workers' compensation insurance.

4 (12) "Loyalty card" means a record given to a person in exchange for no direct monetary  
5 consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program  
6 which may be used or redeemed only to obtain goods or services. The term does not include a  
7 record that may be redeemed for money or otherwise monetized by the issuer.

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

### 13 Reporter's Note

14 **This will need a legislative note that states may change the list to conform to their state law.**

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

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

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

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

1 (15) “Money order” means a payment order for a pre-specified amount of money and  
2 includes an express money order and a personal money order [on which the remitter is the  
3 purchaser][purchased by an individual]. The term does not include:

4 (A) a bank money order; or

5 (B) other instrument sold by a financial organization; or

6 (C) any other instrument [on which a financial organization or insurance company  
7 is the remitter.] [sold by a financial organization if the seller has obtained the name and address  
8 of the payee.]

9 **Reporter’s Note**

10 **Changed from 1995 Act, needs to be revisited per Style Committee.**

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

13 (17) “Net card value” means the original purchase price or original issued value of a  
14 stored-value card, plus any amounts subsequently added to its original value, less amounts used  
15 and any service charge, fee, or dormancy charge permitted by law.

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

20 (19) “Owner” means a person that has a legal, beneficial, or equitable interest in property  
21 subject to this [act], or the person’s legal representative when acting on behalf of the owner. The  
22 term includes a depositor, for a deposit, a beneficiary, for a trust other than a deposit in trust, and  
23 a creditor, claimant, or payee, for other property, and includes the lawful bearer of a record

1 which may be used to obtain money, reward, or things of value.

2 **Reporter's Note**

3 **Is the trustee or the beneficiary the “owner” of trust assets?**

4 (20) “Payroll card” means a stored-value card that:

5 (A) is issued to or held by an employee by or at the direction of the employer, into  
6 which monetary value has been placed to pay wages, commissions, bonuses, or reimbursements  
7 to the employee;

8 (B) evidences an account over which the employer retains control; and

9 (C) does not discharge the employer’s obligation to the employee until withdrawn  
10 by the employee.

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

13 (22) “Property” means a fixed and certain interest in intangible property held, issued, or  
14 owed in the course of a holder’s business, or by a government, governmental subdivision,  
15 agency, or instrumentality, and all income or increments therefrom, and includes tangible  
16 property described in Section 203. The term:

17 (A) includes property referred to as or evidenced by:

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

20 (ii) a credit balance, customer’s overpayment, stored-value card, [other  
21 than a ~~payroll card~~ ~~for~~ gift card,] security deposit, refund, credit memorandum, unpaid wage,  
22 unused ticket, mineral proceeds, or unidentified remittance;

23 (iii) a security except for:

1 (I) a worthless security; or

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

6 (iv) a bond, debenture, note, or other evidence of indebtedness, except for  
7 a bond issued by the United States;

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

10 (vi) an amount due and payable under the terms of an annuity or insurance  
11 policy, including ~~policies~~ a policy providing life insurance, property and casualty insurance,  
12 workers' compensation insurance, or health and disability insurance; and

13 (vii) an amount distributable from a trust or custodial fund established  
14 under a plan to provide health, welfare, ~~[pension;]~~ vacation, severance, ~~[retirement;]~~ death,  
15 stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or  
16 similar benefits; and

17 (B) does not include:

18 (i) game-related digital content[;] ~~[[and]~~

19 (ii) loyalty cards[.][;] ~~[and]~~

20 ~~[(iii)~~ (iii) in store credits for returned merchandise [and]

21 [(iv) a gift card].

22 (23) "Putative holder" means a person believed by the administrator to be a holder until  
23 the person pays or delivers to the administrator property subject to this [act] or a determination

1 whether the person is a holder is final.

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

4 (25) “Security”[:]

5 **Alternative A**

6 (A) means:

7 (i) a share, participation, debt-obligation, or similar interest issued by a  
8 corporation, business trust, joint-stock company, or similar entity;

9 (ii) a share or similar equity interest issued by an entity registered as an  
10 investment company under the federal investment company laws;

11 (iii) an interest in a unit investment trust registered under clause (ii);

12 (iv) a face-amount certificate issued by a face-amount certificate company  
13 registered under clause (ii); and

14 (v) an interest in a partnership or limited liability company dealt in or  
15 traded on a securities exchange or in a securities market; and

16 (B) includes:

17 (i) a financial asset maintained in a securities account, but does not include  
18 physical securities held in a safe deposit box or other safekeeping repository.]; and

19 (ii) an instrument, whether certificated or uncertificated, that represents an  
20 ownership position or right to ownership in a corporation, trust, plan, or other legal entity,  
21 customer securities account held by a broker-dealer, and an interest in an investment company  
22 under the Investment Company Act of 1940.

1 **Alternative B**

2 means a security as defined in [cite to Article 8 of the Uniform Commercial Code].

3 **Reporter’s Note**

4 **These alternative provisions A and B need a Legislative Note.**

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

8 (27) “Stored-value card”:

9 (A) means a record evidencing a promise, made for consideration, by the seller or  
10 issuer of the record, that goods, services, or money will be provided to the owner of the record to  
11 the value or amount shown in the record; and

12 (B) includes:

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

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

18 (C) does not include a loyalty card or game-related digital content.

19 **Reporter’s Note**

20 **“Under protest” was deleted as it is not used in the act.**

21 (28) “Utility” means a person that owns or operates for public use a plant, equipment,  
22 real property, franchise, or license for essential public services such as:

23 (A) transmission of communications or information;

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

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

4 **Reporter’s Note**

5 **The changes made to this definition were suggested by the Style Committee.**

6 (29) “Virtual currency” means electronically stored and denominated value used as a  
7 means of payment or exchange of value that is not measured or denominated in United States  
8 currency or currency convertible into United States currency, but which may be used to trade for,  
9 purchase, acquire, or exchange for things of value, including United States currency or currency,  
10 convertible into or which may be exchanged for United States currency. The term does not  
11 include game-related digital content [or loyalty cards.]

12 **Reporter’s Note**

13 **Definition is to be coordinated with Committee on Regulation of Virtual Currency.**

14 (30) “Worthless security” means a security for which the cost of liquidation and delivery  
15 would exceed the value of the security on the date a report is due under this [act].

16 **SECTION 103. APPLICABILITY TO FOREIGN TRANSACTIONS.**

17 (a) Except as provided in subsections (b), (c) and (e), this [act] does not apply to property  
18 held, due, and owing to a person whose last-known address is in a foreign country or to property  
19 arising out of a foreign transaction in which the property is held in a foreign country or location  
20 outside the United States, if the foreign country, or a subordinate governmental unit of the  
21 foreign country, has laws that entitle the foreign country to take and hold unclaimed property of  
22 its citizens and residents which in the judgment of the administrator are essentially equivalent to  
23 the laws of this state relating to unclaimed property

1 (b) If the last-known address of an owner of property described in subsection (a) is in a  
2 foreign country that has laws relating to custody of unclaimed property which are determined by  
3 the administrator to be essentially equivalent to this [act], and the domicile of the holder is in this  
4 state, the holder may ~~remit~~pay or delivery the property to:

5 (1) the administrator of the foreign country of the last-known address of the  
6 owner and notify the administrator of this state of the ~~remittance~~payment or delivery; or

7 (2) the administrator of this state and advise the administrator that the property  
8 may be subject to a claim by the administrator in the foreign country of the owner's last-known  
9 address.

10 (c) If property described in subsection (b) has been voluntarily reported and paid to the  
11 administrator of this state by the holder under Section ~~304~~303(4), the administrator may deliver  
12 the property to the unclaimed property administrator in the foreign country or subordinate  
13 government unit of the foreign country on receipt of a record from the other administrator  
14 requesting its payment or delivery.

15 (d) A holder that delivers property to the administrator under this section is relieved from  
16 all liability with respect to the property arising under the laws of this state. This state shall  
17 defend, and ~~indemnity~~indemnify the holder, to the extent provided by Sections ~~601~~603(g) and  
18 ~~603~~606, against a claim made by a foreign country up to the amount of the property paid or  
19 delivered to the administrator.

20 (e) This section does not apply to an employee of the United States temporarily stationed  
21 outside the United States or a family member residing with the employee outside the United  
22 States. The last-known address of the employee or family member is the last-known address of  
23 the employee or family member in the United States.

1 [ARTICLE] 2

2 PRESUMPTIONS OF ABANDONMENT

3 SECTION 201. WHEN SPECIFIC PROPERTY IS PRESUMED ABANDONED.

4 ~~(Sec. 3) Subject to Section 207, property~~3) Property is presumed abandoned if it is unclaimed  
5 by the apparent owner at the time specified for the following property:

6 (1) a traveler’s check, 15 years after issuance; **3(a)(1)**

7 (2) a money order, seven years after issuance; **3(a)(2)**

8 (3) a security: **3(a)(3)**

9 (A) for an owner receiving communications from the holder by First-Class United  
10 States mail, three years after the date a mailing to the apparent owner is returned to the holder as  
11 undeliverable by the United States Postal Service, unless a mailing by First-Class United States  
12 mail during the three year period is made by the holder to the apparent owner and is not returned  
13 as undeliverable during the period;

14 (B) for an apparent owner not receiving communications from the holder by First-  
15 Class United States mail, five years after the last indication to the holder by the apparent owner  
16 of interest in the security.

17 **Reporter’s Note**

18 **Needs a comment regarding when mail is returned marked as “undeliverable.”**

19 (4) a state or municipal bond, a bearer bond, or an original-issue-discount bond, three  
20 years after the earlier of the date the bond matures or is called or the obligation to pay arises;

21 **3(a)(4)**

22 (5) a debt of a business association, three years after the obligation to pay arises.

23 (6) a demand, savings, or time deposit, including a deposit that is automatically

1 renewable three years after the earlier of maturity or the date of the last indication to the holder  
2 by the apparent owner of an interest in the property, except a deposit that is automatically  
3 renewable is deemed matured on its initial date of maturity unless the apparent owner consented  
4 in a record on file with the holder to a renewal at or about the time of the renewal; **3(a)(5)**

5 (7) money or credits owed to a customer as a result of a retail business transaction, other  
6 than in-store credit for returned merchandise, three years after the obligation accrued; **3(a)(6)**

7 (8) an amount owed by an insurance company on a life or endowment insurance policy or  
8 an annuity contract that has matured or terminated, three years after the obligation to pay arose  
9 by receipt of due proof of death as established by the records of the insurance company or, if a  
10 policy or contract has not matured by such proof of the death of the insured or annuitant, then  
11 three years after;

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

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

16 (9) property distributable by a business association in the course of dissolution one year  
17 after the property becomes distributable; **3(a)(9)**

18 (10) property held by a court, including property received as proceeds of a class action,  
19 government, governmental subdivision, agency, or instrumentality, including municipal bond  
20 interest and unredeemed principal under the administration of a paying agent or indenture  
21 trustee, one year after the property becomes distributable; **3(a)(11)**

22 (11) wages, commissions, bonuses, or reimbursements to which an employee is entitled,  
23 or other compensation for personal services, including amounts held in a payroll card, one year

1 after the amount becomes payable; **3(a)(12)**

2 (12) a deposit or refund owed to a subscriber by a utility, one year after the deposit or  
3 refund becomes payable; and **3(a)(13)**

4 (13) all other property not specified in this [article] or [articles] 202, 203, [and] 204, [and  
5 205], the earlier of three years after the owner first has a right to demand the property, or after  
6 the obligation to pay or distribute the property arises. **3(a)(15)**

7 **SECTION 202. WHEN A TAX DEFERRED OR CUSTODIAL ACCOUNT IS**  
8 **PRESUMED ABANDONED. 3(a)(14)**

9 (a) Property held in an individual retirement account or retirement health savings account  
10 that qualifies for tax deferral under the income tax laws of the United States is presumed  
11 abandoned if it is unclaimed by the apparent owner three years after the later of:

12 (1) the date a second consecutive item sent to the owner by First-Class United  
13 States mail was returned as undeliverable by the United States Postal Service, unless a  
14 subsequent item mailed to the owner by First-Class United States mail was not returned as  
15 undeliverable; or

16 (2) the date the owner becomes 70.5 years of age, if determinable by the holder,  
17 or two years after the date the holder receives proof of death of the owner in the form of a  
18 claimant's presentation of a certified death certificate, but only if the death of the owner requires  
19 mandatory distribution under the Internal Revenue Code. A holder is not required under  
20 subsection (a) to solicit a death certificate or otherwise attempt to confirm whether the apparent  
21 owner is deceased.

22 (b) Property, other than property described in subsection (a) and property held in a plan  
23 described in Section 529A of the Internal Revenue Code, held in an account or plan that qualifies

1 for tax deferral under the income tax laws of the United States is presumed abandoned if it is  
2 unclaimed by the owner three years from the later of:

3 (1) the date a second item sent to the owner by First-Class United States mail was  
4 returned as undeliverable by the United States Postal Service, unless a later mailing by First-  
5 Class United States mail to the apparent owner was not returned as undeliverable; or

6 (2) 30 years have elapsed after the date the account was opened.

7 **SECTION 203. WHEN CONTENTS OF SAFE DEPOSIT BOX PRESUMED**

8 **ABANDONED. Sec. 4** Tangible property held in a safe deposit box and proceeds from the sale  
9 of the property by the holder permitted by other [state] law are presumed abandoned if the  
10 property remains unclaimed by the apparent owner for more than five years after the earlier of  
11 the:

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

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

16 **SECTION 204. WHEN STORED-VALUE CARD PRESUMED ABANDONED.**

17 **3(a)(7)**

18 (a) A stored-value card, other than a [gift card or] payroll card, is presumed abandoned  
19 on the latest of three years after:

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

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

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

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

3 **[SECTION 205. WHEN GIFT CARD PRESUMED ABANDONED. 3(a)(16)**

4 [A gift card is presumed abandoned if it is unclaimed by the apparent owner during the  
5 later of five years after the date of purchase or its most recent use.]

6 **SECTION 206. WHEN OTHER PROPERTY PRESUMED ABANDONED. 3(c)**

7 [Unless provided otherwise in this [article] for specific property,] property is not  
8 presumed abandoned if during the applicable period in this [article], the apparent owner has  
9 indicated an interest in the property.

10 **Reporter's Note**

11 **Style asked if this Section is needed.**

12 **SECTION 207. WHEN RELATED PROPERTY INTEREST PRESUMED**

13 **ABANDONED. 3(b)** At the time property is presumed abandoned under this [article], any  
14 related property right accrued or accruing to the apparent owner as a result of the property not  
15 previously presumed abandoned is also presumed abandoned.

16 **Reporter's Note**

17 **Style asked if this Section is needed.**

18 **SECTION 208. INDICATION OF OWNER INTEREST IN PROPERTY. 3(d) See**

19 **206**

20 (a) An indication under this [~~article~~act] of an apparent owner's interest in property  
21 includes:

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

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

4 (3) presentment of a check or other instrument of payment of a dividend, interest  
5 payment, or other distribution, including evidence of a distribution made by electronic or similar  
6 means, with respect to an:

7 (A) account;

8 (B) underlying security; or

9 (C) interest in a business association;

10 (4) owner-directed activity in the account in which the property is held, including  
11 accessing the account, or a direction by the owner to increase, decrease, or otherwise change the  
12 amount or type of property held in the account;

13 (5) making a deposit into or withdrawal from an account in which the property is  
14 held, including [an automatic deposit or withdrawal previously authorized by the owner] [and]  
15 [any automatic reinvestment of dividends or interest];

16 (6) payment of a premium on an insurance policy, except that application of an  
17 automatic premium loan provision or other nonforfeiture provision contained in an insurance  
18 policy does not prevent a policy from maturing or terminating if the insured has died or the  
19 insured or the beneficiary of the policy otherwise has become entitled to the proceeds before  
20 depletion of the cash surrender value of the policy by application of the provisions; and

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

23 (b) An action by an agent or other representative of an owner, other than the holder acting

1 as the owner's agent, is presumed to have been done on behalf of the owner, and is considered an  
2 action by the owner.

3 (c) A communication with an apparent owner by a person other than the holder or the  
4 holder's representative which has not in a record identified the property to the owner is not an  
5 indication of interest in the property by the owner. **3(e)**

6 **SECTION 209. KNOWLEDGE OF DEATH OF AN INSURED OR ANNUITANT;**  
7 **INSURANCE COMPANY DUE DILIGENCE REQUIREMENTS; MASTER DEATH**  
8 **FILE SEARCHES.** With respect to an amount owed by an insurance company on a life or  
9 endowment insurance policy, the following rules apply:

10 (1) An insurance company has knowledge of death of the insured or annuitant when:

11 (A) the insurance company receives a death certificate or a court order  
12 determining that an insured or annuitant has died;

13 (B) due-diligence required under [other applicable state law or regulations relating  
14 to the business of insurance] to maintain contact with, or determine whether an insured or  
15 annuitant has died, provides an insurance company with notice and validation of the death of an  
16 insured or annuitant;

17 (C) Comparisons are conducted by an insurance company for any purpose  
18 between a death master file and the names of some or all of its insureds or annuitants and a  
19 match indicating that an insured or annuitant has died is found and the insurance company  
20 validates the death; or

21 (D) The insurer receives notice of the death of the insured or annuitant from a  
22 beneficiary, policy owner, relative of the insured, or trustee; or from a [personal representative],  
23 [executor], or other legal representative of the insured's or annuitant's estate, and validates the

1 death of an insured or annuitant.

2 (2) For purposes of a death master file comparison subject to this subsection:

3 (A) A death master file match occurs if the criteria for an exact or partial match  
4 are satisfied as provided by the law of this state; a regulation or policy adopted by the state  
5 insurance department; or, in lieu of any law, regulation or policy, standards contained in the  
6 National Conference of Insurance Legislators Model Unclaimed Life Insurance Benefits Act of  
7 2014.

8 **Reporter’s Note**

9 **The National Association of Insurance Commissioners is in the process of developing a new**  
10 **model act that may contain standards that differ from those contained in the NCOIL**  
11 **Model Act. If these standards are adopted, it may be appropriate to substitute a reference**  
12 **to standards promulgated by the NAIC.**

13  
14 (B) A death master file match does not constitute proof of death for purposes of  
15 the submission of claims to an insurance company for amounts due under an insurance policy or  
16 annuity contract. Neither a death master file match nor validation of the insured’s or annuitant’s  
17 death alters the requirements for a beneficiary, annuitant, or owner of the policy or contract to  
18 make a claim to receive proceeds under the terms of the policy or contract.

19 **Reporter’s Note**

20 **This paragraph applies to claims made by a beneficiary, annuitant or policy owner to an**  
21 **insurance company and does not apply to claims made by an unclaimed property**  
22 **administrator.**

23  
24 (C) In the absence of a provision in [state insurance laws or regulations] which  
25 sets forth a time frame for the validation of a death, a good faith effort to validate the death must  
26 be conducted and documented by the insurance company using other available records and  
27 information within [90] days after the insurance company has knowledge of the death of an  
28 insured or annuitant.

1 (D) A comparison between a death master file and the names of an insurance  
2 company's insureds or annuitants may be conducted by the [administrator] or its agent for  
3 policies or contracts in force or terminated, within the period for which a report is required by  
4 Section [8-1], only when:

5 (i) an insurance company fails to produce evidence that it has conducted  
6 any comparisons required by the law of this state, or regulations or standards adopted by the state  
7 insurance commissioner, in the manner, frequency and time period prescribed; or

8 (ii) an insurance company conducts a comparison, but an analysis of a  
9 reasonable sample of the insurance company's insureds or annuitants indicates that the insurance  
10 company failed to find a significant percentage of the matches that should have been found using  
11 the standards set forth in paragraph (2)(A). What ~~constitute~~constitutes a significant percentage  
12 of claims shall be determined based on standards promulgated jointly by the [administrator] and  
13 the [state insurance commissioner] taking into consideration recommendations of national  
14 associations of unclaimed property administrators and insurance commissioners in a manner that  
15 will promote uniformity of practice among the states.

16 (E) Before the [administrator] conducts any comparison between a death master  
17 file and the names of an insurance company's insureds or annuitants, it must:

18 (i) provide the insurance company with evidence that it , and any of its  
19 agents involved in conducting a comparison, have all data security protections in place as  
20 required by 15 CFR Part 1110, as amended, and as needed to otherwise reasonably provide for  
21 the security and confidentiality of protected information, including the names, addresses, social  
22 security numbers, or other personally identifiable information regarding the insureds, annuitants,  
23 or policy or contract owners, or their beneficiaries; and;

1 (ii) require any agent conducting a comparison to provide both the  
2 [administrator ] and the insurance company with notice of any unauthorized access, use, or  
3 disclosure of or any unauthorized access, use, disclosure, modification or destruction of any  
4 protected information or interference with system operations in any system hosting or housing  
5 the protected Information.

6 (F) An insurance company that provides or makes available protected information  
7 requested by the Administrator or its agent is relieved from any liability resulting from claims  
8 made against the insurance company as a result of any unauthorized access, use, disclosure,  
9 modification, or destruction of the protected information, that occurs when the information is  
10 within the possession or control of the administrator or its agents.

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

16 **SECTION 210. RETAINED ASSET ACCOUNT FOR INSURANCE POLICY OR**  
17 **ANNUITY CONTRACT. 3(h)(5)** If proceeds payable under a life or endowment insurance  
18 policy or annuity contract are deposited into an account with check or draft writing privileges for  
19 the beneficiary of the policy or contract and the proceeds are retained by the insurance company  
20 or its agent under a supplementary contract not involving annuity benefits other than death  
21 benefits, the policy or contract under Section 201(7) and 211 includes the assets in the account.

1 [ARTICLE] 3.

2 **PRIORITY OF CUSTODY OF ABANDONED PROPERTY**

3 **SECTION 301. PRIORITY RULES.** For the purposes of determining which state has  
4 priority for taking custody of unclaimed property that is presumed abandoned, each rule in a  
5 lower-numbered section of this [article] has priority over a rule in a higher-numbered section.

6 **Reporter's Note**

7 **This provision was suggested by Style.**

8 **SECTION 302. ADDRESS OF APPARENT OWNER FOR THE PURPOSE OF**  
9 **ESTABLISHING PRIORITY.**

10 (a) To determine the first priority state of property held for an apparent owner under this  
11 [Article] the address of an apparent owner is any description, code, or other indication of the  
12 location of the apparent owner which sufficiently identifies the state that was the last-known  
13 address of the apparent owner, regardless of whether the description, code, or indication of  
14 location is sufficient to direct the delivery of First-Class United States mail to the apparent  
15 owner. **2(1)**

16 (b) If the United States postal ZIP code associated with the apparent owner is for a post  
17 office located in this state, this state is deemed to be the state of the last-known address of the  
18 apparent owner unless other records associated with the apparent owner specifically identify the  
19 physical address of the apparent owner to be in a different state. If the address is in a different  
20 state, the different state is deemed to be the state of the last-known address of the apparent  
21 owner. **5(2)**

22 **SECTION 303. CUSTODY IF ADDRESS OF APPARENT OWNER IN THIS**  
23 **STATE. 5(1)(2)** The administrator of this state may take custody of unclaimed property that is

1 presumed abandoned, whether located in this or another state, or a foreign country, if:

2 (1) the last-known address of the apparent owner, as shown on the records of the holder,  
3 is in this state; **5(1)**

4 (2) the records of the holder do not reflect the identity of the apparent owner, but it is  
5 otherwise determinable by the administrator that the last-known address of the apparent owner is  
6 in this state; **5(2)**

7 (3) the records of the holder do not reflect the last-known address of the apparent owner,  
8 but it is otherwise determinable by the administrator that:

9 (A) the last-known address of the apparent owner in this state; or

10 (B) the holder:

11 (i) is domiciled in this state or is a government or governmental  
12 subdivision, agency, or instrumentality of this state if the state of domicile of the holder has  
13 changed, the holder's state of domicile is the state where the holder was domiciled at the time the  
14 property was presumed abandoned;

15 (ii) has not previously paid or delivered the property to the state of the  
16 last-known address of the apparent owner or other person entitled to the property; and

17 (iii) is not obligated to pay or deliver the property to that state;

18 (4) the holder voluntarily remits property to the administrator for which the last-known  
19 address of the apparent owner, as shown on the records of the holder, is a foreign country or a  
20 state that does not provide custodial taking of the property, and the holder is domiciled in this  
21 state; or] **5(4)**

22 (5) the last-known address of the apparent owner, as shown on the records of the holder,  
23 is in a state that does not provide for the custodial taking of the property, or is in a foreign

1 country, and the holder is domiciled in this state or is a government or governmental subdivision,  
2 agency, or instrumentality of this state, except that if the property is specifically exempt from  
3 custodial taking under the law of the state of the last-known address of the apparent owner, or if  
4 not, the state of domicile of the holder, the property is not subject to the custody of this state.

5 **5(5)**

6 **SECTION 304. CUSTODY WHEN RECORDS SHOW TWO OR MORE**

7 **ADDRESSES OF APPARENT OWNER. 5(2)** If records of a holder reflect two or more  
8 addresses for an apparent owner, the state of the most recently recorded address may take  
9 custody of property that is presumed abandoned, whether located in this or another state unless it  
10 appears from the records of the holder that the most recently recorded address of the apparent  
11 owner is a temporary address, in which case the other address governs.

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

13 **5(6)** The administrator of this state may take custody of property that is presumed abandoned,  
14 whether located in this or another state if:

15 (1) the transaction out of which the property arose occurred in this state;

16 (2) the holder is domiciled in a state that does not provide for the custodial taking of the  
17 property; and

18 (3) the last-known address of the apparent owner or other person entitled to the property  
19 is unknown or is in a state that does not provide for the custodial taking of the property, unless  
20 the property is exempt from custodial taking under the law of the other state.

21 **SECTION 306. CUSTODY OF TRAVELER'S CHECK AND MONEY ORDER.**

22 **5(7)** The administrator of this state may take custody of a traveler's check or money order that is  
23 presumed abandoned, whether located in this or another state if the:

1 (1) check or money order was purchased in this state; or  
2 (2) the issuer of the check or money order has its principal place of business in this state  
3 and the issuer's records:

4 (A) show that the check or money order was purchased in a state that does not  
5 provide for the custodial taking of the property; or

6 (B) do not show the state in which the check or money order was purchased.

7 **SECTION 307. ADDRESS OF PERSON ENTITLED TO THE PROCEEDS OF**  
8 **AN INSURANCE POLICY OR ANNUITY CONTRACT.** The address of the apparent owner  
9 of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the  
10 address of the insured or annuitant if a person other than the insured or annuitant is entitled to the  
11 amount owed under the policy or contract and the address of the other person entitled to the  
12 amount owed is not known by the [insurer] [insurance company] or cannot be determined from  
13 the records of the [insurer] [insurance company].

14 **SECTION 308. ADMINISTRATOR'S BURDEN OF PROOF. Sec. 7** In asserting a  
15 right of this state to take custody of unclaimed property, the administrator has the burden of  
16 proving the existence and amount of the unclaimed property and its presumed abandonment.

17 **SECTION 309. EVIDENCE OF UNPAID DEBT OR UNDISCHARGED**  
18 **OBLIGATION. Sec. 7**

19 (a) A record of a putative holder showing an unpaid debt or undischarged obligation is  
20 prima facie evidence of the debt or obligation and, subject to subsection (b), is prima facie  
21 evidence of the existence and amount of the debt or obligation.

22 (b) A putative holder may establish that there is no unpaid debt or undischarged  
23 obligation with respect to the debt or obligation described in subsection (a) or otherwise show

1 that the debt or obligation was not or no longer is a fixed and certain obligation of the putative  
2 holder by presenting evidence sufficient to overcome the prima facie evidence in subsection (a).

3 (c) The putative holder may overcome prima facie evidence under subsection (a) by  
4 showing that the check, draft, or similar instrument:

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

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

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

9 (4) was paid, satisfied, or discharged;

10 (5) was issued in error;

11 (6) was issued without consideration;

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

13 (8) was voided within a reasonable time after issuance with a contemporaneous  
14 record that indicates the reason for the voidance; or

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

17 (d) In asserting a defense to an assertion by the administrator of the right of this state to  
18 take custody of ~~unclaimed~~ property under subsection (c), a putative holder may present evidence  
19 of a course of dealing between the putative holder and the apparent owner, or of custom and  
20 practice.

21 **[ARTICLE] 4**

22 **REPORT BY HOLDER ~~OF UNCLAIMED PROPERTY~~**

23 **SECTION 401. REPORT REQUIRED BY HOLDER ~~OF UNCLAIMED~~**

1 **PROPERTY. 8(a)**

2 (a) A holder of property presumed abandoned and subject to the custody of this state shall  
3 report in a record to the administrator concerning the property. The administrator may not  
4 require a holder to submit a paper report.

5 (b) A holder may contract with a third party to report for the holder unclaimed property  
6 that is ~~deemed~~presumed abandoned under this [act]. A holder is:

7 (1) responsible to the administrator for the complete, accurate, and timely  
8 reporting of unclaimed property which is presumed abandoned; and

9 (2) liable for paying or ~~remitting~~delivering the reported property to the  
10 administrator. **3(f)**

11 (c) Property is reportable and payable or ~~distributable~~deliverable under this [act] even if  
12 the owner fails to make demand or present an instrument or document otherwise required to  
13 obtain payment.

14 **Reporter's Note**

15 **Is this the right place for this provision?**

16  
17 **SECTION 402. REQUIREMENTS FOR REPORT. 8(a)(b)**

18 (a) The report required under Section 401 must:

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

21 (2) be in an encrypted or password-protected electronic format approved by the  
22 administrator;

23 (3) protect the apparent owner's confidential information contained in the report  
24 to the extent it is required to be protected under [Article 13];

1 (4) describe the property;

2 (5) [except for a traveler's check or money order,] contain the name, if known,  
3 and last-known address, if known, and the Social Security number or taxpayer identification  
4 number, if known or readily ascertainable, of the apparent owner of property with a value of  
5 \$[50] or more;

6 **Reporter's Note**

7 **Are there different reporting requirements under federal law for traveler's checks and**  
8 **money orders? The bracketed language is in the 1995 Act.**

9  
10 (6) in the case of an amount held or owing under life or endowment insurance  
11 policy, or annuity contract, contain the full name and last-known address of the insured or  
12 annuitant and of the beneficiary;

13 **Reporter's Note**

14 **How is an endowment policy different from a life insurance policy?**

15 (7) in the case of property held or which had been held in a safe deposit box,  
16 indicate where the property is held, where it may be inspected by the administrator, and any  
17 amounts owed to the holder under Section 605;

18 (8) contain the date, if any, on which the property became payable, demandable,  
19 or returnable, and the date of the last indication by the apparent owner of interest in the property;

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

21 (10) contain other information the administrator by rule prescribes as necessary  
22 for the administration of this [act]; and

23 (11) identify the property that is a non-freely transferable security, and explain  
24 why it is a non-freely transferable security.

25 (b) A holder may report under subsection (a) items valued under \$[50] each in the

1 aggregate. If the holder reports items valued under \$[50] each in the aggregate, the administrator  
2 may not require the holder to provide the name and address of an apparent owner of an item  
3 unless the information is necessary to verify or process a claim in progress by the owner.

4 (c) The report under Section 401 may include sensitive, nonpublic personal information  
5 about the owner or the owner's property. **8(b)**

6 (d) If a holder ~~of unclaimed property which is presumed abandoned~~ has changed its name  
7 while holding ~~the~~ property presumed abandoned, or is a successor to another person who  
8 previously held the property for the apparent owner, the holder shall file with the report under  
9 Section 401 its former name, or the name of the former holder, if any, and the known name and  
10 address of each previous holder of the property. **8(c)**

11 **SECTION 403. WHEN REPORT TO BE FILED. 8(d)(e)**

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

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

18 (c) Before the date for filing the report required under Section 401, the holder of property  
19 presumed abandoned may request the administrator to extend the time for filing. The  
20 administrator may grant an extension for good cause. If the extension is granted, the holder may  
21 pay or make a partial payment of the amount the holder estimates ultimately will be due. The  
22 payment or partial payment terminates accrual of interest on the amount paid. **8(e)**

23 **SECTION 404. RETENTION OF RECORDS BY HOLDER. (21)**

1 (a) Except as otherwise provided in subsection (b), a holder required to file a report under  
2 Section 401 shall maintain for [10] years after the later of the date the report was filed or the last  
3 date a timely report was due to be filed the records containing:

4 (1) the information required to be included in the report;

5 (2) the date, place, and nature of the circumstances that gave rise to the property  
6 right;

7 (3) the amount or value of the property; and

8 (4) the last address of the apparent owner, if known to the holder.

9 (b) If a holder sells, issues, or provides to others for sale or issue in this state traveler's  
10 checks, money orders, or similar instruments, other than third-party bank checks, on which the  
11 holder is directly liable, the holder shall maintain for 10 years after the holder files the report  
12 under Section 401 a record of the instruments while they remain outstanding, indicating the state  
13 and date of issue.

## 14 [ARTICLE] 5

### 15 NOTICE TO APPARENT OWNER OF UNCLAIMED PROPERTY

#### 16 SECTION 501. NOTICE TO APPARENT OWNER BY HOLDER. 10(a)(1)

17 (a) Except as otherwise provided in subsection (b) and subject to subsections (c) and (d),  
18 the holder of unclaimed property which is presumed abandoned shall send notice that complies  
19 with Section 502 to the apparent owner in a format acceptable to the administrator, by First-Class  
20 United States mail, not more than 180 nor less than 60 days before filing the report required  
21 under Section 401 if:

22 (1) the holder has in its records an address for the apparent owner which the  
23 holder's records do not disclose to be not valid; [and]

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

2 [(3) the claim of the apparent owner is not barred by a statute of limitations.]

3 (b) For the purpose of giving notice by United States mail to an apparent owner under  
4 this Section, the address of the apparent owner is a location of the apparent owner sufficient to  
5 direct the delivery of First-Class United States mail to the apparent owner. **2(1)**

6 (c) If an apparent owner has consented to receive information from the holder by  
7 electronic mail, the holder may send the notice described in subsection (a) by electronic mail  
8 instead of First-Class United States mail if the holder does not have reason to believe that the  
9 apparent owner's electronic mail address is not valid. If the holder sends the notice by electronic  
10 mail and receives information indicating that the apparent owner's electronic mail address is not  
11 valid, the holder shall send the notice by First-Class United States mail to the apparent owner's  
12 last-known mailing address. **10(a)(5)**

13 (d) If an apparent owner of a security does not receive communications from the holder  
14 by First-Class United States mail, the holder shall send the notice described in subsection (a) ~~in~~  
15 ~~an~~by electronic mail not later than two years after the apparent owner's last indication of interest  
16 in the security. If the holder receives notification that the electronic mail communication was not  
17 received, or if the apparent owner does not respond to the electronic mail within [30] days, the  
18 holder shall promptly send the notice under subsection (a) to the apparent owner by First-Class  
19 United States mail, unless the apparent owner otherwise indicates an interest in the security after  
20 the electronic mail or the holder has in its records an address for the apparent owner which the  
21 holder's records disclose to be not valid. **10(a)(6)**

22 (e) If the apparent owner of a security receives communications from the holder by First-  
23 Class United States mail, the holder of a security shall give notice under section 502 if:

1 (1) two consecutive First-Class mailings to the apparent owner were returned to  
2 the holder as undeliverable by the United States Postal Service, unless a subsequent First-Class  
3 mailing to the apparent owner was not returned as undeliverable; and

4 (2) the value of the property is \$[50] or more. **10(a)(7)**

5 **SECTION 502. CONTENTS OF NOTICE BY HOLDER TO APPARENT**  
6 **OWNER. 10(a)(2)-end**

7 (a) The notice under Section 501 must contain a heading that reads substantially as  
8 follows: “The [State] of [insert name of state] requires us to notify you that your property may be  
9 transferred to the custody of the [state’s unclaimed property administrator] if you do not contact  
10 us before [insert date that is 30 days after the date of this notice.<sup>22</sup>”]

11 (b) The notice under Section 501 must:

12 (1) state ~~that~~the circumstances under which the property will be turned over to the  
13 administrator;

14 (2) state that once the property is turned over to the administrator the apparent  
15 owner must file a claim with the administrator if the apparent owner seeks return of the property;

16 (3) identify the nature and except for property which does not have a fixed and  
17 readily ascertainable value, the value of the property that is the subject of the notice; [provided  
18 that no liability shall attach to the administrator for an inaccurate valuation made in good faith.];

19 (4) state that property that is not cash may be sold by the administrator; and

20 (5) provide instructions that the apparent owner must follow to prevent the holder  
21 from reporting and turning over the property to the administrator.

22 **SECTION 503. PROGRAM OF ADMINISTRATOR TO GIVE NOTICE TO**  
23 **APPARENT OWNER. 10(b)**

1 (a) The administrator shall establish and maintain a program to give notice to apparent  
2 owners that unclaimed property which is presumed abandoned and which appears to be owned  
3 by them is held by the administrator under this [act]. Under the program, the administrator must:

4 (1) except as provided in paragraph (2), send written notice by First-Class United  
5 States mail to each apparent owner of property held by the administrator unless the administrator  
6 determines that a First-Class mailing would not be received by the apparent owner, -and, in the  
7 case of a security held in electronic form, send notice by electronic mail if the electronic mail  
8 address of the apparent owner is known to the administrator and the administrator has been  
9 notified that the apparent owner has consented to receive notification by electronic mail instead  
10 of notification by First-Class United States mail;

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

14 (3) publish notice:

15 (A) of ~~unclaimed~~ property held by the administrator every [six] months in  
16 at least one newspaper of general circulation in this state; and

17 (B) which includes:

18 (i) the total number and value of ~~unclaimed~~ property accounts  
19 received by the administrator during the preceding [six] month period taken from the reports;

20 (ii) the total number and value of claims to ~~abandoned~~ accounts  
21 paid by the administrator during the preceding [six] month period;

22 (iii) the Internet web address of the unclaimed property website  
23 maintained by the administrator;

1 (iv) a telephone number and electronic mail address a person may  
2 use to contact the administrator to inquire about or claim ~~unclaimed~~ property; and

3 (v) a statement that a person may access the Internet by use of a  
4 computer to search for unclaimed property and a computer may be available as a service to the  
5 public at a local public library; and

6 (54) maintain a website or database accessible by the public which sets forth in an  
7 electronically searchable manner the names reported to the administrator in an approved  
8 electronic format of all apparent owners for whom ~~unclaimed~~ property is being held by the  
9 administrator. **10(b)(3)**

10 (b) The website or database maintained under subsection (a)(5) must include instructions  
11 for filing a claim to ~~unclaimed~~ property with the administrator and a printable claim form with  
12 instructions for its use. **10(b)(3)**

13 (c) The administrator may undertake additional notification efforts through printed  
14 publication, telecommunication, the Internet, or other media to make the public aware of the  
15 existence of unclaimed property held by the administrator and the administrator's unclaimed  
16 property program. **10(d)**

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

18 **APPARENT OWNER. 10(e)** On the request of the administrator, each officer, agency, board,  
19 commission, division, and department of this state, any body politic and corporate created by this  
20 state for a public purpose, and each political subdivision of this state shall make its books and  
21 records available to the administrator and cooperate with the administrator to determine the  
22 current address of an apparent owner of property held by the administrator under this [act].

1 [ARTICLE] 6

2 TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR

3 SECTION 601. DEFINITION OF GOOD FAITH. (Sec. 11) In this [article],

4 payment or delivery of property is made in good faith if:

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

7 (2) the records under which the payment or delivery was made do not show that the  
8 payment or delivery failed to meet reasonable commercial standards of practice; and

9 (3) the holder made payment or delivery:

10 (A) in response to a demand by the administrator or agent of the administrator; or

11 (B) pursuant to a guidance or ruling issued by the administrator which the holder  
12 reasonably believed required the property to be reported, paid or delivered. **11(b)**

13 SECTION 602. DORMANCY CHARGE. Sec. 6 A holder may deduct from

14 ~~unclaimed~~ property required to be paid or delivered to the administrator a dormancy charge  
15 imposed by reason of the apparent owner's failure to claim the property within a specified time if  
16 there is a valid and enforceable contract in a record between the holder and the apparent owner  
17 under which the holder may impose the charge, and the holder regularly imposes the charge, and  
18 does not regularly reverse or otherwise cancel the charge. The amount of the deduction is limited  
19 to an amount that is not unconscionable considering all relevant factors, including the marginal  
20 transactional costs incurred by the holder in maintaining the apparent owner's property and any  
21 services received by the apparent owner.

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

2   **ADMINISTRATOR. (Sec. 9)**

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

5           (b) If property in a report under Section 401 is an automatically renewable deposit and a  
6 penalty or forfeiture in the payment of interest would result from paying the deposit to the  
7 administrator at the time of the report, the date for payment of the property to the administrator is  
8 extended until a penalty or forfeiture no longer would result from payment. ~~The, provided that~~  
9 the holder ~~shall inform~~informs the administrator of the extended date.

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

12          (d) If property reported to the administrator under Section 401 is a security [or security  
13 entitlement], the administrator may make an endorsement, instruction, or entitlement order on  
14 behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities  
15 intermediary to transfer the security, or may dispose of the security [or the security entitlement]  
16 under Section 702.

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

20          (f) The administrator shall establish procedures for the registration and issuance, method  
21 of delivery, transfer, and maintenance of securities [and security entitlements] delivered to the  
22 administrator by a holder.

23          (g) An issuer, a holder, and any transfer agent or other person acting under instructions of

1 and on behalf of the issuer or holder in accordance with this section is not liable to the apparent  
2 owner for, and must be indemnified by the administrator against, any claims arising with respect  
3 to the property after the property has been delivered to the administrator.

4 (h) The holder is not required to deliver to the administrator a security identified by a  
5 holder as a non-freely transferable security. Not later than 10 days after the administrator or  
6 holder determines that the security is no longer a non-freely transferable security, the holder  
7 must deliver the security to the administrator.

8 **SECTION 604. CUSTODY OF PROPERTY BY THE ADMINISTRATOR.** On  
9 payment or delivery of property to the administrator, the administrator as agent for the state  
10 assumes custody and responsibility for the safekeeping of the property. A holder who pays or  
11 delivers property to the administrator in good faith and in substantial compliance with  
12 ~~Section~~Sections 501 and 502 of this [act] is relieved of liability arising thereafter with respect to  
13 payment and delivery of the property to the administrator. **11(a)**

14 **SECTION 605. HOLDER'S REIMBURSEMENT OR RECOVERY OF**  
15 **PROPERTY FROM ADMINISTRATOR. 11(c)(d)(e)(f)(g)**

16 (a) A holder that has made a payment to the administrator under this [act] may thereafter  
17 make payment of the property to a person reasonably believed by the holder to be the owner of  
18 the property, and having made the payment the holder may claim reimbursement from the  
19 administrator

20 (b) If a claim for reimbursement under subsection (a) is made for a payment made on a  
21 negotiable instrument, including a traveler's check or money order, the holder must submit proof  
22 that the instrument was presented and that payment was made to a person the holder reasonably  
23 believed to be entitled to payment. The holder may claim reimbursement even if the payment

1 was made to a person whose claim was made after the expiration of a period of limitation on the  
2 owner's right to receive or recover property, whether specified by contract, statute, or court  
3 order.

4 (c) A holder that has delivered property other than money to the administrator under this  
5 [act] may claim the property still in the possession of the administrator, without paying a fee or  
6 other charge, by filing a claim under Section 903 together with evidence ~~proving~~sufficient to  
7 establish that the apparent owner has claimed the property from the holder.

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

11 **SECTION 606. DEFENSE AND INDEMNITY OF HOLDER BY STATE. 11(g)**

12 If a holder pays or delivers property to the administrator in good faith and after payment  
13 or delivery a person claims the property from the holder, or if another state or foreign country  
14 claims the property from the holder under its law relating to unclaimed property, the  
15 administrator on receipt in a record of notice of the claim, shall defend the holder against the  
16 claim and indemnify the holder against any liability on the claim resulting from payment or  
17 delivery of the property to the administrator.

18 **SECTION 607. PROPERTY REMOVED FROM SAFE DEPOSIT BOX. 11(h)**

19 The administrator receives property removed from a safe deposit box under Section 203 subject  
20 to the holder's right to reimbursement for the cost of the opening and to any valid lien or contract  
21 providing reimbursement to the holder for unpaid rent charges for the box. The administrator  
22 shall reimburse the holder from the proceeds remaining after deducting the expense incurred by  
23 the administrator in selling the property.

1           **SECTION 608. CREDITING DIVIDENDS, INTEREST, AND INCREMENTS TO**  
2 **OWNER’S ACCOUNT. (12)** If property other than money is delivered to the administrator,  
3 the owner is entitled to receive from the administrator income or gain realized or accrued on the  
4 property before sale of the property. If the property was an interest-bearing demand, savings, or  
5 time deposit, the administrator shall pay interest at the lesser of the rate of [insert legal rate] or  
6 the rate the property earned while in the possession of the holder. Interest begins to accrue when  
7 the property is delivered to the administrator and ends on the earlier of the expiration of 10 years  
8 after its delivery or the date on which payment is made to the owner.

9           **SECTION 609. ADMINISTRATOR’S OPTIONS AS TO CUSTODY. (17)**

10           (a) The administrator may decline to take custody of property reported under Section 401  
11 if the administrator determines that the property has a value less than the estimated expenses of  
12 notice and sale of the property.

13           (b) With the consent in a record of the administrator, and on conditions and terms  
14 prescribed by the administrator, a holder may [report and] pay or deliver unclaimed property  
15 before the property is presumed abandoned. Property so delivered must be held by the  
16 administrator, but is not presumed abandoned until it otherwise would be presumed abandoned  
17 under this [act].

18           **SECTION 610. DISPOSITION OF PROPERTY HAVING NO SUBSTANTIAL**  
19 **VALUE; IMMUNITY FROM LIABILITY. (18)**

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

5 (b) Except for intentional misconduct or malfeasance, an action or proceeding may not be  
6 maintained against this state or any agency of this state, or any officer, employee, or agent of this  
7 state, or against a holder for or because of an act of the administrator under this section.

8 **SECTION 611. PERIODS OF LIMITATION AND REPOSE. (19)**

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

13 (b) The administrator may not commence an action or proceeding to enforce this [act]  
14 with respect to the reporting, payment, or delivery of ~~unclaimed~~ property under this [act] more  
15 than five years after the holder specifically identified the property in a report under Section 401  
16 filed with the administrator, or gave notice in a record to the administrator that specifically  
17 identified property was considered by the holder not to be subject to the provisions of this ~~[act]~~.  
18 The parties may agree in a record to extend the limitation in this subsection.

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

21 **[ARTICLE] 7**

22 **SALE OF PROPERTY BY ADMINISTRATOR**

23 **SECTION 701. PUBLIC SALE OF PROPERTY. (13(a)-(e))**

1 (a) Subject to Section 702, not later than three years after receipt of property that has  
2 been presumed abandoned, the administrator shall sell the property to the highest bidder at public  
3 sale at a location in this state which the administrator determines to be the most favorable market  
4 for the property.

5 (b) The administrator may conduct the sale on the Internet or another forum the  
6 administrator determines is likely to yield the highest net proceeds of sale.

7 (c) The administrator may decline the highest bid and reoffer the property for sale if the  
8 administrator determines the highest bid to be insufficient.

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

13 **SECTION 702. DISPOSAL OF SECURITIES. (13(f)(g))**

14 (a) The administrator may not sell or otherwise liquidate a security until three years after  
15 the administrator has received the security and given the apparent owner notice under Section  
16 503 that the administrator holds the security.

17 (b) The administrator may not sell a security listed on an established stock exchange for  
18 less than the price prevailing on the exchange at the time of sale. A security not listed on an  
19 established exchange may be sold by any other commercially reasonable method selected by the  
20 administrator.

21 **SECTION 703. RECOVERY OF SECURITIES OR VALUE BY OWNER. 13(h)(i)**

22 (a) If the administrator sells a security before the expiration of six years after delivery to  
23 the administrator, a person making, before the end of the six-year period, a claim of ownership of

1 the security which the administrator determines to be valid under this [act], is entitled, at the  
2 option of the administrator, [and less a deduction for expenses of sale,] to receive:

3 (1) an equal number of shares; or

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

6 (b) The market value of the security under subsection (a) must be calculated in a manner  
7 that places the owner in the same or similar position as if the security had never been sold. The  
8 calculation must take into account a stock split, a reverse stock split, and stock dividend or other  
9 transaction that would have affected the value of the security. If the security was acquired by  
10 another company in exchange for:

11 (1) cash, the owner is entitled to the cash the owner would have received on  
12 exchange of the security; or

13 (2) another security, the owner is entitled to the shares or market value of the  
14 security that the owner would have received on exchange of the security.

15 (c) A person making, after the expiration of the six-year period, a claim of ownership of a  
16 security determined under this [act] to be valid, is entitled to receive:

17 (1) the security the holder delivered to the administrator, if it is in the custody of  
18 the administrator, plus dividends, interest, and other increment on the security up to the time the  
19 payment is made; or

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

22 **SECTION 704. PURCHASER OWNS PROPERTY AFTER SALE. 13(j) A**

23 purchaser of property at a sale conducted by the administrator under this [act] takes the property

1 free of all claims of the owner, a previous holder, or of a person claiming through or under either  
2 of them, and the administrator shall indemnify the purchaser from any loss resulting from a  
3 successful claim. The administrator shall execute all documents necessary to complete the  
4 transfer of ownership to the purchaser.

5 **SECTION 705. CUSTODY OF MILITARY MEDALS. 13(k)** The administrator  
6 may not sell a medal or decoration for military service in the armed forces of the United States.  
7 The administrator may deliver the medal or decoration to a military veteran’s organization  
8 qualified under Section 501(c)(19) of the Internal Revenue Code to hold as custodian for the  
9 owner.

10 **ARTICLE 8**

11 **DEPOSIT OF FUNDS RECEIVED BY ADMINISTRATOR**

12 **SECTION 801. DEPOSIT OF FUNDS BY ADMINISTRATOR. 14(a)**

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

16 (b) The administrator shall maintain an account with an amount of funds the  
17 administrator reasonably estimates to be sufficient to pay claims allowed under this [act] [in each  
18 calendar [quarter]]. If the aggregate amount of claims by owners allowed at any time exceeds  
19 the amount held in the account, excess claims must be paid as priority claims out of the general  
20 funds of this state.

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

22 **14(b)** The administrator shall:

23 (1) record and retain the name and last-known address of each person shown on a

1 holder's report filed under Section 401 to be the apparent owner entitled to the property  
2 delivered to the administrator;

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

5 (3) with respect to each policy of insurance or annuity contract listed in the report of an  
6 insurance-~~or annuity~~ company, its number, the name of the company, and the amount [due]  
7 [paid].

8 **SECTION 803. EXPENSES OF ADMINISTRATOR.** 14(c) Before making a deposit  
9 of funds received under this [act] to the general fund, the administrator may deduct:

10 (1) expenses of sale of abandoned property;

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

12 (3) reasonable service charges; and

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

16 **SECTION 804. ADMINISTRATOR HOLDS FUNDS AND PROPERTY AS**

17 **CUSTODIAN FOR OWNER.** (14)(d) Funds and other property received by the administrator

18 under this [act] are held in custody for the benefit of the owner and do not belong to the state.

19 This state waives any right to assert sovereign immunity to avoid payment of a claim to the funds

20 or property.

21 **Reporter's Note**

22 **This section will need a legislative note to the effect that the bill drafter should consider**  
23 **also amending any separate or catch-all sovereign immunity provision the state may have.**

24

1 [ARTICLE] 9

2 CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR

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

4 15(a)(b)

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

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

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

10 ~~—(b) Except for securing an indemnity agreement under Section 902(c), the~~ (b) The  
11 administrator is not required to enter into a formal agreement or record to transfer the property to  
12 the correct state.

13 SECTION 902. WHEN PROPERTY SUBJECT TO RECOVERY BY ANOTHER  
14 STATE. 15(c)(d)(e)

15 (a) Property held in the custody of the administrator of this state under this [act] may be  
16 subject to the right of another state to take custody of the property if:

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

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

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



1 section, to agree to indemnify this state and its officers and employees against any liability on a  
2 claim to the property.

3 **SECTION 903. CLAIM FOR PROPERTY BY PERSON CLAIMING TO BE THE**  
4 **OWNER. 16(a and b)**

5 (a) A person~~[, other than another state,]~~ claiming to be the owner of property or otherwise  
6 lawfully entitled to recover the property held by the administrator may file a claim for the  
7 property on a form prescribed by the administrator and verified by the claimant.

8 **Reporter's Note**

9 ~~**Are there any circumstances when a state may be the owner of property held by another**~~  
10 ~~**state?**~~

11  
12 (b) The administrator may waive the requirement in subsection (a) to file a claim and pay  
13 or deliver property directly to a person if:

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

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

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

19 **SECTION 904. WHEN ADMINISTRATOR MUST HONOR CLAIM FOR**  
20 **PROPERTY. 16(c and d)**

21 (a) The administrator must pay or deliver property to a claimant under Section 903 if the  
22 administrator has ~~been given~~received evidence sufficient to establish to the reasonable  
23 satisfaction of the administrator that the claimant is the owner of the property.

24 (b) Not later than 90 days after a claim is filed, the administrator shall allow or deny the  
25 claim and give written notice of the decision to the claimant. If the claim is denied, the

1 administrator shall inform the claimant of the reason for the denial and specify what additional  
2 evidence, if any, is required before the claim will be allowed. The claimant may thereafter file  
3 an amended claim with the administrator or maintain an action under Section ~~906~~907. In this  
4 section, an amended claim is treated as an initial claim.

5 **SECTION 905. PAYMENT TO OWNER OF CLAIM FOR PROPERTY. 16(e and**  
6 **f)**

7 (a) Not later than 30 days after a claim is allowed by the administrator under Section  
8 904(b), the administrator shall pay or deliver the property or the net proceeds of a sale of the  
9 property to the claimant, together with dividends, interest, or other increments to which the  
10 claimant is entitled under Section ~~606~~608.

11 (b) Before making delivery or payment to the claimant under subsection (a), the  
12 administrator shall:

13 (1) determine, by making inquiry of appropriate agencies in this state, whether  
14 there are legally enforceable debts that the claimant owes for:

15 (A) child support arrearages, including child support collection costs and  
16 child support arrearages that are combined with maintenance;

17 (B) civil or criminal fines, court costs, surcharges, or restitution imposed  
18 by final court judgment; or

19 (C) state or local taxes, penalties, and interest that have been determined to  
20 be deficient and are delinquent, or as to which notice has been recorded with the [Secretary of  
21 the State]; and

22 (2) withhold from delivery or payment to the claimant and deliver to the  
23 appropriate agency an amount sufficient to discharge the debts the administrator determines to be



1 property as to which there is a dispute whether it is reportable under this [act].

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

3 **COMPLIANCE WITH [ACT]. 20(b)** The administrator, at reasonable times and on  
4 reasonable notice, may:

5 (1) examine the records of a person to determine whether the person has complied with  
6 this [act];

7 (2) issue an administrative subpoena requiring that records of the person be made  
8 available for examination;

9 (3) bring an action seeking judicial enforcement of the subpoena; and

10 (4) conduct the examination even if the person subject to the examination believes it is  
11 not in possession of property that must be reported, paid, or delivered under this [act].

12 **SECTION 1003. PROCEDURES FOR CONDUCTING EXAMINATION.**

13 **20(k)(1)(o)**

14 (a) The administrator shall promulgate rules governing procedures and standards for an  
15 examination under Section 1002, including rules for use of estimations, extrapolations, and  
16 statistical sampling in conducting an examination.

17 (b) An examination under this [Article] must be performed in accordance with generally  
18 accepted examination practices and standards applicable to unclaimed property examinations.

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

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

23 (2) The examination may not be based on an estimate unless the person expressly

1 consents in a record to the use of an estimate.

2 (3) The examiner shall consider all evidence presented in good faith by the person  
3 to remediate the findings of the examination. **20(o)**

4 **SECTION 1004. RECORDS OBTAINED IN EXAMINATION. 20(j)**

5 (a) Records obtained and records, including work papers compiled by the administrator in  
6 the course of conducting an examination under Section 1002:

7 (1) are subject to the confidentiality provisions of [Article] 13, and are not public  
8 records;

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

11 (3) may be used in a joint examination conducted with or pursuant to an  
12 agreement with another state, the federal government, a foreign country or subordinate  
13 governmental unit of a foreign country or any other governmental subdivision, agency, or  
14 instrumentality if the other governmental entity is legally bound to maintain the confidentiality  
15 of information obtained from a person subject to examination in a manner substantially  
16 equivalent to [Article] 13;

17 (4) must be disclosed to the administrator of another state for that state's use in  
18 circumstances equivalent to circumstances described in this [Article], if the other state is required  
19 to maintain the confidentiality of information obtained in a manner substantially equivalent to  
20 [Article] 13;

21 (5) must be produced by the administrator pursuant to an administrative or  
22 judicial subpoena or administrative or court order; and

23 (6) must be produced by the administrator on request of the holder in an

1 administrative or judicial proceeding relating to the property.

2 **SECTION 1005. FAILURE OF PERSON EXAMINED TO HAVE RECORDS.**

3 **20(n)** If a person subject to examination under Section 1002 has not maintained the records  
4 required by Section 404, the administrator may determine the amount, if any, of property due  
5 using a reasonable method of estimation based on all information available to the administrator,  
6 including extrapolation and the use of statistical sampling when appropriate and necessary,  
7 consistent with examination procedures and standards promulgated by rule under Section 1003.

8 **SECTION 1006. REPORT TO PERSON WHOSE RECORDS EXAMINED. 20(m)**

9 At the conclusion of an examination under Section 1002, the administrator must provide to the  
10 person whose records were examined a complete and unredacted record of the examination  
11 report, which must identify in detail:

12 (1) the work performed;

13 (2) the property types reviewed;

14 (3) the methodology of any estimation technique, extrapolation, and statistical sampling  
15 methods used in conducting the examination;

16 (4) each calculation showing the amount of property determined to be due; and

17 (5) the examiner's findings.

1           **SECTION 1007. COMPLAINT TO ADMINISTRATOR ABOUT CONDUCT OF**  
2 **EXAMINER. 20(p)** If a person subject to examination under this [article] believes the person  
3 conducting the examination is making unreasonable or unauthorized requests, or is not  
4 proceeding expeditiously to complete the examination, the person in a record may ask the  
5 administrator to intervene and take such remedial action as the circumstances require, including  
6 countermanding the requests of the examiner, imposing a time limit for completion of the  
7 examination, or reassigning the examination to another person. If the person in a record seeks a  
8 conference with the administrator to present matters that are the basis of the request for  
9 interventions, the administrator must hold the conference. The conference may be held in  
10 person, telephonically, or by other electronic means.

11           **SECTION 1008. ADMINISTRATOR MAY CONTRACT WITH ANOTHER TO**  
12 **CONDUCT EXAMINATION. 20(c)(d)**

13           (a) In this section, “related to the administrator” includes the administrator’s spouse,  
14 partner in a civil union, child, stepchild, grandchild, parent, stepparent, sibling, step-sibling, half-  
15 sibling, aunt, uncle, niece, or nephew, spouse or partner in a civil union of any of them, or any  
16 other person residing in the administrator’s home.

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

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

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

21                   (2) a business entity, the entity may not be owned in whole or in part by the  
22 administrator or a person related to the administrator.

23           (d) Not less than 60 days before contracting with a person to conduct an examination for

1 the administrator under subsection (b), the administrator shall give the person to be examined a  
2 demand in a record to submit a report and deliver property that may be subject to this [act].

3 (e) If the administrator contracts with another person under this section:

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

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

8 (3) on request by a person subject to examination by a contractor, the  
9 administrator must deliver to the person a complete unredacted copy of the contract between the  
10 administrator and the contractor relating to the examination and between the contractor and a  
11 person participating in conducting the examination employed or engaged by the contractor to  
12 conduct the examination.

13 (f) A contract between the administrator and another person under this section may be  
14 awarded only under [insert reference to statute regarding this state's competitive procurement of  
15 services by private contractors].

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

18 **SECTION 1009. LIMIT ON FUTURE EMPLOYMENT. 20(h)** The administrator or  
19 an individual employed by the administrator who participates in, recommends, or approves the  
20 award of a contract under this [Article] [on or after the effective date of this [act,]] may not be  
21 employed by, contracted with, or compensated in any capacity by the contractor, or an affiliate of  
22 the contractor whose contract the administrator or other employee of the administrator  
23 participated in, recommended, or approved, for [two] years after the later of participation in,

1 recommendation of, or approval of the award or conclusion of the contract.

2 **SECTION 1010. REPORT BY ADMINISTRATOR TO STATE OFFICIAL[S].**

3 **20(f)(g)**

4 (a) Not later than three months after the end of the state’s fiscal year, the administrator  
5 shall compile and submit a report to the [Governor,] [Treasurer,] [Comptroller,] [Speaker of the  
6 Senate,] [and] [Speaker of the House] which must contain the following information about  
7 unclaimed property for the preceding fiscal year:

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

10 (A) the part voluntarily paid or delivered, and

11 (B) the part paid or delivered as a result of an examination under this  
12 [Article], which amount must be separated into the:

13 (i) part recovered as a result of an examination conducted by a  
14 state employee; and

15 (ii) part recovered as a result of an examination conducted by a  
16 person under contract under Section 1008;

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

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

1 (4) the total amount of:

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

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

4 and

5 (C) funds received and value of property held by the administrator subject  
6 to claims of owners.

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

9 **SECTION 1011. DETERMINATION OF LIABILITY FOR UNREPORTED**  
10 **REPORTABLE PROPERTY. (22)(a)** If the administrator finds from an examination  
11 conducted under Section 1002 that a putative holder has failed or refused to pay or deliver  
12 property to the administrator which the administrator determines is reportable under this [act],  
13 the administrator shall issue a determination of the putative holder's liability to pay or deliver  
14 and provide to the putative holder notice in a record of the determination.

15 **SECTION 1012. [INFORMAL CONFERENCE] [ADMINISTRATIVE REVIEW]**  
16 **AND JUDICIAL REVIEW. 22(c) to end.**

17 **Alternative A**

18 (a) Not later than [30] days of receipt of a notice of determination of liability under  
19 Section 1011, the putative holder may request an informal conference with the administrator to  
20 review the determination. The conference is not an administrative remedy and is not a contested  
21 case subject to the [state administrative procedures act].

22 (b) At a conference under subsection (a), the putative holder must be given an  
23 opportunity to confer informally with the administrator or employee designated under subsection

1 (d)(3) and the person who examined the records of the putative holder to discuss the  
2 determination made under Section 1011 and present any matters for consideration that the  
3 putative holder and examiner may consider relevant to any issue raised by the putative holder  
4 concerning the validity of the determination.

5 (c) An oath shall not be required and rules of evidence do not apply in a conference under  
6 this section.

7 (d) If a timely request under subsection (a) for an informal conference has been made:

8 (1) the administrator must set a time and place for the conference, which must be  
9 held not later than [20] days after the date of the request;

10 (2) the administrator must give the putative holder requesting the conference  
11 notice of when and where the conference will be held;

12 (3) the administrator may designate an employee of the administrator's office to  
13 conduct the conference;

14 (4) the conference may be held in person, by telephone, or by other electronic  
15 means, as determined by the administrator;

16 (5) the request tolls the 90-day period under paragraph (g)(1) until notice of a  
17 decision under paragraph (8) has been given to the putative holder or the putative holder  
18 withdraws the request for the conference;

19 (6) the conference may be postponed, adjourned, and reconvened by the  
20 administrator or designee made under paragraph (3);

21 (7) the administrator or designee with the approval of the administrator may  
22 adjust a determination under Section 1011 in part or withdraw it in its entirety; and

23 (8) the administrator or designee shall issue a decision in a record and provide a

1 copy of the record to the putative holder and examiner not later than [20] days after conclusion  
2 of the conference.

3 (e) Failure of the administrator to act within a period prescribed in subsection (c) does not  
4 affect a right of the administrator, except that interest does not accrue on any amount determined  
5 to be reportable property during a period in which the administrator or designee has not acted  
6 within a period prescribed in subsection (c) until the earlier of:

- 7 (1) the time a suit under subsection (f) is filed by the putative holder; or
- 8 (2) the 90-day period for filing suit under paragraph (g)(1) has expired.

9 (f) At any time before a putative holder files suit under subsection (g), the administrator  
10 may hold a conference with the putative holder without a timely request for a conference being  
11 made by the putative holder.

12 (g) If the putative holder does not request an informal conference under subsection (a) or  
13 is not satisfied with the outcome of the conference, the putative holder may:

14 (1) within ninety (90) days after receipt of a determination of liability to pay or  
15 deliver reportable property, initiate an action against the administrator in the [court] challenging  
16 all or part of the administrator's determination of liability and seek a declaration that the  
17 determination is invalid, unlawful, or unenforceable, in whole or in part; or

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

22 (h) If the putative holder pays or is required to pay the amount or delivers the property  
23 determined to be reportable property to the administrator at any time after initiating an action for

1 a declaratory judgment under subsection (g)(1), the action will continue as if it had been  
2 originally filed as an action for refund or return of property under subsection (g)(2).

3 (h) On the final determination of a suit brought under subsection (g)(1) or (2), the court  
4 [may] [shall], on application, award to the [plaintiff] [prevailing party] its reasonable attorney's  
5 fees and expenses of litigation.

6 **Alternative B**

7 [(c) If a putative holder against which a determination of liability to pay or deliver  
8 property has been made under Section 1011 believes the determination is illegal, unjust,  
9 incorrect, or in error, in whole or in part, the putative holder, not later than [90] days after the  
10 [delivery][mailing] of the notice required under Section 1011, may initiate a proceeding for  
11 review of the determination under the [state administrative procedures act]. A final decision in  
12 the administrative proceeding is subject to judicial review by the [court] as a matter of right in a  
13 *de novo* proceeding on the record in which either party is entitled to introduce evidence in  
14 addition to or as a supplement to the record].

15 **End of alternatives**

16 [d][i] A putative holder that is the prevailing party in an action for refund of money paid  
17 to the administrator [is entitled to] [may be awarded] interest on the amount refunded from the  
18 date paid to the administrator at the same rate a holder is required to pay to the administrator  
19 under Section 1104(a).

20 **Reporter's Note**

21 **This will require a legislative note regarding choices A and B.**

1 [ARTICLE] 11.

2 ENFORCEMENT BY ADMINISTRATOR

3 SECTION 1101. JUDICIAL ACTION TO ENFORCE LIABILITY. 22(b)

4 (a) After a determination made under Section 1011 becomes final and is no longer subject  
5 to administrative or judicial review, the administrator with the approval of the Attorney General  
6 of this state may maintain an action in the [court], or in an appropriate court of another state to  
7 enforce the determination and secure payment or delivery of past due, unpaid, or undelivered  
8 ~~unclaimed~~ property. The action must be brought not later than [one] year after the date the  
9 determination becomes final.

10 (b) In an action under Subsection (a), if no court in this state has jurisdiction over the  
11 defendant, the administrator, with the approval of the Attorney General of this state, may  
12 commence an action in a federal court or a court of any other state having jurisdiction over the  
13 defendant.

14 SECTION 1102. INTERSTATE AND INTERNATIONAL AGREEMENT AND  
15 COOPERATION. 23(a)

16 (a) Subject to subsection (b), the administrator may exchange information with another  
17 state or foreign country relating to unclaimed property which is presumed abandoned or its  
18 possible existence, and the administrator may in a record authorize another state or foreign  
19 country, or a person acting on behalf of another state or foreign country, to examine its records  
20 of a putative holder as authorized in [Article] 10.

21 (b) An exchange or examination under subsection (a) may be done with another state or  
22 foreign country if the state or foreign country has statutory confidentiality requirements  
23 substantially equivalent to those in [Article] 13, or agrees in a record to be bound by this state's

1 confidentiality requirements.

2           **SECTION 1103. JOINT AND RECIPROCAL ACTIONS WITH OTHER STATES**  
3 **OR FOREIGN COUNTRIES. 23(b)(c)(d)**

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

7           (b) At the request of another state or foreign country, the Attorney General of this state  
8 may maintain an action on behalf of the other state or foreign country to enforce, in this state, the  
9 law of the other state or foreign country against a putative holder of unclaimed property which is  
10 presumed abandoned and therefore subject to a claim by the other state or foreign country, if the  
11 other state or foreign country agrees to pay expenses incurred by the Attorney General in  
12 maintaining the action.

13           (c) With the approval of the Attorney General of this state, the administrator may request  
14 the Attorney General of another state or foreign country to commence an action to recover  
15 property in the other state or foreign country on behalf of the administrator. With the approval of  
16 the Attorney General, the administrator may retain a private attorney in this state or another state  
17 or foreign country to commence an action to recover property in this state on behalf of the  
18 administrator.

19           (d) This state shall pay all expenses, including reasonable attorney's fees and expenses of  
20 litigation incurred in maintaining an action under subsection (c). The expenses may be paid from  
21 money received under this [act]. With the approval of the Attorney General, the administrator  
22 may agree to pay attorney's fees based in whole or in part on a percentage of the amount or value  
23 of property recovered in the action. Expenses paid under this subsection to recover property may

1 not be deducted from the amount that is subject to a claim by the owner under this [act].

2 **SECTION 1104. INTEREST AND PENALTY FOR FAILURE TO REPORT.**

3 **24(a)(b)**

4 (a) A holder that fails to report, pay, or deliver property within the time prescribed by this  
5 [act] shall pay to the administrator interest at an annual rate of [[\_] % percent] [two percentage  
6 points above the annual rate of discount in effect on the date the property should have been paid  
7 or delivered for the most recent issue of 52-week United States Treasury bills] [the rate of  
8 interest payable to the department of revenue of this state on delinquent taxes] on the property or  
9 value of the property from the date the property should have been reported, paid, or delivered to  
10 the administrator until paid or delivered.

11 (b) Except as otherwise provided in Section 1105 or 1106, the administrator may require  
12 a holder who fails to report, pay, or deliver property within the time prescribed by this [act] or  
13 perform other duties imposed on the holder under this [act], may be required to pay to the  
14 administrator, in addition to interest that may be included under subsection (a), a civil penalty of  
15 \$[200] for each day the duty is not performed, up to a cumulative maximum amount of \$[5,000].

1           **SECTION 1105. CIVIL PENALTY FOR INTENTIONAL EVASION OF**

2   **OBLIGATION. 24(c)** The administrator may require a holder who enters into a contract or  
3 other arrangement for the purpose of evading an obligation under this [act], ~~and~~or willfully fails  
4 to perform a duty imposed on the holder under this [act], to pay to the administrator, in addition  
5 to interest as provided in Section 1104(a), a civil penalty of \$[1,000] for each day the report,  
6 payment, or delivery is withheld or the duty is not performed, up to a cumulative maximum  
7 amount of \$[25,000], plus [25] percent of the amount or value of any property that should have  
8 been but was not reported.

9           **SECTION 1106. CIVIL PENALTY FOR FRAUDULENT REPORT. 24(d)** the

10 administrator may require a holder who makes a fraudulent report under this [act] to pay to the  
11 administrator, in addition to interest as provided in Section 1004(a), a civil penalty of \$[1,000]  
12 for each day from the date the report was made, up to a cumulative maximum of \$[25,000], plus  
13 [25] percent of the amount or value of any property that should have been but was not included  
14 in the report.

15           **SECTION 1107. WHEN ADMINISTRATOR MAY WAIVE INTEREST AND**

16 **PENALTY. 24(e)** The administrator for good cause:

17           (1) may waive, in whole or in part, [interest under Section 1104(a) and] penalties under  
18 Section 1104(b), 1105, and 1106; and

19           (2) must waive penalties under Section 1104(b) if the administrator determines that the  
20 holder acted in good faith and without negligence.

1 [ARTICLE] 12.

2 AGREEMENT TO LOCATE PERSON'S PROPERTY

3 SECTION 1201. WHEN AGREEMENT TO LOCATE PROPERTY

4 ENFORCEABLE. 25(b) An agreement between an apparent owner and another person, the  
5 primary purpose of which is to locate, deliver, recover, or assist in the location, delivery, or  
6 recovery of property that is held by the administrator is enforceable only if the agreement:

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

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

10 (3) states the amount or value of the property reasonably estimated or expected to be  
11 recovered both before and after the fee or other compensation has been deducted.

12 SECTION 1202. WHEN AGREEMENT TO LOCATE PROPERTY IS

13 UNENFORCEABLE. 25(a)(c)(d)(e)

14 (a) Subject to subsection (b), an agreement by an owner with a person, the primary  
15 purpose of which is to locate, deliver, recover, or assist in the location, delivery, or recovery of  
16 property that is held by the administrator is void and unenforceable if it was entered into during  
17 the period commencing on the date the property was paid or delivered to the administrator and  
18 extending 24 months after the payment or delivery. This subsection does not apply to an  
19 owner's agreement with an attorney to pursue a claim for recovery of specifically identified  
20 property held by the administrator or to contest the administrator's denial of a claim for recovery  
21 of the property.

22 (b) Notwithstanding the time limits in subsection (a), if a provision in an agreement in  
23 subsection (a) applies to mineral proceeds for which compensation is to be paid to the other

1 person based in whole or in part on a part of the underlying minerals or any mineral proceeds not  
2 then presumed abandoned, the provision is void and unenforceable.

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

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

11 **SECTION 1203. RIGHT OF OWNER'S AGENT TO RECOVER PROPERTY**

12 **HELD BY ADMINISTRATOR. 25(f)**

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

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

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

1 [ARTICLE] 13

2 CONFIDENTIALITY OF INFORMATION

3 SECTION 1301. PERSONS SUBJECT TO CONFIDENTIALITY RULES. 27(e)(f)

4 (a) This [article] applies to the administrator and to the employees of the administrator  
5 and to any person with whom the administrator contracts under this [act] to conduct an  
6 examination on behalf of the administrator, and to each affiliate, officer, director, owner,  
7 employee, and independent contractor of the person.

8 (b) A person subject to this [article] is subject to [the statute of the state imposing  
9 criminal penalties for violation of a requirement of maintaining confidentiality of information].

10 SECTION 1302. WHAT INFORMATION IS CONFIDENTIAL. 27(a)(b)

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

13 (1) records of the administrator and a contractor of the administrator;

14 (2) reports and records of holders; and

15 (3) information derived or otherwise obtained by or communicated to the  
16 administrator from an examination under this [act] of the records of a person.

17 (b) A record or other information that is confidential under law of this state, other than  
18 this [act], another state, or foreign country, where the property is located, or the United States,  
19 when in the possession of a person, continues to be confidential when disclosed or delivered  
20 under this [act] to the administrator or contractor of the administrator. A record or information  
21 that is confidential under law of another state or foreign country continues to be confidential  
22 when disclosed or delivered to the administrator or contractor of the administrator by that other  
23 state or foreign country or subordinate unit of the foreign country.

1           **SECTION 1303. WHEN CONFIDENTIAL INFORMATION MAY BE**

2   **DISCLOSED. 27(c)(d)**

3           (a) Confidential information concerning property held by the administrator may be  
4 disclosed only to:

5                   (1) an apparent owner or the apparent owner's personal representative, next of  
6 kin, attorney-at-law, or agent designated under Section 1203 to have the information;

7                   (2) a person entitled to inherit from a now-deceased apparent owner or the  
8 deceased apparent owner's personal representative, next-of-kin, or attorney-at-law, or agent  
9 designated under Section 1203 of the deceased owner;

10                  (3) another department or agency of this state or the federal government; and

11                  (4) the administrator of another state, or of a foreign country or subordinate  
12 governmental unit of the foreign country, if the other state or foreign country or subordinate  
13 governmental unit of the foreign country accords substantially reciprocal privileges to the  
14 administrator of this state, and the administrator reasonably believes that the other state or  
15 foreign country or subordinate governmental unit of the foreign country has and enforces legal  
16 requirements of confidentiality of records substantially equivalent to those of this state;

17           (b) Except as otherwise provided in Section 1302(b), the administrator shall include in  
18 published notices and on a website or database under Sections 503(a)(4) and (a)(4) the name of  
19 each apparent owner of property held by the administrator. The administrator may include on the  
20 website or database additional information concerning the apparent owner's property if the  
21 administrator believes the information will assist in facilitating identification and return of  
22 property to the owner and does not disclose protected confidential information.



1           **SECTION 1403. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**

2   **AND NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the  
3   Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but  
4   does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or  
5   authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15  
6   U.S.C. Section 7003(b).

7           **SECTION 1404. TRANSITIONAL PROVISION. (28)**

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

13          (b) This [act] does not relieve a holder of a duty that arose before the effective date of this  
14   [act] to report, pay, or deliver property. ~~[Except as otherwise provided in Section 608(b),]~~ a  
15   holder that did not comply with the law governing unclaimed property before the effective date  
16   of this [act] is subject to applicable provisions for enforcement and penalties in effect before the  
17   effective date.

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

20           **SECTION 1405. SEVERABILITY. (31)** If any provision of this [act] or its

21   application to any person or circumstance is held invalid, the invalidity does not affect other  
22   provisions or applications of this [act] which can be given effect without the invalid provision or  
23   application, and to this end the provisions of this [act] are severable.

1 **Legislative Note:** *Include this section only if this state lacks a general severability statute or a*  
2 *decision by the highest court of this state stating a general rule of severability.*

3

4 **SECTION 1406. REPEALS; CONFORMING AMENDMENTS.**

5 (a) . . . .

6 (b) . . . .

7 (c) . . . .

8 **SECTION 1407. EFFECTIVE DATE.** This [act] takes effect. . . .