

1 **REVISED UNIFORM UNCLAIMED PROPERTY ACT**

2 **Errata – Incorporates July 5 and July 8 changes**

3 **July 8, 2016**

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

5 (5) “Confidential information” means ~~the~~ confidential information as defined ~~described~~ in
6 Section 1402.

7 *.*.*.

8 (27) “Security” means:

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

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

16 *.*.*.

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

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

20 *.*.*.

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

22 *.*.*.

23 (b) If the apparent owner of a security does not receive communications from the holder

1 by first-class United States mail, the holder shall attempt to confirm the apparent owner's
2 interest in the security by sending the apparent owner an electronic-mail communication not later
3 than two years after the apparent owner's last indication of interest in the security.

4 **SECTION 209. WHEN RELATED PROPERTY INTEREST PRESUMED**

5 **ABANDONED.** At the time an interest is presumed abandoned under this [act], any other
6 property right accrued or accruing to the apparent owner as a result of the interest, and not
7 previously presumed abandoned, is also presumed abandoned.

8 **SECTION 302. ADDRESS OF APPARENT OWNER IN THIS STATE.** The

9 administrator may take custody of property that is presumed abandoned, whether located in this
10 state or another state, or in a foreign country ~~if the transaction involving the property was a~~
11 ~~domestic transaction~~, if:

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

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

17 *. *.*.

18 ~~**SECTION 304. HOLDER DOMICILED IN THIS STATE.** Except as otherwise~~
19 ~~provided in Section 302 or 303, the administrator may take custody of property presumed~~
20 ~~abandoned, whether located in this state, another state, or a foreign country if the transaction~~
21 ~~involving the property was a domestic transaction, if:~~

22 ~~(1) the holder:~~

23 ~~(A) is domiciled in this state or is the state or a governmental subdivision, agency,~~

1 ~~or instrumentality of this state, but if the state of domicile of the holder has changed since the~~
2 ~~time the property was presumed abandoned, the holder's state of domicile is deemed to be the~~
3 ~~state where the holder was domiciled at the time the property was presumed abandoned; and~~

4 ~~(B) has not previously paid or delivered the property to the state or foreign~~
5 ~~country of the last known address of the apparent owner or other person entitled to the property~~
6 ~~and is not obligated to pay or deliver the property to that state or foreign country;~~

7 ~~(2) the holder:~~

8 ~~(A) pays or delivers the property to the administrator where the last known~~
9 ~~address of the apparent owner, as shown on the records of the holder, is in a foreign country or a~~
10 ~~state that does not provide custodial taking of the property, and~~

11 ~~(B) is domiciled in this state; or~~

12 ~~(3) the holder is domiciled in this state or is the state or a governmental subdivision,~~
13 ~~agency, or instrumentality of this state and the last known address of the apparent owner, as~~
14 ~~shown on the records of the holder, is in a state that does not provide for the custodial taking of~~
15 ~~the property or is in a foreign country, except that the property is not subject to the custody of the~~
16 ~~administrator if:~~

17 ~~(A) the property is specifically exempt from custodial taking under the law of the~~
18 ~~state of the last known address; or~~

19 ~~(B) if subparagraph (A) does not apply and the property is specifically exempt~~
20 ~~from custodial taking under the law of the state of domicile of the holder.~~

21 **SECTION 304. HOLDER DOMICILED IN THIS STATE.**
22

23 (a) Except as otherwise provided in subsection (b) or in Section 302 or 303, the
24 administrator may take custody of property presumed abandoned, whether located in this state,

another state, or a foreign country, if the holder is domiciled in this state or is the state or a governmental subdivision, agency, or instrumentality of this state, and

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

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

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

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

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

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

,,*.

SECTION 307. BURDEN OF PROOF TO ESTABLISH ADMINISTRATOR'S RIGHT TO CUSTODY. ~~In asserting a right to take custody of unclaimed property,~~ When an administrator asserts a right to custody of unclaimed property, the administrator has the burden to prove:

(1) the existence and amount of the property;

(2) the property is presumed abandoned; and

(3) the property is subject to the custody of the administrator.

1 *.*.*.

2 **SECTION 402. CONTENT OF REPORT.**

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

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

6 (2) if filed electronically, be in a secure format approved by the administrator that
7 protects confidential information of the apparent owner in the same manner as required of the
8 administrator and the administrator's agent under [Article] 14;

9 ~~(3) protect confidential information of the apparent owner contained in the report~~
10 ~~in the same manner as required of the administrator and the administrator's agent under [Article]~~
11 ~~14;~~

12 (4)(3) describe the property;

13 (5)(4) except for a traveler's check, money order, or similar instrument contain
14 the name, if known, last-known address, if known, and Social Security number or taxpayer
15 identification number, if known or readily ascertainable, of the apparent owner of property with a
16 value of \$[50] or more;

17 (5)(6) in the case of an amount held or owing under a life or endowment
18 insurance policy or annuity contract, contain the full name and last-known address of the insured,
19 annuitant or other apparent owner of the policy or contract and of the beneficiary;

20 (6)(7) in the case of property held in or removed from a safe-deposit box, indicate
21 the location of the property, where it may be inspected by the administrator, and any amounts
22 owed to the holder under Section 606;

23 (7)(8) contain the commencement date for determining abandonment under

[Article] 2;

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

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

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

,,*.

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

SECTION 501. NOTICE TO APPARENT OWNER BY HOLDER.

,,*.

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

,,*.

SECTION 603. PAYMENT OR DELIVERY OF PROPERTY TO ADMINISTRATOR.

,,*.

(h) A holder is not required to deliver to the administrator a security identified by the holder as a non-freely transferable security. ~~Not later than 10 days after the administrator or~~

~~holder determines that the security is no longer a non-freely transferable security, the holder must deliver the security to the administrator.~~ Upon determination by the administrator or the holder that a security is no longer a non-freely transferable security, the security shall be subsequently remitted on the next regular date prescribed for delivery of securities pursuant to this [act]. The holder shall make a determination annually whether a security identified in a report filed under Section 401 as a non-freely transferable security is no longer a non-freely transferable security.

,,*.

SECTION 605. RECOVERY OF PROPERTY BY HOLDER FROM ADMINISTRATOR.

,,*.

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

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

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

Legislative Note: A state that has or allows judicial review of the decision of an administrative proceeding should delete the brackets at the end of subsection (i) and retain the language creating a right to de novo review on the record with either party being free to submit additional evidence to supplement this record. If a de novo review is not possible in the state, the state

should delete the bracketed language.

..*.

SECTION 802. ADMINISTRATOR TO RETAIN RECORDS OF PROPERTY.

The administrator shall:

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

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

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

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

..*.

SECTION 904. WHEN ADMINISTRATOR MUST HONOR CLAIM FOR PROPERTY.

..*.

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

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

(2) the claimant may file an amended claim with the administrator or commence

an action under Section ~~906~~ 907; and

***.

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

***.

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

***.

SECTION 1101. INFORMAL CONFERENCE.

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

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

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

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

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

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

4 (5) the conference may be postponed, adjourned, and reconvened as the
5 administrator ~~or the administrator's designee~~ determines appropriate;

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

9 (7) the administrator ~~or administrator's designee~~ shall issue a decision in a record
10 and provide a copy of the record to the putative holder and examiner not later than [20] days
11 after the conference ends.

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

15 (d) At a conference under subsection (b), the putative holder must be given an
16 opportunity to confer informally with the administrator ~~or an employee designated by the~~
17 ~~administrator to act on the administrator's behalf~~ and the person who examined the records of the
18 putative holder to:

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

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

22 (e) If the administrator ~~or the administrator's designee~~ fails to act within a period
23 prescribed in subsection (b), the failure does not affect a right of the administrator, except that

1 interest does not accrue on the amount for which the holder was determined to be liable under
2 Section 1012 during the period in which the administrator ~~or administrator's designee~~ failed to
3 act until the earlier of:

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

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

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

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

14 *.*.*.

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

17 *.*.*.

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

22 *.*.*.

1 **SECTION 1205. OTHER CIVIL PENALTIES.**

2 (a) If a holder enters into a contract or other arrangement for the purpose of evading ~~to~~
3 ~~evade~~ an obligation under this [act] or otherwise willfully fails to perform a duty imposed on the
4 holder under this [act], the administrator may require the holder to pay the administrator, in
5 addition to interest as provided in Section 1104(a), a civil penalty of \$[1,000] for each day the
6 obligation is evaded or the duty is not performed, up to a cumulative maximum amount of
7 \$[25,000], plus [25] percent of the amount or value of any property that should have been but
8 was not reported, paid, or delivered as a result of the evasion or failure to perform.

9 **SECTION 1402. CONFIDENTIAL INFORMATION.**

10 (a) In this [article], “~~sensitive~~ personal information” means:

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

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

15 (B) date of birth;

16 (C) home or physical address;

17 (D) electronic-mail address or other online contact information or IP
18 address;

19 (E) financial account number or credit or debit card number;

20 (F) biometric data, health or medical data, or insurance information; or

21 (G) passwords or other credentials that permit access to an online or other
22 account;

23 (2) personally identifiable financial or insurance information, including nonpublic

1 personal information defined by applicable federal or state law; and

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

6 (b) Except as otherwise provided in this [act], ~~the following are~~ confidential information
7 shall be~~and~~ exempt from public inspection or disclosure. In this [article], confidential
8 information means::

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

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

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

16 *.*.*.

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

19 *.*.*.

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

- 1 administrator believes the information will assist in facilitating identification and return of
- 2 property to the owner and does not disclose confidential information.