



1 "Domicile" means the state of incorporation of a  
2 corporation and the state of the principal place of business of  
3 a holder other than a corporation.

4 "Financial organization" means a savings and loan  
5 association, financial services loan company, bank, banking  
6 organization, or credit union.

7 "Holder" means a person obligated to hold for the account  
8 of, or deliver or pay to, the owner property that is subject to  
9 this chapter.

10 "Insurance company" means an association, corporation, or  
11 fraternal or mutual benefit organization, whether or not for  
12 profit, engaged in the business of providing life endowments,  
13 annuities, or insurance, including accident, burial, casualty,  
14 credit life, contract performance, dental, disability, fidelity,  
15 fire, health, hospitalization, illness, life, malpractice,  
16 marine, mortgage, surety, wage protection, and workers'  
17 compensation insurance.

18 "Mineral" means gas; oil; coal; other gaseous, liquid, and  
19 solid hydrocarbons; oil shale; cement material; sand and gravel;  
20 road material; building stone; chemical raw material; gemstone;  
21 fissionable and nonfissionable ores; colloidal and other clay;



1 steam and other geothermal resource; or any other substance  
2 defined as a mineral by the law of this State.

3 "Mineral proceeds" means amounts payable for the  
4 extraction, production, or sale of minerals, or, upon the  
5 abandonment of those payments, all payments that become payable  
6 thereafter. The term includes amounts payable:

- 7 (1) For the acquisition and retention of a mineral lease,  
8 including bonuses, royalties, compensatory royalties,  
9 shut-in royalties, minimum royalties, and delay  
10 rentals;
- 11 (2) For the extraction, production, or sale of minerals,  
12 including net revenue interests, royalties, overriding  
13 royalties, extraction payments, and production  
14 payments; and
- 15 (3) Under an agreement or option, including a joint  
16 operating agreement, unit agreement, pooling  
17 agreement, and farm-out agreement.

18 "Money order" includes an express money order and a  
19 personal money order, on which the remitter is the purchaser.  
20 The term does not include a bank money order or any other  
21 instrument sold by a financial organization if the seller has  
22 obtained the name and address of the payee.



1 "Owner" means a person who has a legal or equitable  
2 interest in property subject to this chapter or the person's  
3 legal representative. The term includes a depositor in the case  
4 of a deposit, a beneficiary in the case of a trust other than a  
5 deposit in trust, and a creditor, claimant, or payee in the case  
6 of other property.

7 "Person" means an individual, business association,  
8 financial organization, estate, trust, government, governmental  
9 subdivision, agency, or instrumentality, or any other legal or  
10 commercial entity.

11 "Property" means tangible property described in section  
12 -3 or a fixed and certain interest in intangible property  
13 that is held, issued, or owed in the course of a holder's  
14 business, or by a government, governmental subdivision, agency,  
15 or instrumentality, and all income or increments therefrom. The  
16 term includes property that is referred to as or evidenced by:

- 17 (1) Money, a check, draft, deposit, interest, or dividend;  
18 (2) Credit balance, customer's overpayment, gift  
19 certificate, security deposit, refund, credit  
20 memorandum, unpaid wage, unused ticket, mineral  
21 proceeds, or unidentified remittance;



- 1           (3) Stock or other evidence of ownership of an interest in
- 2                   a business association or financial organization;
- 3           (4) A bond, debenture, note, or other evidence of
- 4                   indebtedness;
- 5           (5) Money deposited to redeem stocks, bonds, coupons, or
- 6                   other securities or to make distributions;
- 7           (6) An amount due and payable under the terms of an
- 8                   annuity or insurance policy, including policies
- 9                   providing life insurance, property and casualty
- 10                  insurance, workers' compensation insurance, or health
- 11                  and disability insurance; and
- 12           (7) An amount distributable from a trust or custodial fund
- 13                   established under a plan to provide health, welfare,
- 14                   pension, vacation, severance, retirement, death, stock
- 15                   purchase, profit sharing, employee savings,
- 16                   supplemental unemployment insurance, or similar
- 17                  benefits.

18           "Record" means information that is inscribed on a tangible  
19 medium or that is stored in an electronic or other medium and is  
20 retrievable in perceivable form.

21           "State" means a state of the United States, the District of  
22 Columbia, the Commonwealth of Puerto Rico, or any territory or



1 insular possession subject to the jurisdiction of the United  
2 States.

3 "Utility" has the same meaning as the term "public utility"  
4 under section 269-1.

5 **§ -2 Presumptions of abandonment.** (a) Property is  
6 presumed abandoned if it is unclaimed by the apparent owner  
7 during the time set forth below for the particular property:

- 8 (1) Traveler's check, fifteen years after issuance;
- 9 (2) Money order, seven years after issuance;
- 10 (3) Stock or other equity interest in a business  
11 association or financial organization, including a  
12 security entitlement under article 8 of the Uniform  
13 Commercial Code, five years after the earlier of (A)  
14 the date of the most recent dividend, stock split, or  
15 other distribution unclaimed by the apparent owner, or  
16 (B) the date of the second mailing of a statement of  
17 account or other notification or communication that  
18 was returned as undeliverable or after the holder  
19 discontinued mailings, notifications, or  
20 communications to the apparent owner;
- 21 (4) Debt of a business association or financial  
22 organization, other than a bearer bond or an original



1 issue discount bond, five years after the date of the  
2 most recent interest payment unclaimed by the apparent  
3 owner;

4 (5) A demand, savings, or time deposit, including a  
5 deposit that is automatically renewable, five years  
6 after the earlier of maturity or the date of the last  
7 indication by the owner of interest in the property;  
8 but a deposit that is automatically renewable is  
9 deemed matured for purposes of this section upon its  
10 initial date of maturity, unless the owner has  
11 consented to a renewal at or about the time of the  
12 renewal and the consent is in writing or is evidenced  
13 by a memorandum or other record on file with the  
14 holder;

15 (6) Money or credits owed to a customer as a result of a  
16 retail business transaction, five years after the  
17 obligation accrued;

18 (7) Gift certificate, five years after December 31 of the  
19 year in which the certificate was sold, but if  
20 redeemable in merchandise only, the amount abandoned  
21 is deemed to be sixty per cent of the certificate's  
22 face value;



- 1       (8) Amount owed by an insurer on a life or endowment  
2           insurance policy or an annuity that has matured or  
3           terminated, five years after the obligation to pay  
4           arose or, in the case of a policy or annuity payable  
5           upon proof of death, three years after the insured has  
6           attained, or would have attained if living, the  
7           limiting age under the mortality table on which the  
8           reserve is based;
- 9       (9) Property distributable by a business association or  
10           financial organization in a course of dissolution, one  
11           year after the property becomes distributable;
- 12       (10) Property received by a court as proceeds of a class  
13           action, and not distributed pursuant to the judgment,  
14           one year after the distribution date;
- 15       (11) Property held by a court, government, governmental  
16           subdivision, agency, or instrumentality, one year  
17           after the property becomes distributable;
- 18       (12) Wages or other compensation for personal services, one  
19           year after the compensation becomes payable;
- 20       (13) Deposit or refund owed to a subscriber by a utility,  
21           one year after the deposit or refund becomes payable;





1           (14) Property in an individual retirement account, defined  
2           benefit plan, or other account or plan that is  
3           qualified for tax deferral under the income tax laws  
4           of the United States, three years after the earliest  
5           of the date of the distribution or attempted  
6           distribution of the property, the date of the required  
7           distribution as stated in the plan or trust agreement  
8           governing the plan, or the date, if determinable by  
9           the holder, specified in the income tax laws of the  
10          United States by which distribution of the property  
11          must begin in order to avoid a tax penalty; and

12          (15) All other property, five years after the owner's right  
13          to demand the property or after the obligation to pay  
14          or distribute the property arises, whichever first  
15          occurs.

16          (b) At the time that an interest is presumed abandoned  
17          under subsection (a), any other property right accrued or  
18          accruing to the owner as a result of the interest, and not  
19          previously presumed abandoned, is also presumed abandoned.

20          (c) Property is unclaimed if, for the applicable period  
21          set forth in subsection (a), the apparent owner has not  
22          communicated in writing or by other means reflected in a



1 contemporaneous record prepared by or on behalf of the holder,  
2 with the holder concerning the property or the account in which  
3 the property is held, and has not otherwise indicated an  
4 interest in the property. A communication with an owner by a  
5 person other than the holder or its representative who has not  
6 in writing identified the property to the owner is not an  
7 indication of interest in the property by the owner.

8 (d) An indication of an owner's interest in property  
9 includes:

- 10 (1) The presentment of a check or other instrument of  
11 payment of a dividend or other distribution made with  
12 respect to an account or underlying stock or other  
13 interest in a business association or financial  
14 organization or, in the case of a distribution made by  
15 electronic or similar means, evidence that the  
16 distribution has been received;
- 17 (2) Owner-directed activity in the account in which the  
18 property is held, including a direction by the owner  
19 to increase, decrease, or change the amount or type of  
20 property held in the account;
- 21 (3) The making of a deposit to or withdrawal from a bank  
22 account; and



1           (4) The payment of a premium with respect to a property  
2           interest in an insurance policy; but the application  
3           of an automatic premium loan provision or other  
4           nonforfeiture provision contained in an insurance  
5           policy does not prevent a policy from maturing or  
6           terminating if the insured has died or the insured or  
7           the beneficiary of the policy has otherwise become  
8           entitled to the proceeds before the depletion of the  
9           cash surrender value of a policy by the application of  
10          those provisions.

11          (e) Property is payable or distributable for purposes of  
12          this chapter notwithstanding the owner's failure to make demand  
13          or present an instrument or document otherwise required to  
14          obtain payment.

15          **§ -3 Contents of safe deposit box or other safekeeping**  
16          **depository.** Tangible property held in a safe deposit box or  
17          other safekeeping depository in this State in the ordinary  
18          course of the holder's business and proceeds resulting from the  
19          sale of the property permitted by other law, are presumed  
20          abandoned if the property remains unclaimed by the owner for  
21          more than five years after expiration of the lease or rental  
22          period on the box or other depository.



1           **§ -4 Rules of taking custody.** Except as otherwise  
2 provided in this chapter or by other statute of this State,  
3 property that is presumed abandoned, whether located in this or  
4 another state, is subject to the custody of this State if:

5           (1) The last known address of the apparent owner, as shown  
6           on the records of the holder, is in this State;

7           (2) The records of the holder do not reflect the identity  
8           of the person entitled to the property and it is  
9           established that the last known address of the person  
10          entitled to the property is in this State;

11          (3) The records of the holder do not reflect the last  
12          known address of the apparent owner and it is  
13          established that:

14                (A) The last known address of the person entitled to  
15                the property is in this State; or

16                (B) The holder is domiciled in this State or is a  
17                government or governmental subdivision, agency,  
18                or instrumentality of this State and has not  
19                previously paid or delivered the property to the  
20                state of the last known address of the apparent  
21                owner or other person entitled to the property;



- 1           (4) The last known address of the apparent owner, as shown  
2                   on the records of the holder, is in a state that does  
3                   not provide for the escheat or custodial taking of the  
4                   property and the holder is domiciled in this State or  
5                   is a government or governmental subdivision, agency,  
6                   or instrumentality of this State;
- 7           (5) The last known address of the apparent owner, as shown  
8                   on the records of the holder, is in a foreign country  
9                   and the holder is domiciled in this State or is a  
10                  government or governmental subdivision, agency, or  
11                  instrumentality of this State;
- 12          (6) The transaction out of which the property arose  
13                  occurred in this State, the holder is domiciled in a  
14                  state that does not provide for the escheat or  
15                  custodial taking of the property, and the last known  
16                  address of the apparent owner or other person entitled  
17                  to the property is unknown or is in a state that does  
18                  not provide for the escheat or custodial taking of the  
19                  property; or
- 20          (7) The property is a traveler's check or money order  
21                  purchased in this State, or the issuer of the  
22                  traveler's check or money order has its principal



1 place of business in this State and the issuer's  
2 records show that the instrument was purchased in a  
3 state that does not provide for the escheat or  
4 custodial taking of the property, or do not show the  
5 state in which the instrument was purchased.

6 **§ -5 Dormancy charge.** A holder may deduct from property  
7 presumed abandoned a charge imposed by reason of the owner's  
8 failure to claim the property within a specified time only if  
9 there is a valid and enforceable written contract between the  
10 holder and the owner under which the holder may impose the  
11 charge and the holder regularly imposes the charge, which is not  
12 regularly reversed or otherwise canceled. The amount of the  
13 deduction is limited to an amount that is not unconscionable.

14 **§ -6 Burden of proof as to property evidenced by record**  
15 **of check or draft.** A record of the issuance of a check, draft,  
16 or similar instrument is prima facie evidence of an obligation.  
17 In claiming property from a holder who is also the issuer, the  
18 administrator's burden of proof as to the existence and amount  
19 of the property and its abandonment is satisfied by showing  
20 issuance of the instrument and passage of the requisite period  
21 of abandonment. Defenses of payment, satisfaction, discharge,



1 and want of consideration are affirmative defenses that must be  
2 established by the holder.

3       **§ -7 Report of abandoned property.** (a) A holder of  
4 property presumed abandoned shall make a report to the  
5 administrator concerning the property.

6       (b) The report must be verified and must contain:

7       (1) A description of the property;

8       (2) Except with respect to a traveler's check or money  
9 order, the name, if known, and last known address, if  
10 any, and the social security number or taxpayer  
11 identification number, if readily ascertainable, of  
12 the apparent owner of property of the value of \$50 or  
13 more;

14       (3) An aggregated amount of items valued under \$50 each;

15       (4) In the case of an amount of \$50 or more held or owing  
16 under an annuity or a life or endowment insurance  
17 policy, the full name and last known address of the  
18 annuitant or insured and of the beneficiary;

19       (5) In the case of property held in a safe deposit box or  
20 other safekeeping depository, an indication of the  
21 place where it is held and where it may be inspected



1           by the administrator, and any amounts owing to the  
2           holder;

3           (6) The date, if any, on which the property became  
4           payable, demandable, or returnable, and the date of  
5           the last transaction with the apparent owner with  
6           respect to the property; and

7           (7) Other information that the administrator by rules  
8           adopted under chapter 91 prescribes as necessary for  
9           the administration of this chapter.

10          (c) If a holder of property presumed abandoned is a  
11         successor to another person who previously held the property for  
12         the apparent owner or the holder has changed its name while  
13         holding the property, the holder shall file with the report its  
14         former names, if any, and the known names and addresses of all  
15         previous holders of the property.

16          (d) The report shall be filed before November 1 of each  
17         year and cover the twelve months next preceding July 1 of that  
18         year, but a report with respect to a life insurance company  
19         shall be filed before May 1 of each year for the calendar year  
20         next preceding.

21          (e) The holder of property presumed abandoned shall send  
22         written notice to the apparent owner, not more than one hundred





1 twenty days or less than sixty days before filing the report,  
2 stating that the holder is in possession of property subject to  
3 this chapter, if:

4 (1) The holder has in its records an address for the  
5 apparent owner which the holder's records do not  
6 disclose to be inaccurate;

7 (2) The claim of the apparent owner is not barred by a  
8 statute of limitations; and

9 (3) The value of the property is \$50 or more.

10 (f) Before the date for filing the report, the holder of  
11 property presumed abandoned may request the administrator to  
12 extend the time for filing the report. The administrator may  
13 grant the extension for good cause. The holder, upon receipt of  
14 the extension, may make an interim payment on the amount the  
15 holder estimates will ultimately be due, which terminates the  
16 accrual of additional interest on the amount paid.

17 (g) The holder of property presumed abandoned shall file  
18 with the report an affidavit stating that the holder has  
19 complied with subsection (e).

20 **§ -8 Payment or delivery of abandoned property. (a)**

21 Except for property held in a safe deposit box or other  
22 safekeeping depository, within six months after the final date



1 for filing the report required by section -7, the holder of  
2 property presumed abandoned shall pay, deliver, or cause to be  
3 paid or delivered to the administrator the property described in  
4 the report as unclaimed, but if the property is an automatically  
5 renewable deposit, and a penalty or forfeiture in the payment of  
6 interest would result, the time for compliance is extended until  
7 a penalty or forfeiture would no longer result. Tangible  
8 property held in a safe deposit box or other safekeeping  
9 depository may not be delivered to the administrator until an  
10 additional one hundred twenty days after the time for payment or  
11 delivery to the administrator of property presumed abandoned as  
12 required by this subsection.

13 (b) If the property reported to the administrator is a  
14 security or security entitlement under article 8 of chapter 490,  
15 the administrator is an appropriate person to make an  
16 indorsement, instruction, or entitlement order on behalf of the  
17 apparent owner to invoke the duty of the issuer or its transfer  
18 agent or the securities intermediary to transfer or dispose of  
19 the security or the security entitlement in accordance with  
20 article 8 of chapter 490.

21 (c) If the holder of property reported to the  
22 administrator is the issuer of a certificated security, the



1 administrator has the right to obtain a replacement certificate  
2 pursuant to section 490:8-405, but an indemnity bond is not  
3 required.

4 (d) An issuer, the holder, and any transfer agent or other  
5 person acting pursuant to the instructions of and on behalf of  
6 the issuer or holder in accordance with this section is not  
7 liable to the apparent owner and must be indemnified against  
8 claims of any person in accordance with section -10.

9 **§ -9 Notice and publication of lists of abandoned**  
10 **property.** (a) The administrator shall publish a notice not  
11 later than March 1 of the year next following the report  
12 required by section -7 at least once statewide. The notice  
13 must be in a form that, in the judgment of the administrator, is  
14 likely to attract the attention of the apparent owner of the  
15 unclaimed property. The form must contain:

16 (1) The name of each person appearing to be the owner of  
17 the property, as set forth in the report filed by the  
18 holder;

19 (2) The last known address or location of each person  
20 appearing to be the owner of the property, if an  
21 address or location is set forth in the report filed  
22 by the holder;



1           (3) A statement explaining that property of the owner is  
2                   presumed to be abandoned and has been taken into the  
3                   protective custody of the administrator; and

4           (4) A statement that information about the property and  
5                   its return to the owner is available to a person  
6                   having a legal or beneficial interest in the property,  
7                   upon request to the administrator.

8           (b) The administrator is not required to advertise the  
9                   name and address or location of an owner of property having a  
10                  total value less than \$50, or information concerning a  
11                  traveler's check, money order, or similar instrument.

12           **§ -10 Custody by State; recovery by holder; defense of**  
13 **holder.** (a) In this section, payment or delivery is made in  
14 "good faith" if:

15           (1) Payment or delivery was made in a reasonable attempt  
16                   to comply with this chapter;

17           (2) The holder was not then in breach of a fiduciary  
18                   obligation with respect to the property and had a  
19                   reasonable basis for believing, based on the facts  
20                   then known, that the property was presumed abandoned;  
21                   and



1           (3) There is no showing that the records under which the  
2           payment or delivery was made did not meet reasonable  
3           commercial standards of practice.

4           (b) Upon payment or delivery of property to the  
5 administrator, the State assumes custody and responsibility for  
6 the safekeeping of the property. A holder who pays or delivers  
7 property to the administrator in good faith is relieved of all  
8 liability arising thereafter with respect to the property.

9           (c) A holder who has paid money to the administrator  
10 pursuant to this chapter may subsequently make payment to a  
11 person reasonably appearing to the holder to be entitled to  
12 payment. Upon a filing by the holder of proof of payment and  
13 proof that the payee was entitled to the payment, the  
14 administrator shall promptly reimburse the holder for the  
15 payment without imposing a fee or other charge. If  
16 reimbursement is sought for a payment made on a negotiable  
17 instrument, including a traveler's check or money order, the  
18 holder must be reimbursed upon filing proof that the instrument  
19 was duly presented and that payment was made to a person who  
20 reasonably appeared to be entitled to payment. The holder must  
21 be reimbursed for payment made even if the payment was made to a  
22 person whose claim was barred under section       -19(a).



1 (d) A holder who has delivered property other than money  
2 to the administrator pursuant to this chapter may reclaim the  
3 property if it is still in the possession of the administrator,  
4 without paying any fee or other charge, upon filing proof that  
5 the apparent owner has claimed the property from the holder.

6 (e) The administrator may accept a holder's affidavit as  
7 sufficient proof of the holder's right to recover money and  
8 property under this section.

9 (f) If a holder pays or delivers property to the  
10 administrator in good faith and thereafter another person claims  
11 the property from the holder or another state claims the money  
12 or property under its laws relating to escheat or abandoned or  
13 unclaimed property, the administrator, upon written notice of  
14 the claim, shall defend the holder against the claim and  
15 indemnify the holder against any liability on the claim  
16 resulting from payment or delivery of the property to the  
17 administrator.

18 (g) Property removed from a safe deposit box or other  
19 safekeeping depository is received by the administrator subject  
20 to the holder's right to be reimbursed for the cost of the  
21 opening and to any valid lien or contract providing for the  
22 holder to be reimbursed for unpaid rent or storage charges. The



1 administrator shall reimburse the holder out of the proceeds  
2 remaining after deducting the expense incurred by the  
3 administrator in selling the property.

4       **§ -11 Crediting of dividends, interest, and increments**  
5 **to owner's account.** If property other than money is delivered  
6 to the administrator under this chapter, the owner is entitled  
7 to receive from the administrator any income or gain realized or  
8 accruing on the property at or before liquidation or conversion  
9 of the property into money. If the property was an interest  
10 bearing demand, savings, or time deposit, including a deposit  
11 that is automatically renewable, the administrator shall pay  
12 interest at the legal rate of interest established in section  
13 478-2, or any lesser rate the property earned while in the  
14 possession of the holder. Interest begins to accrue when the  
15 property is delivered to the administrator and ceases on the  
16 earlier of the expiration of ten years after delivery or the  
17 date on which payment is made to the owner. Interest on  
18 interest bearing property is not payable for any period before  
19 the effective date of this chapter, unless authorized by law  
20 superseded by this chapter.

21       **§ -12 Public sale of abandoned property.** (a) Except as  
22 otherwise provided in this section, the administrator, within



1 three years after the receipt of abandoned property, shall sell  
2 it to the highest bidder at public sale at a location in the  
3 state which in the judgment of the administrator affords the  
4 most favorable market for the property. The administrator may  
5 decline the highest bid and reoffer the property for sale if the  
6 administrator considers the bid to be insufficient. The  
7 administrator need not offer the property for sale if the  
8 administrator considers that the probable cost of sale will  
9 exceed the proceeds of the sale. A sale held under this section  
10 must be preceded by a single publication of notice, at least  
11 three weeks before sale, in a newspaper of general circulation  
12 in the county in which the property is to be sold.

13 (b) Securities listed on an established stock exchange  
14 must be sold at prices prevailing on the exchange at the time of  
15 sale. Other securities may be sold over the counter at prices  
16 prevailing at the time of sale or by any reasonable method  
17 selected by the administrator. If securities are sold by the  
18 administrator before the expiration of three years after their  
19 delivery to the administrator, a person making a claim under  
20 this chapter before the end of the three-year period is entitled  
21 to the proceeds of the sale of the securities or the market  
22 value of the securities at the time the claim is made, whichever





1 is greater, plus dividends, interest, and other increments  
2 thereon up to the time the claim is made, less any deduction for  
3 expenses of sale. A person making a claim under this chapter  
4 after the expiration of the three-year period is entitled to  
5 receive the securities delivered to the administrator by the  
6 holder, if they still remain in the custody of the  
7 administrator, or the net proceeds received from sale, and is  
8 not entitled to receive any appreciation in the value of the  
9 property occurring after delivery to the administrator, except  
10 in a case of intentional misconduct or malfeasance by the  
11 administrator.

12 (c) A purchaser of property at a sale conducted by the  
13 administrator pursuant to this chapter takes the property free  
14 of all claims of the owner or previous holder and of all persons  
15 claiming through or under them. The administrator shall execute  
16 all documents necessary to complete the transfer of ownership.

17 **§ -13 Deposit of funds.** (a) There is established in  
18 the state treasury the unclaimed property trust fund, which  
19 shall be administered by the administrator. All moneys  
20 collected by the unclaimed property program from holders of  
21 property presumed abandoned and all proceeds from the sale of  
22 unclaimed property, less costs in connection with the sale of



1 the abandoned property, shall be deposited into the unclaimed  
2 property trust fund.

3 (b) Moneys in the unclaimed property trust fund shall be  
4 used for the payment of the following:

5 (1) Claims for the return of abandoned property to their  
6 rightful owners;

7 (2) Payment to other states' unclaimed property programs  
8 for owners whose last known address was in that other  
9 state;

10 (3) Any costs incurred in connection with the sale of  
11 abandoned property;

12 (4) Costs of mailing and publication in connection with  
13 any abandoned property;

14 (5) Reasonable service charges;

15 (6) Costs incurred in examining the records of holders of  
16 property and in collecting such property from those  
17 holders; and

18 (7) Any other charges, costs, or expenses incurred in the  
19 operation, administration, and enforcement of this  
20 chapter.



1 (c) Moneys in the unclaimed property trust fund shall be  
2 invested by the administrator, and all investment earnings shall  
3 be deposited to the credit of the general fund.

4 (d) All unencumbered and unexpended moneys in excess of  
5 \$1,300,000 remaining on balance in the unclaimed property trust  
6 fund on June 30 of each year shall lapse to the credit of the  
7 state general fund.

8 **§ -14 Claim of another state to recover property.** (a)

9 After property has been paid or delivered to the administrator  
10 under this chapter, another state may recover the property if:

11 (1) The property was paid or delivered to the custody of  
12 this State because the records of the holder did not  
13 reflect a last known location of the apparent owner  
14 within the borders of the other state and the other  
15 state establishes that the apparent owner or other  
16 person entitled to the property was last known to be  
17 located within the borders of that state and under the  
18 laws of that state the property has escheated or  
19 become subject to a claim of abandonment by that  
20 state;

21 (2) The property was paid or delivered to the custody of  
22 this State because the laws of the other state did not



1 provide for the escheat or custodial taking of the  
2 property, and under the laws of that state  
3 subsequently enacted the property has escheated or  
4 become subject to a claim of abandonment by that  
5 state;

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

12 (4) The property was subjected to custody by this State  
13 under section -4(6) and under the laws of the state  
14 of domicile of the holder the property has escheated  
15 or become subject to a claim of abandonment by that  
16 state; or

17 (5) The property is a sum payable on a traveler's check,  
18 money order, or similar instrument that was purchased  
19 in the other state and delivered into the custody of  
20 this State under section -4(7), and under the laws  
21 of the other state the property has escheated or



1           become subject to a claim of abandonment by that  
2           state.

3           (b) A claim of another state to recover escheated or  
4 abandoned property must be presented in a form prescribed by the  
5 administrator, who shall decide the claim within ninety days  
6 after it is presented. The administrator shall allow the claim  
7 upon determining that the other state is entitled to the  
8 abandoned property under subsection (a).

9           (c) The administrator shall require another state, before  
10 recovering property under this section, to agree to indemnify  
11 this State and its officers and employees against any liability  
12 on a claim to the property.

13           **§ -15 Filing claim with administrator; handling of**  
14 **claims by administrator.** (a) A person, excluding another  
15 state, claiming property paid or delivered to the administrator  
16 may file a claim on a form prescribed by the administrator and  
17 verified by the claimant.

18           (b) Within ninety days after a claim is filed, the  
19 administrator shall allow or deny the claim and give written  
20 notice of the decision to the claimant. If the claim is denied,  
21 the administrator shall inform the claimant of the reasons for  
22 the denial and specify what additional evidence is required



1 before the claim will be allowed. The claimant may then file a  
2 new claim with the administrator or maintain an action under  
3 section -16.

4 (c) Within thirty days after a claim is allowed, the  
5 property or the net proceeds of a sale of the property must be  
6 delivered or paid by the administrator to the claimant, together  
7 with any dividend, interest, or other increment to which the  
8 claimant is entitled under sections -11 and -12.

9 (d) A holder who pays the owner for property that has been  
10 delivered to the State and which, if claimed from the  
11 administrator by the owner would be subject to an increment  
12 under sections -11 and -12, may recover from the  
13 administrator the amount of the increment.

14 **§ -16 Action to establish claim.** A person aggrieved by  
15 a decision of the administrator or whose claim has not been  
16 acted upon within ninety days after its filing may maintain an  
17 original action to establish the claim in the circuit court,  
18 naming the administrator as a defendant. If the aggrieved  
19 person establishes the claim in an action against the  
20 administrator, the court may award the claimant reasonable  
21 attorney's fees.



1           **§ -17 Election to take payment or delivery.** (a) The  
2 administrator may decline to receive property reported under  
3 this chapter which the administrator considers to have a value  
4 less than the expenses of notice and sale.

5           (b) A holder, with the written consent of the  
6 administrator and upon conditions and terms prescribed by the  
7 administrator, may report and deliver property before the  
8 property is presumed abandoned. Property so delivered must be  
9 held by the administrator and is not presumed abandoned until it  
10 otherwise would be presumed abandoned under this chapter.

11           **§ -18 Destruction or disposition of property having no**  
12 **substantial commercial value; immunity from liability.** If the  
13 administrator determines after investigation that property  
14 delivered under this chapter has no substantial commercial  
15 value, the administrator may destroy or otherwise dispose of the  
16 property at any time. An action or proceeding may not be  
17 maintained against the State or any officer or against the  
18 holder for or on account of an act of the administrator under  
19 this section, except for intentional misconduct or malfeasance.

20           **§ -19 Periods of limitation.** (a) The expiration,  
21 before or after the effective date of this chapter, of a period  
22 of limitation on the owner's right to receive or recover



1 property, whether specified by contract, statute, or court  
2 order, does not preclude the property from being presumed  
3 abandoned or affect a duty to file a report or to pay or deliver  
4 or transfer property to the administrator as required by this  
5 chapter.

6 (b) An action or proceeding may not be maintained by the  
7 administrator to enforce this chapter in regard to the  
8 reporting, delivery, or payment of property more than ten years  
9 after the holder specifically identified the property in a  
10 report filed with the administrator or gave express notice to  
11 the administrator of a dispute regarding the property. In the  
12 absence of such a report or other express notice, the period of  
13 limitation is tolled. The period of limitation is also tolled  
14 by the filing of a report that is fraudulent.

15 **§ -20 Requests for reports and examination of records.**

16 (a) The administrator may require a person who has not filed a  
17 report, or a person who the administrator believes has filed an  
18 inaccurate, incomplete, or false report, to file a verified  
19 report in a form specified by the administrator. The report  
20 must state whether the person is holding property reportable  
21 under this chapter, describe property not previously reported or





1 as to which the administrator has made inquiry, and specifically  
2 identify and state the amounts of property that may be in issue.

3 (b) The administrator, at reasonable times and upon  
4 reasonable notice, may examine the records of any person to  
5 determine whether the person has complied with this chapter.  
6 The administrator may conduct the examination even if the person  
7 believes it is not in possession of any property that must be  
8 reported, paid, or delivered under this chapter. The  
9 administrator may contract with any other person to conduct the  
10 examination on behalf of the administrator.

11 (c) The administrator at reasonable times may examine the  
12 records of an agent, including a dividend disbursing agent or  
13 transfer agent, of a business association or financial  
14 association that is the holder of property presumed abandoned if  
15 the administrator has given the notice required by subsection  
16 (b) to both the association or organization and the agent at  
17 least ninety days before the examination.

18 (d) Documents and working papers obtained or compiled by  
19 the administrator, or the administrator's agents, employees, or  
20 designated representatives, in the course of conducting an  
21 examination are confidential and are not public records, but the  
22 documents and papers may be:



- 1           (1) Used by the administrator in the course of an action
- 2           to collect unclaimed property or otherwise enforce
- 3           this chapter;
- 4           (2) Used in joint examinations conducted with or pursuant
- 5           to an agreement with another state, the federal
- 6           government, or any other governmental subdivision,
- 7           agency, or instrumentality;
- 8           (3) Produced pursuant to subpoena or court order; or
- 9           (4) Disclosed to the abandoned property office of another
- 10          state for that state's use in circumstances equivalent
- 11          to those described in this subsection, if the other
- 12          state is bound to keep the documents and papers
- 13          confidential.
- 14          (e) If an examination of the records of a person results
- 15          in the disclosure of property reportable under this chapter, the
- 16          administrator may assess the cost of the examination against the
- 17          holder at the rate of \$200 a day for each examiner, or a greater
- 18          amount that is reasonable and was incurred, but the assessment
- 19          may not exceed the value of the property found to be reportable.
- 20          The cost of an examination made pursuant to subsection (c) may
- 21          be assessed only against the business association or financial
- 22          organization.



1 (f) If, after the effective date of this chapter, a holder  
2 does not maintain the records required by section -21 and the  
3 records of the holder available for the periods subject to this  
4 chapter are insufficient to permit the preparation of a report,  
5 the administrator may require the holder to report and pay to  
6 the administrator the amount the administrator reasonably  
7 estimates, on the basis of any available records of the holder  
8 or by any other reasonable method of estimation, should have  
9 been but was not reported.

10 **§ -21 Retention of records.** (a) Except as otherwise  
11 provided in subsection (b), a holder required to file a report  
12 under section -7 shall maintain the records containing the  
13 information required to be included in the report for ten years  
14 after the holder files the report, unless a shorter period is  
15 provided by rule of the administrator.

16 (b) A business association or financial organization that  
17 sells, issues, or provides to others for sale or issue in this  
18 State, traveler's checks, money orders, or similar instruments  
19 other than third-party bank checks, on which the business  
20 association or financial organization is directly liable, shall  
21 maintain a record of the instruments while they remain



1 outstanding, indicating the state and date of issue, for three  
2 years after the holder files the report.

3       **§ -22 Enforcement.** The administrator may maintain an  
4 action in this or another state to enforce this chapter. The  
5 court may award reasonable attorney's fees to the prevailing  
6 party.

7       **§ -23 Interstate agreements and cooperation; joint and**  
8 **reciprocal actions with other states.** (a) The administrator  
9 may enter into an agreement with another state to exchange  
10 information relating to abandoned property or its possible  
11 existence. The agreement may permit the other state, or another  
12 person acting on behalf of a state, to examine records as  
13 authorized in section -20. The administrator by rule may  
14 require the reporting of information needed to enable compliance  
15 with an agreement made under this section and prescribe the  
16 form.

17       (b) The administrator may join with another state to seek  
18 enforcement of this chapter against any person who is or may be  
19 holding property reportable under this chapter.

20       (c) At the request of another state, the attorney general  
21 of this State may maintain an action on behalf of the other  
22 state to enforce, in this State, the unclaimed property laws of



1 the other state against a holder of property subject to escheat  
2 or a claim of abandonment by the other state, if the other state  
3 has agreed to pay expenses incurred by the attorney general in  
4 maintaining the action.

5 (d) The administrator may request that the attorney  
6 general of another state or another attorney commence an action  
7 in the other state on behalf of the administrator. With the  
8 approval of the attorney general of this State, the  
9 administrator may retain any other attorney to commence an  
10 action in this State on behalf of the administrator. This State  
11 shall pay all expenses, including attorney's fees, in  
12 maintaining an action under this subsection. With the  
13 administrator's approval, the expenses and attorney's fees may  
14 be paid from money received under this chapter. The  
15 administrator may agree to pay expenses and attorney's fees  
16 based in whole or in part on a percentage of the value of any  
17 property recovered in the action. Any expenses or attorney's  
18 fees paid under this subsection may not be deducted from the  
19 amount that is subject to the claim by the owner under this  
20 chapter.

21 **§ -24 Interest and penalties.** (a) A holder who fails  
22 to report, pay, or deliver property within the time prescribed



1 by this chapter shall pay to the administrator interest at the  
2 annual rate of two percentage points above the annual rate of  
3 discount in effect on the date the property should have been  
4 paid or delivered for the most recent issue of fifty-two-week  
5 United States Treasury bills on the property or value thereof  
6 from the date the property should have been reported, paid, or  
7 delivered.

8 (b) Except as otherwise provided in subsection (c), a  
9 holder who fails to report, pay, or deliver property within the  
10 time prescribed by this chapter, or fails to perform other  
11 duties imposed by this chapter, shall pay to the administrator,  
12 in addition to interest as provided in subsection (a), a civil  
13 penalty of \$200 for each day the report, payment, or delivery is  
14 withheld, or the duty is not performed, up to a maximum of  
15 \$5,000.

16 (c) A holder who wilfully fails to report, pay, or deliver  
17 property within the time prescribed by this chapter, or wilfully  
18 fails to perform other duties imposed by this chapter, shall pay  
19 to the administrator, in addition to interest as provided in  
20 subsection (a), a civil penalty of \$1,000 for each day the  
21 report, payment, or delivery is withheld, or the duty is not  
22 performed, up to a maximum of \$25,000, plus twenty-five per cent



1 of the value of any property that should have been but was not  
2 reported.

3 (d) A holder who makes a fraudulent report shall pay to  
4 the administrator, in addition to interest as provided in  
5 subsection (a), a civil penalty of \$1,000 for each day from the  
6 date a report under this chapter was due, up to a maximum of  
7 \$25,000, plus twenty-five per cent of the value of any property  
8 that should have been but was not reported.

9 (e) The administrator for good cause may waive, in whole  
10 or in part, interest under subsection (a) and penalties under  
11 subsections (b) and (c), and shall waive penalties if the holder  
12 acted in good faith and without negligence.

13 **§ -25 Agreement to locate property.** (a) An agreement  
14 by an owner, the primary purpose of which is to locate, deliver,  
15 recover, or assist in the recovery of property that is presumed  
16 abandoned is void and unenforceable if it was entered into  
17 during the period commencing on the date the property was  
18 presumed abandoned and extending to a time that is twenty-four  
19 months after the date the property is paid or delivered to the  
20 administrator. This subsection does not apply to an owner's  
21 agreement with an attorney to file a claim as to identified  
22 property or contest the administrator's denial of a claim.



1           (b) An agreement by an owner, the primary purpose of which  
2 is to locate, deliver, recover, or assist in the recovery of  
3 property is enforceable only if the agreement is in writing,  
4 clearly sets forth the nature of the property and the services  
5 to be rendered, is signed by the apparent owner, and states the  
6 value of the property before and after the fee or other  
7 compensation has been deducted.

8           (c) If an agreement covered by this section applies to  
9 mineral proceeds and the agreement contains a provision to pay  
10 compensation that includes a portion of the underlying minerals  
11 or any mineral proceeds not then presumed abandoned, the  
12 provision is void and unenforceable.

13           (d) An agreement covered by this section which provides  
14 for compensation that is unconscionable is unenforceable except  
15 by the owner. An owner who has agreed to pay compensation that  
16 is unconscionable, or the administrator on behalf of the owner,  
17 may maintain an action to reduce the compensation to a  
18 conscionable amount. The court may award reasonable attorney's  
19 fees to an owner who prevails in the action.

20           (e) This section does not preclude an owner from asserting  
21 that an agreement covered by this section is invalid on grounds  
22 other than unconscionable compensation.





1           **§ -26 Foreign transactions.** This chapter does not apply  
2 to property held, due, and owing in a foreign country and  
3 arising out of a foreign transaction.

4           **§ -27 Transitional provisions.** (a) An initial report  
5 filed under this chapter for property that was not required to  
6 be reported before the effective date of this chapter but which  
7 is subject to this chapter must include all items of property  
8 that would have been presumed abandoned during the ten-year  
9 period next preceding the effective date of this chapter as if  
10 this chapter had been in effect during that period.

11           (b) This chapter does not relieve a holder of a duty that  
12 arose before the effective date of this chapter to report, pay,  
13 or deliver property. Except as otherwise provided in section  
14 -19(b), a holder who did not comply with the law in effect  
15 before the effective date of this chapter is subject to the  
16 applicable provisions for enforcement and penalties which then  
17 existed, which are continued in effect for the purpose of this  
18 section.

19           **§ -28 Rules.** The administrator may adopt, pursuant to  
20 chapter 91, rules necessary to carry out this chapter.

21           **§ -29 Uniformity of application and construction.** This  
22 chapter shall be applied and construed to effectuate its general



1 purpose to make uniform the law with respect to the subject of  
2 this chapter among states enacting it.

3       **§ -30 Short title.** This chapter may be cited as the  
4 Uniform Unclaimed Property Act."

5       SECTION 2. Chapter 523A, part I, Hawaii Revised Statutes,  
6 is repealed.

7       SECTION 3. On the effective date of this Act, the director  
8 of finance shall transfer all of the funds in the unclaimed  
9 property trust fund established by section 523A-23.5, Hawaii  
10 Revised Statutes, to the unclaimed property trust fund created  
11 by section -13 in section 1 of this Act.

12       SECTION 4. This Act shall take effect on July 1, 2008.

13

INTRODUCED BY:

JAN 18 2008



**Report Title:**

Unclaimed Property Act

**Description:**

Updates Uniform Unclaimed Property Act by replacing existing 1981 version of the Act with 1995 version.

