

# **TITLE 67**

State Officers and Employees

Chapter 4a

Revised Uniform Unclaimed Property Act.

## **Part 1. General Provisions**

### ***67-4a-101. Title.***

This chapter is known as the “Revised Uniform Unclaimed Property Act.”

Repealed and Re-enacted by Chapter 371, 2017 General Session

### ***67-4a-102. Definitions.***

As used in this chapter:

- (1) “Administrator” means the deputy state treasurer assigned by the state treasurer.
- (2)(a) “Administrator’s agent” means a person with which the administrator contracts to conduct an examination under Part 10, Verified Report of Property and Examination of Records, on behalf of the administrator.  
(b) “Administrator’s agent” includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.
- (3) “Apparent owner” means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder.
- (4) (a) “Bank draft” means a check, draft, or similar instrument on which a banking or financial organization is directly liable.  
(b) “Bank draft” includes:
  - (i) a cashier’s check; and
  - (ii) a certified check.  
(c) “Bank draft” does not include:
  - (i) a traveler’s check; or
  - (ii) a money order.
- (5) “Banking organization” means:
  - (a) a bank;
  - (b) an industrial bank;
  - (c) a trust company;
  - (d) a savings bank; or
  - (e) any organization defined by other law as a bank or banking organi-

zation.

- (6) “Business association” means a corporation, joint stock company, investment company other than an investment company registered under the Investment Company Act of 1940, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, banking organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit.
- (7) “Cashier’s check” means a check that:
  - (a) is drawn by a banking organization on itself;
  - (b) is signed by an officer of the banking organization; and
  - (c) authorizes payment of the amount shown on the check’s face to the payee.
- (8) “Class action” means a legal action:
  - (a) certified by the court as a class action; or
  - (b) treated by the court as a class action without being formally certified as a class action.
- (9) “Confidential information” means records, reports, and information that is confidential under Section 67-4a-1402.
- (10)(a) “Deposit in a financial institution” means a demand, savings, or matured time deposit with a banking or financial organization.
  - (b) “Deposit in a financial institution” includes:
    - (i) any interest or dividends on a deposit; and
    - (ii) a deposit that is automatically renewable.
- (11) “Domicile” means:
  - (a) for a corporation, the state of the corporation’s incorporation;
  - (b) for a business association other than a corporation, whose formation requires a filing with a state, the state of the business association’s filing;
  - (c) for a federally chartered entity or an investment company registered under the Investment Company Act of 1940, the state of the entity’s or company’s home office; and (d) for any other holder, the state of the holder’s principal place of business.
- (12) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (13) “Electronic mail” means a communication by electronic means that is automatically retained and stored and may be readily accessed or retrieved.
- (14) “Financial organization” means:
  - (a) a savings and loan association; or
  - (b) a credit union.
- (15) (a) “Game-related digital content” means digital content that exists only in an electronic game or electronic-game platform.
  - (b) “Game-related digital content” includes:

- (i) game-play currency, including a virtual wallet, even if denominated in United States currency; and
- (ii) the following, if for use or redemption only within the game or platform or another electronic game or electronic-game platform:
  - (A) points sometimes referred to as gems, tokens, gold, and similar names; and
  - (B) digital codes.
- (c) “Game-related digital content” does not include an item that the issuer:
  - (i) permits to be redeemed for use outside a game or platform for:
    - (A) money; or
    - (B) goods or services that have more than minimal value; or
  - (ii) otherwise monetizes for use outside a game or platform.
- (16) “Gift card” means a payment device such as a plastic card that:
  - (a) is usable at:
    - (i) a single merchant;
    - (ii) an affiliated group of merchants; or
    - (iii) multiple, unaffiliated merchants;
  - (b) contains a means for the electronic storage of information including:
    - (i) a microprocessor chip;
    - (ii) a magnetic stripe; or
    - (iii) a bar code;
  - (c) is prefunded before it is used, whether or not money may be added to the payment device after it is used; and
  - (d) is redeemable for goods or services.
- (17) “Holder” means a person obligated to hold for the account of, or to deliver or pay to, the owner property subject to this chapter.
- (18) “Insurance company” means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including:
  - (a) accident insurance;
  - (b) burial insurance;
  - (c) casualty insurance;
  - (d) credit life insurance;
  - (e) contract performance insurance;
  - (f) dental insurance;
  - (g) disability insurance;
  - (h) fidelity insurance;
  - (i) fire insurance;
  - (j) health insurance;
  - (k) hospitalization insurance;
  - (l) illness insurance;

- (m) life insurance, including endowments and annuities;
  - (n) malpractice insurance;
  - (o) marine insurance;
  - (p) mortgage insurance;
  - (q) surety insurance;
  - (r) wage protection insurance; and
  - (s) worker compensation insurance.
- (19) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.
- (20)(a) "Loyalty card" means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services.
- (b) "Loyalty card" does not include a record that may be redeemed for money or otherwise monetized by the issuer.
- (21) (a) "Mineral" means any substance that is ordinarily and naturally considered a mineral, regardless of the depth at which the substance is found.
- (b) "Mineral" includes:
- (i) building stone;
  - (ii) cement material;
  - (iii) chemical raw material;
  - (iv) coal;
  - (v) colloidal and other clay;
  - (vi) fissionable and nonfissionable ore;
  - (vii) gas;
  - (viii) gemstone;
  - (ix) gravel;
  - (x) lignite;
  - (xi) oil;
  - (xii) oil shale;
  - (xiii) other gaseous liquid or solid hydrocarbon;
  - (xiv) road material;
  - (xv) sand;
  - (xvi) steam and other geothermal resources;
  - (xvii) sulphur; and
  - (xviii) uranium.
- (22) (a) "Mineral proceeds" means an amount payable:
- (i) for extraction, production, or sale of minerals; or
  - (ii) for the abandonment of an interest in minerals.
- (b) "Mineral proceeds" includes an amount payable:
- (i) for the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, or delay rental;
  - (ii) for the extraction, production, or sale of minerals, including a net

revenue interest, royalty, overriding royalty, extraction payment, or production payment; and

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

(23) (a) “Money order” means a payment order for a specified amount of money.

(b) “Money order” includes an express money order and a personal money order on which the remitter is the purchaser.

(c) “Money order” does not include a cashier’s check.

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

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

(b) “Nonfreely transferable security” includes a worthless security.

(26)(a) “Owner” means a person that has a legal, beneficial, or equitable interest in property subject to this chapter or the person’s legal representative when acting on behalf of the owner.

(b) “Owner” includes:

(i) a depositor, for a deposit;

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

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

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

(27) “Person” means:

(a) an individual;

(b) an estate;

(c) a business association;

(d) a public corporation;

(e) a government entity;

(f) an agency;

(g) a trust;

(h) an instrumentality; or

(i) any other legal or commercial entity.

(28) (a) “Property” means tangible property described in Section 67-4a-205 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder’s business or by a government entity.

(b) “Property” includes:

(i) all income from or increments to the property;

(ii) property referred to as or evidenced by:

(A) money, virtual currency, interest, or a dividend, check, draft, or deposit;

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

(C) a security except for:

(I) a worthless security; or

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

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

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

(v) an amount due and payable under an annuity contract or insurance policy;

(vi) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit; and

(vii) an amount held under a preneed funeral or burial contract, other than a contract for burial rights or opening and closing services, where the contract has not been serviced following the death or the presumed death of the beneficiary.

(c) "Property" does not include:

(i) property held in a plan described in Section 529A, Internal Revenue Code;

(ii) game-related digital content;

(iii) a loyalty card;

(iv) an in-store credit for returned merchandise; or

(v) a gift card.

(29) "Putative holder" means a person believed by the administrator to be a holder, until:

(a) the person pays or delivers to the administrator property subject to this chapter; or

(b) the administrator or a court makes a final determination that the person is or is not a holder.

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

(31) "Security" means:

(a) a security as defined in Revised Article 8 of the Uniform Commercial Code; or

(b) a security entitlement as defined in Revised Article 8 of the Uniform Commercial Code, including a customer security account held

by a registered broker-dealer, to the extent the financial assets held in the security account are not:

- (i) registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;
- (ii) payable to the order of the person;
- (iii) specifically endorsed to the person; or
- (iv) an equity interest in a business association not included in this Subsection (31).

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

- (a) to execute or adopt a tangible symbol; or
- (b) to attach to or logically associate with the record an electronic symbol, sound, or process.

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

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

- (a) the transmission of communications or information;
- (b) the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or
- (c) the provision of sewage or septic services, or trash, garbage, or recycling disposal.

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

(b) “Virtual currency” does not include:

- (i) the software or protocols governing the transfer of the digital representation of value;
- (ii) game-related digital content;
- (iii) a loyalty card;
- (iv) membership rewards; or
- (v) a gift card.

(36) “Worthless security” means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this chapter.

Repealed and Re-enacted by Chapter 371, 2017 General Session

### ***67-4a-103. Inapplicability to foreign transaction.***

This chapter does not apply to property held, due, and owing in a foreign country if the transaction out of which the property arose was a foreign transaction.

***67-4a-104. Rulemaking.***

- (1) The administrator may adopt rules to implement and administer this chapter.
- (2) The administrator shall follow the notice, hearing, and publication requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Enacted by Chapter 371, 2017 General Session

**Part 2. Presumption of Abandonment**

***67-4a-201. When property presumed abandoned.***

Subject to Section 67-4a-208, the following property is presumed abandoned if the property is unclaimed by the apparent owner during the period specified below:

- (1) a traveler's check, 15 years after issuance;
- (2) a money order, seven years after issuance;
- (3) a state or municipal bond, bearer bond, or original-issue-discount bond, three years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;
- (4) a debt of a business association, three years after the obligation to pay arises;
- (5) a demand, savings, or time deposit, including a deposit that is automatically renewable, three years after the earlier of maturity or the date of the last indication of interest in the property by the apparent owner, except a deposit that is automatically renewable is considered matured on the deposit's initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;
- (6) money or a credit owed to a customer as a result of a retail business transaction, other than in- store credit for returned merchandise, three years after the obligation arose;
- (7) an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured, by proof of the death of the insured or annuitant, as follows:
  - (a) with respect to an amount owed on a life or endowment insurance policy, the earlier of:



- (i) three years after the policy insurer validates knowledge of the death of the insured; or
- (ii) three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and
- (b) with respect to an amount owed on an annuity contract, three years after the date the annuity contract insurer validates knowledge of the death of the annuitant;
- (8) property distributable by a business association in the course of dissolution, one year after the property becomes distributable;
- (9) property held by a court, including property received as proceeds of a class action, one year after the property becomes distributable;
- (10) property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one year after the property becomes distributable;
- (11) wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, one year after the amount becomes payable;
- (12) a deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable; and
- (13) property not specified in this section or Sections 67-4a-202 through 67-4a-206, the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-202. When tax-deferred retirement account presumed abandoned.***

- (1) Subject to Section 67-4a-208, property held in a pension account or retirement account that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if the property is unclaimed by the apparent owner three years after:
  - (a) the later of the following dates:
    - (i) except as in Subsection (1)(a)(ii), the date a communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or
    - (ii) if a communication under Subsection (1)(a)(i) is re-sent within 30 days after the date the first communication is returned undelivered, the date the second communication was returned undelivered by the United States Postal Service; or
  - (b) the earlier of the following dates:

- (i) the date the apparent owner becomes 70.5 years of age, if determinable by the holder; or
- (ii) if the Internal Revenue Code, Sec. 1 et seq., requires distribution to avoid a tax penalty, two years after the date the holder:
  - (A) receives confirmation of the death of the apparent owner in the ordinary course of the holder's business; or
  - (B) confirms the death of the apparent owner under Subsection(2).
- (2) If a holder in the ordinary course of the holder's business receives notice or an indication of the death of an apparent owner and Subsection (1)(b) applies, the holder shall attempt not later than 90 days after receipt of the notice or indication to confirm whether the apparent owner is deceased.
- (3)(a) Subject to Subsection (3)(b), if the holder does not send communications to the apparent owner of an account described in Subsection (1) by first-class United States mail on at least an annual basis, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic mail communication not later than two years after the apparent owner's last indication of interest in the property.
- (b) The holder shall promptly attempt to contact the apparent owner by first-class United States mail if:
  - (i) the holder does not have information needed to send the apparent owner an electronic mail communication or the holder believes that the apparent owner's electronic mail address in the holder's records is not valid;
  - (ii) the holder receives notification that the electronic mail communication was not received; or
  - (iii) the apparent owner does not respond to the electronic mail communication within 30 days after the communication was sent.
- (4) If first-class United States mail sent under Subsection (3) is returned to the holder undelivered by the United States Postal Service, the property is presumed abandoned three years after the later of:
  - (a) except as in Subsection (4)(b), the date a communication to contact the apparent owner sent by first-class United States mail is returned to the holder undelivered;
  - (b) if the communication under Subsection (4)(a) is re-sent within 30 days after the date the first communication is returned undelivered, the date the second communication was returned undelivered; or
  - (c) the date established by Subsection (1)(b).

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-203. When other tax-deferred account  
presumed abandoned.***

Subject to Section 67-4a-208 and except for property described in Section 67-4a-202 and property held in a plan described in Section 529A, Internal Revenue Code, property held in an account or plan, including a health savings account, that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if the property is unclaimed by the apparent owner three years after the earlier of:

- (1) the date, if determinable by the holder, specified in the income tax laws and regulations of the United States by which distribution of the property must begin to avoid a tax penalty, with no distribution having been made; or
- (2) 30 years after the date the account was opened.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-204. When custodial account for minor presumed abandoned.***

- (1) Subject to Section 67-4a-208, property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act is presumed abandoned if the property is unclaimed by or on behalf of the minor on whose behalf the account was opened three years after the later of:
  - (a) except as in Subsection (1)(b), the date a communication sent by the holder by first-class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States Postal Service;
  - (b) if communication is re-sent within 30 days after the date the first communication under Subsection (1)(a) is returned undelivered, the date the second communication was returned undelivered; or
  - (c) the date on which the custodian is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened.
- (2)(a) Subject to Subsection (2)(b), if the holder does not send communications to the custodian of the minor on whose behalf an account described in Subsection (1) was opened by first-class United States mail on at least an annual basis, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic mail communication not later than two years after the custodian's last indication of interest in the property.
  - (b) The holder shall promptly attempt to contact the custodian by first-class United States mail if:
    - (i) the holder does not have information needed to send the custodian

an electronic mail communication or the holder believes that the custodian's electronic mail address in the holder's records is not valid;  
(ii) the holder receives notification that the electronic mail communication was not received; or  
(iii) the custodian does not respond to the electronic mail communication within 30 days after the communication was sent.

- (3) If first-class United States mail sent under Subsection (2) is returned undelivered to the holder by the United States Postal Service, the property is presumed abandoned three years after the later of:  
(a) the date a second consecutive communication to contact the custodian by first-class United States mail is returned to the holder undelivered by the United States Postal Service; or  
(b) the date established by Subsection (1)(c).
- (4) When the property in the account described in Subsection (1) is transferred to the minor on whose behalf an account was opened or to the minor's estate, the property in the account is no longer subject to this section.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-205. When contents of safe-deposit box  
presumed abandoned.***

Tangible property held in a safe-deposit box and proceeds from a sale of the property by the holder permitted by law of this state other than this chapter are presumed abandoned if the property remains unclaimed by the apparent owner five years after the earlier of the:

- (1) expiration of the lease or rental period for the box; or  
(2) earliest date when the lessor of the box is authorized by law of this state other than this chapter to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-206. When security presumed abandoned.***

- (1) Subject to Section 67-4a-208, a security is presumed abandoned three years after:  
(a) the date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or  
(b) if the second communication is made later than 30 days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States Postal

Service.

- (2)(a) Except as provided in Subsection (2)(b), if the holder does not send communications to the apparent owner of a security by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the security.
- (b) The holder shall promptly attempt to contact the apparent owner by first-class United States mail if:
  - (i) the holder does not have information needed to send the apparent owner an electronic-mail communication or the holder believes that the apparent owner's electronic-mail address in the holder's records is not valid;
  - (ii) the holder receives notification that the electronic-mail communication was not received; or
  - (iii) the apparent owner does not respond to the electronic-mail communication not later than 30 days after the communication was sent.
- (3) If first-class United States mail sent under Subsection (2) is returned to the holder undelivered by the United States Postal Service, the security is presumed abandoned three years after the date the mail is returned.

Repealed and Re-enacted by Chapter 371, 2017 General Session

#### ***67-4a-207. When related property presumed abandoned.***

At and after the time property is presumed abandoned under this chapter, any other property right or interest accrued or accruing from the property and not previously presumed abandoned is also presumed abandoned.

Repealed and Re-enacted by Chapter 371, 2017 General Session

#### ***67-4a-208. Indication of apparent owner interest in property.***

- (1) The period after which property is presumed abandoned is measured from the later of:
  - (a) the date the property is presumed abandoned under this part; or
  - (b) the latest indication of interest by the apparent owner in the property.
- (2) Under this chapter, an indication of an apparent owner's interest in property includes:
  - (a) a record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which

the property is held;

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

(c) presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security, or interest in a business association;

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

(e) a deposit into or withdrawal from an account at a banking organization or financial organization, except for an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest; and

(f) subject to Subsection (5), payment of a premium on an insurance policy.

- (3) An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.
- (4) A communication with an apparent owner by a person other than the holder or the holder's representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner's knowledge of a right to the property.
- (5) If the insured dies or the insured or beneficiary of an insurance policy otherwise becomes entitled to the proceeds before depletion of the cash surrender value of the policy by operation of an automatic premium loan provision or other nonforfeiture provision contained in the policy, the operation does not prevent the policy from maturing or terminating.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-209. Deposit account for proceeds of insurance policy or annuity contract.***

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check- or draft-writing privileges for the beneficiary of the policy or contract and, under a supplementary contract not involving annuity benefits

other than death benefits, the proceeds are retained by the insurance company, the financial organization, or the banking organization where the account is held, the policy or contract includes the assets in the account.

Repealed and Re-enacted by Chapter 371, 2017 General Session

## **Part 3. Rules for Taking Custody of Property Presumed Abandoned**

### ***67-4a-301. Address of apparent owner to establish priority.***

In this part, the following rules apply:

- (1) the last known address of an apparent owner is any description, code, or other indication of the location of the apparent owner that identifies the state, even if the description, code, or indication of location is not sufficient to direct the delivery of first-class United States mail to the apparent owner;
- (2) if the United States postal zip code associated with the apparent owner is for a post office located in this state, this state is considered to be the state of the last known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in another state;
- (3) if the address under Subsection (2) is in another state, the other state is considered to be the state of the last-known address of the apparent owner; and
- (4) the address of the apparent owner of a life or endowment insurance policy or annuity contract or the policy's or contract's proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under Section 67-4a-302.

Repealed and Re-enacted by Chapter 371, 2017 General Session

### ***67-4a-302. Address of apparent owner in this state.***

The administrator may take custody of property that is presumed abandoned, whether located in this state, another state, or a foreign country if:

- (1) the last known address of the apparent owner in the records of the holder is in this state; or
- (2) the records of the holder do not reflect the identity or last known

address of the apparent owner, but the administrator has determined that the last known address of the apparent owner is in this state.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-303. If records show multiple addresses of apparent owner.***

- (1) Except as in Subsection (2), if records of a holder reflect multiple addresses for an apparent owner and this state is the state of the most recently recorded address, this state may take custody of property presumed abandoned, whether located in this state or another state.
- (2) If it appears from records of the holder that the most recently recorded address of the apparent owner under Subsection (1) is a temporary address and this state is the state of the next most recently recorded address that is not a temporary address, this state may take custody of the property presumed abandoned.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-304 Holder domiciled in this state.***

- (1) Except as in Subsection (2) or Section 67-4a-302 or 67-4a-303, the administrator may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state or is this state or a governmental subdivision, agency, or instrumentality of this state, and:
  - (a) another state or foreign country is not entitled to the property because there is no last known address of the apparent owner or other person entitled to the property in the records of the holder; or
  - (b) 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.
- (2) Property is not subject to custody of the administrator under Subsection (1) if the property is specifically exempt from custodial taking under the law of this state or the state or foreign country of the last known address of the apparent owner.
- (3) If a holder's state of domicile has changed since the time property was presumed abandoned, the holder's state of domicile in this section is considered to be the state where the holder was domiciled at the time the property was presumed abandoned.

Enacted by Chapter 371, 2017 General Session

***67-4a-305 Custody if transaction took place in this state.***



Except as in Section 67-4a-302, 67-4a-303, or 67-4a-304, the administrator may take custody of property presumed abandoned whether located in this state or another state if:

- (1) the transaction out of which the property arose took place in this state;
- (2) the holder is domiciled in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the holder's domicile, the property is not subject to the custody of the administrator; and
- (3) the last known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the last known address, the property is not subject to the custody of the administrator.

Enacted by Chapter 371, 2017 General Session

***67-4a-306 Traveler's check, money order, or similar instrument.***

The administrator may take custody of sums payable on a traveler's check, money order, or similar instrument presumed abandoned to the extent permissible under 12 U.S.C. Secs. 2501 through 2503.

Enacted by Chapter 371, 2017 General Session

***67-4a-307 Burden of proof to establish administrator's right to custody.***

Subject to Part 4, Report by Holder, if the administrator asserts a right to custody of unclaimed property and there is a dispute concerning such property, the administrator has the initial 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.

Enacted by Chapter 371, 2017 General Session

## **Part 4. Report by Holder**

### ***67-4a-401. Report required by holder.***

- (1)(a) A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property.
- (b) A holder shall report via the Internet in a format approved by the administrator, unless the administrator gives a holder specific permission to file a paper report.
- (2) A holder may contract with a third party to make the report required under Subsection (1).
- (3) Whether or not a holder contracts with a third party under Subsection (2), the holder is responsible:
  - (a) to the administrator for the complete, accurate, and timely reporting of property presumed abandoned; and
  - (b) for paying or delivering to the administrator property described in the report.

Repealed and Re-enacted by Chapter 371, 2017 General Session

### ***67-4a-402. Content of report.***

- (1) The report required under Section 67-4a-401 shall:
  - (a) be signed by or on behalf of the holder and verified as to the report's completeness and accuracy;
  - (b) if filed electronically, be in a secure format approved by the administrator that protects confidential information of the apparent owner;
  - (c) describe the property;
  - (d) except for a traveler's check, money order, or similar instrument, contain the name, if known, last known address, if known, and social security number or taxpayer identification number, if known or readily ascertainable, of the apparent owner of property with a value of \$50 or more;
  - (e) for an amount held or owing under a life or endowment insurance policy or annuity contract, contain the name and last known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;
  - (f) for property held in or removed from a safe-deposit box, indicate the location of the property, where the property may be inspected by the administrator, and any amounts owed to the holder under Section 67-4a-606;
  - (g) contain the commencement date for determining abandonment under Part 2, Presumption of Abandonment;
  - (h) state that the holder has complied with the notice requirements

of Section 67-4a-501;

- (i) identify property that is a nonfreely transferable security and explain why the property is a nonfreely transferable security; and
- (j) contain other information the administrator prescribes by rules.

(2)(a) A report under Section 67-4a-401 may include in the aggregate items valued under \$50 each.

(b) If the report includes items in the aggregate valued under \$50 each, the administrator may not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.

(3) A report under Section 67-4a-401 may include personal information as defined in Subsection 67-4a-1401(1) about the apparent owner or the apparent owner's property.

(4) If a holder has changed the holder's name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder shall include in the report under Section 67-4a-401:

(a) the holder's former name or the name of the previous holder, if any; and

(b) the known name and address of each previous holder of the property.

Repealed and Re-enacted by Chapter 371, 2017 General Session

### ***67-4a-403. When report to be filed.***

(1) Subject to Subsection (2), the report under Section 67-4a-401 shall be filed before November 1 of each year and cover the 12 months preceding July 1 of that year.

(2)(a) Before the date for filing the report under Section 67-4a-401, the holder of property presumed abandoned may request the administrator to extend the time for filing.

(b) The administrator may grant an extension.

(c) If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due.

(d) The payment or partial payment terminates accrual of interest on the amount paid.

Repealed and Re-enacted by Chapter 371, 2017 General Session

### ***67-4a-404. Retention of records by holder.***

(1) A holder required to file a report under Section 67-4a-401 shall retain records for five years after the later of the date the report was filed

or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the administrator.

- (2) The holder may satisfy the requirement to retain records under this section through an agent.
- (3) The records shall contain:
  - (a) the information required to be included in the report;
  - (b) the date, place, and nature of the circumstances that gave rise to the property right;
  - (c) the amount or value of the property;
  - (d) the last address of the apparent owner, if known to the holder; and
  - (e) if the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-405. Property reportable and payable or deliverable absent owner demand.***

Property is reportable and payable or deliverable under this chapter even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**Part 5. Notice to Apparent Owner of Property  
Presumed Abandoned**

***67-4a-501. Notice to apparent owner by holder.***

- (1) Subject to Subsections (2) and (3), the holder of property presumed abandoned shall send to the apparent owner notice by first-class United States mail that complies with Section 67-4a-502 in a format acceptable to the administrator not more than 180 days nor less than 60 days before filing the report under Section 67-4a-401 if:
  - (a) the holder has in the holder's records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first-class United States mail to the apparent owner; and
  - (b) the value of the property is \$50 or more.
- (2) If an apparent owner has consented to receive electronic mail delivery from the holder, the holder shall send the notice described in

Subsection (1) both by first-class United States mail to the apparent owner's last-known mailing address and by electronic mail, unless the holder believes that the apparent owner's electronic mail address is invalid.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-502. Contents of notice by holder.***

- (1) Notice under Section 67-4a-501 shall contain a heading that reads substantially as follows: "Notice. The State of Utah requires us to notify you that your property may be transferred to the custody of the state's unclaimed property administrator if you do not contact us before (insert date that is 30 days after the date of this notice)."
- (2) The notice under Section 67-4a-501 shall:
  - (a) identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;
  - (b) state that the property will be turned over to the administrator;
  - (c) state that after the property is turned over to the administrator an apparent owner that seeks return of the property may file a claim with the administrator;
  - (d) state that property that is not legal tender of the United States may be sold by the administrator;
  - (e) provide instructions that the apparent owner shall follow to prevent the holder from reporting and paying or delivering the property to the administrator; and
  - (f) include the name, address, and electronic mail address or telephone number to contact the holder.
- (3) The holder may supplement the required information by listing a website where apparent owners may obtain more information about how to prevent the holder from reporting and paying or delivering the property to the state treasurer.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-503. Notice by administrator.***

- (1) The administrator shall give notice to an apparent owner that property presumed abandoned and that appears to be owned by the apparent owner is held by the administrator under this chapter.
- (2) In providing notice under Subsection (1), the administrator shall:
  - (a) except as otherwise provided in Subsection (2)(b), send written notice by first-class United States mail to each apparent owner of property valued at \$50 or more held by the administrator, unless the

administrator determines that a mailing by first-class United States mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner had consented to receiving electronic mail from the holder, send notice by electronic mail if the electronic mail address of the apparent owner is known to the administrator instead of by first-class United States mail; or

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

- (3) In addition to the notice under Subsection (2), the administrator shall publish every 12 months in at least one English language newspaper of general circulation in this state notice of property held by the administrator, which shall include:
- (a) the total value of property received by the administrator during the preceding 12-month period, taken from the reports under Section 67-4a-401;
  - (b) the total value of claims paid by the administrator during the preceding 12-month period;
  - (c) the Internet web address of the unclaimed property website maintained by the administrator;
  - (d) a telephone number and electronic mail address to contact the administrator to inquire about or claim property; and
  - (e) a statement that a person may access the Internet by a computer to search for unclaimed property, and a computer may be available as a service to the public at a local public library.
- (4)(a) The administrator shall maintain a website accessible by the public and electronically searchable that contains the names reported to the administrator of apparent owners for whom property is being held by the administrator.
- (b) The administrator is not required to list property on the website if:
- (i) no owner name was reported;
  - (ii) a claim has been initiated or is pending for the property;
  - (iii) the Office of the State Treasurer has made direct contact with the apparent owner of the property; or
  - (iv) the administrator reasonably believes exclusion of the property is in the best interests of both the state and the owner of the property.
- (5) The website or database maintained under Subsection (4) shall include instructions for filing with the administrator a claim to property and a printable claim form with instructions.
- (6)(a) At least annually, the administrator shall notify the State Tax Commission of the names of all persons appearing to be owners of abandoned property under this chapter.

- (b) The administrator shall also provide to the State Tax Commission the social security numbers of the persons, if available.
- (c) The State Tax Commission shall:
  - (i) notify the administrator if any person under Subsection (6)(a) has filed a Utah income tax return in that year; and
  - (ii) provide the administrator with the person's address that appears on the tax return.
- (d) In order to facilitate the return of property under this Subsection (6), the administrator and the State Tax Commission may enter into an interagency agreement concerning protection of confidential information, data match rules, and other issues.
- (7)(a) If the value of the property that is owed the person is \$2,000 or less:
  - (i) the person is not required to file a claim under Section 67-4a-903; and
  - (ii) the administrator shall deliver the property or pay the amount owing to the person in the manner provided under Section 67-4a-905.
- (b) If the value of the property that is owed the person is greater than \$2,000, the administrator shall send written notice to the person informing the person that the person:
  - (i) is the owner of abandoned property held by the state; and
  - (ii) may file a claim with the administrator for return of the property.
- (8) The administrator may use publicly and commercially available databases to find and update or add information for apparent owners of property held by the administrator.
- (9) In addition to giving notice under Subsection (2), publishing the information under Subsection (3), and maintaining the website or database under Subsection (4), the administrator may use other printed publication, telecommunication, the Internet, or other media to inform the public of the existence of unclaimed property held by the administrator.

Enacted by Chapter 371, 2017 General Session

***67-4a-504. Cooperation among state officers and agencies to locate apparent owner.***

- (1) Unless prohibited by law of this state other than this chapter, on request of the administrator, each officer, agency, board, commission, division, and department of this state, any body politic and corporate created by this state for a public purpose, and each political subdivision of this state shall:
  - (a) make books and records available to the administrator; and
  - (b) cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator

under this chapter.

- (2) At the administrator's discretion, the administrator may also enter into data sharing agreements to enable other governmental agencies to provide an additional notice to apparent owners of property held by the administrator.

Enacted by Chapter 371, 2017 General Session

## **Part 6. Taking Custody of Property by Administrator**

### ***67-4a-601. Definition of good faith.***

In this chapter, payment or delivery of property is made in good faith if a holder:

- (1) had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator under this chapter; or
- (2) made payment or delivery:
  - (a) in response to a demand by the administrator or administrator's agent; or
  - (b) under a guidance or ruling issued by the administrator that the holder reasonably believed required or permitted the property to be paid or delivered.

Repealed and Re-enacted by Chapter 371, 2017 General Session

### ***67-4a-602. Dormancy charge.***

- (1) A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:
  - (a) a valid contract between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and
  - (b) the holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge.
- (2) The amount of the deduction under Subsection (1) is limited to an amount that is not unconscionable considering all relevant factors, including:
  - (a) the marginal transactional costs incurred by the holder in maintaining the apparent owner's property; and
  - (b) any services received by the apparent owner.

Repealed and Re-enacted by Chapter 371, 2017 General Session



**67-4a-603. *Payment or delivery of property to administrator.***

- (1)(a) Except as otherwise provided in this section, on filing a report under Section 67-4a-401 the holder shall pay or deliver to the administrator the property described in the report.  
(b) If property in a report under Section 67-4a-401 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.
- (2) Tangible property in a safe-deposit box may not be delivered to the administrator until 120 days after filing the report under Section 67-4a-401.
- (3) If property reported to the administrator under Section 67-4a-401 is a security, the administrator may:
  - (a) make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, the transfer agent, or the securities intermediary to transfer the security; or
  - (b) dispose of the security under Section 67-4a-702.
- (4)(a) If the holder of property reported to the administrator under Section 67-4a-401 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form under Section 70A-8-405.  
(b) An indemnity bond is not required under Subsection (4)(a).
- (5) The administrator shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the administrator by a holder.
- (6) An issuer, holder, and transfer agent or other person acting in good faith under this section under instructions of and on behalf of the issuer or holder is not liable to the apparent owner for, and shall be indemnified by the state against, a claim arising with respect to property after the property has been delivered to the administrator.
- (7)(a) A holder is not required to deliver to the administrator a security identified by the holder as a nonfreely transferable security in a report filed under Section 67-4a-401.  
(b) If the administrator or holder determines that a security is no longer a nonfreely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this chapter.  
(c) The holder shall make a determination annually whether a security identified in a report filed under Section 67-4a-401 as a nonfreely transferable security is no longer a nonfreely transferable security.

***67-4a-604. Effect of payment or delivery of property to administrator.***

- (1) On payment or delivery of property to the administrator under this chapter, the administrator as agent for the state assumes custody and responsibility for safekeeping the property.
- (2) A holder that pays or delivers property to the administrator in good faith and substantially complies with Sections 67-4a-501 and 67-4a-502 is relieved of all liability that thereafter may arise or be made in respect to the property to the extent of the value of the property so paid or delivered.
- (3)(a) In the event legal proceedings are instituted by any other state or states in any state or federal court with respect to unclaimed funds or abandoned property previously paid or delivered to the administrator, the holder shall give written notification to the administrator and the attorney general of this state of the proceedings within 10 days after service of process, or in the alternative at least 10 days before the return date or date on which an answer or similar pleading is due or any extension thereof secured by the holder.
  - (b) The attorney general may take such action as considered necessary or expedient to protect the interests of the state of Utah.
  - (c) The attorney general, by written notice before the return date or date on which an answer or similar pleading is due or any extension thereof secured by the holder, but in any event in reasonably sufficient time for the holder to comply with the directions received, shall either direct the holder:
    - (i) to actively defend in the proceedings; or
    - (ii) that no defense need be entered in the proceedings.
  - (d)(i) If a direction is received from the attorney general that the holder need not make a defense under Subsection (3)(c)(ii), the holder is not precluded from entering a defense in the holder's own name.
  - (ii) If a defense is made by the holder on the holder's own initiative, the holder is not entitled to reimbursement for legal fees, costs, and other expenses as provided in this section for defenses made pursuant to the directions of the attorney general.
  - (e) If, after the holder has actively defended in the proceedings pursuant to a direction of the attorney general or has been notified in writing by the attorney general that no defense need be made with respect to the funds, a judgment is entered against the holder for any amount paid to the administrator under this chapter, the administrator shall, upon being furnished with proof of payment in satisfaction of the judgment, reimburse the holder the amount paid.
  - (f) The administrator shall also reimburse the holder for any legal

fees, costs, and other directly related expenses incurred in legal proceedings undertaken pursuant to the direction of the attorney general.

Enacted by Chapter 371, 2017 General Session

***67-4a-605. Recovery of property by holder from administrator.***

- (1) A holder that under this chapter pays money to the administrator may file a claim for reimbursement from the administrator of the amount paid if the holder:
  - (a) paid the money in error; or
  - (b) after paying the money to the administrator, paid money to a person the holder reasonably believed entitled to the money.
- (2)(a) If a claim for reimbursement under Subsection (1) is made for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder shall submit proof that the instrument was presented and payment was made to a person the holder reasonably believed entitled to payment.
  - (b) The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order.
- (3) If a holder is reimbursed by the administrator under Subsection (1)
  - (b), the holder may also recover from the administrator income or gain under Section 67-4a-607 that would have been paid to the owner if the money had been claimed from the administrator by the owner to the extent the income or gain was paid by the holder to the owner.
- (4)(a) A holder that under this chapter delivers property other than money to the administrator may file a claim for return of the property from the administrator if:
  - (i) the holder delivered the property in error; or
  - (ii) the apparent owner has claimed the property from the holder.
  - (b) If a claim for return of property under Subsection (4)(a) is made, the holder shall include with the claim evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the administrator in error.
- (5) The administrator may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this section.
- (6) A holder is not required to pay a fee or other charge for reimbursement or return of property under this section.
- (7)(a) Not later than 90 days after a claim is filed under Subsection (1) or (4), the administrator shall allow or deny the claim and give the

claimant notice of the decision in a record.

(b) If the administrator does not take action on a claim during the 90-day period, the claim is considered denied.

(8) The claimant may initiate a proceeding under Section 63G-4-301, for review of the administrator's decision or the considered denial under Subsection (7)(b) not later than:

(a) 30 days following receipt of the notice of the administrator's decision; or

(b) 120 days following the filing of a claim under Subsection (1) or (4) in the case of a considered denial under Subsection (7)(b).

(9) A final decision in an administrative proceeding initiated under Subsection (8) 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 as a supplement to the record.

Enacted by Chapter 371, 2017 General Session

***67-4a-606. Property removed from safe-deposit box.***

(1) Property removed from a safe-deposit box and delivered to the administrator under this chapter is subject to:

(a) the holder's right to reimbursement for the cost of opening the box; and

(b) a lien or contract providing reimbursement to the holder for unpaid rent charges for the box.

(2) The administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the administrator in selling the property.

Enacted by Chapter 371, 2017 General Session

***67-4a-607. Crediting income or gain to owner's account.***

(1) If property other than money is delivered to the administrator, the owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold.

(2) Interest on money, including interest on interest bearing property, is not payable to an owner for periods where the property is in the possession of the state.

Enacted by Chapter 371, 2017 General Session

***67-4a-608. Administrator's options as to custody.***

(1) The administrator may decline to take custody of property reported

under Section 67-4a-401 if the administrator determines that:

- (a) the property has a value less than the estimated expenses of notice and sale of the property; or
  - (b) taking custody of the property would be unlawful.
- (2) A holder may pay or deliver property to the administrator before the property is presumed abandoned under this chapter if the holder:
- (a) sends the apparent owner of the property notice required by Section 67-4a-501 and provides the administrator evidence of the holder's compliance with this Subsection (2);
  - (b) includes with the payment or delivery a report regarding the property conforming to Section 67-4a-402; and
  - (c) first obtains the administrator's consent in a record to accept payment or delivery.
- (3)(a) A holder's request for the administrator's consent under Subsection (2)(c) shall be in a record.
- (b) If the administrator fails to respond to the request not later than 30 days after receipt of the request, the administrator is considered to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.
- (4) On payment or delivery of property under Subsection (2), the property is presumed abandoned.

Enacted by Chapter 371, 2017 General Session

***67-4a-609. Disposition of property having no substantial value  
-- Immunity from liability.***

- (1) If the administrator takes custody of property delivered under this chapter and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the administrator may return the property to the holder or destroy or otherwise dispose of the property.
- (2) An action or proceeding may not be commenced against the state, an agency of the state, the administrator, another officer, employee, or agent of the state, or a holder for or because of an act of the administrator under this section, except for intentional misconduct or malfeasance.

Enacted by Chapter 371, 2017 General Session

***67-4a-610. Disposition of property having no substantial value  
-- Immunity from liability.***

- (1) Expiration, before, on, or after the effective date of this chapter, of a

period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder under this chapter to file a report or pay or deliver property to the administrator.

- (2) An action or proceeding may not be maintained by the administrator to enforce this chapter in regard to the reporting, delivery, or payment of property more than five years after the holder:
  - (a)(i) filed a nonfraudulent report under Section 67-4a-401 with the administrator; and
  - (ii) specifically identified the property in the report filed with the administrator under Subsection (2)(a); or
  - (b) gave express notice to the administrator of a dispute regarding the property.
- (3)(a) In the absence of a report or other express notice under Subsection (2), the period of limitation is tolled.  
(b) The period of limitation is also tolled by the filing of a report that is fraudulent.
- (4) The administrator may not commence an action, proceeding, or examination regarding the duty of a holder under this chapter on a day that is more than 10 years after the day on which the duty arises.

Enacted by Chapter 371, 2017 General Session

## **Part 7. Sale of Property by Administrator**

### ***67-4a-701. Public sale of property.***

- (1) Subject to Section 67-4a-702, not earlier than three years after receipt of property presumed abandoned, the administrator may sell the property.
- (2) Before selling property under Subsection (1), the administrator shall give notice to the public of:
  - (a) the date of the sale; and
  - (b) a reasonable description of the property.
- (3) A sale under Subsection (1) shall be to the highest bidder:
  - (a) at a public sale at a location in this state that the administrator determines to be the most favorable market for the property;
  - (b) on the Internet; or
  - (c) on another forum the administrator determines likely to yield the highest net proceeds of sale.
- (4) The administrator may decline the highest bid at a sale under this section and reoffer the property for sale if the administrator determines the highest bid is insufficient.

- (5) If a sale held under this section is to be conducted other than on the Internet, the administrator shall cause to be published at least one notice of the sale, at least two weeks but not more than five weeks before the sale, in a newspaper of general circulation in the county in which the property is to be sold.
- (6)(a) Property eligible for sale will not be sold if a claim has been filed with the administrator by an apparent owner, heir, or agent.  
(b) Upon approval of a claim, the owner, heir, or agent may request the administrator to dispose of the property by sale and remit the net proceeds to the owner, heir, or agent.  
(c) Upon disapproval of the claim, the administrator may dispose of the property by sale.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-702. Disposal of securities.***

- (1) The administrator may not sell or otherwise liquidate a security until three years after the administrator receives the security and gives the apparent owner notice under Section 67-4a-503 that the administrator holds the security.
- (2) The administrator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale.
- (3) The administrator may sell a security not listed on an established exchange by any commercially reasonable method.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-703. Recovery of securities or value by owner.***

- (1) The administrator may not be held liable for any loss or gain in the value that the financial instrument would have obtained had the financial instrument been held instead of being sold.
- (2) Upon approval of a claim, the owner, heir, or agent may request the administrator to dispose of the securities by sale and remit the net proceeds to the owner, heir, or agent.
- (3) Upon disapproval of the claim, the administrator may dispose of the securities by sale.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-704. Purchaser owns property after sale.***

- (1) A purchaser of property at a sale conducted by the administrator

under this chapter takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or holder.

- (2) The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser.

Repealed and Re-enacted by Chapter 371, 2017 General Session

### ***67-4a-705. Military medal or decoration.***

- (1) The administrator may not sell a medal or decoration awarded for military service in the armed forces of the United States.
- (2) The administrator, with the consent of the respective organization under Subsection (2)(a), agency under Subsection (2)(b), or entity under Subsection (2)(c), may deliver a medal or decoration described in Subsection (1), to be held in custody for the owner, to:
  - (a) a military veterans organization qualified under 26 U.S.C. Sec. 501(c)(19);
  - (b) the agency that awarded the medal or decoration; or
  - (c) a governmental entity.
- (3) On delivery under Subsection (2), the administrator is not responsible for safekeeping the medal or decoration.

Repealed and Re-enacted by Chapter 371, 2017 General Session

## **Part 8. Administration of Property**

### ***67-4a-801. Deposit of funds by administrator.***

- (1)(a) There is created a private-purpose trust fund entitled the “Unclaimed Property Trust Fund.”
  - (b) Except as otherwise provided in this section, the administrator shall deposit all funds received under this chapter, including proceeds from the sale of property under Part 7, Sale of Property by Administrator, in the fund.
  - (c) The fund shall earn interest.
- (2) The administrator shall:
  - (a) pay any legitimate claims or deductions authorized by this chapter from the fund;
  - (b) before the end of the fiscal year, estimate the amount of money from the fund that will ultimately be needed to be paid to claimants; and
  - (c) at the end of the fiscal year, transfer any amount in excess of that amount to the Uniform School Fund, except that unclaimed restitution for crime victims shall be transferred to the Crime Victim



Reparations Fund.

- (3) Before making any transfer to the Uniform School Fund, the administrator may deduct from the fund:
- (a) amounts appropriated by the Legislature for administration of this chapter;
  - (b) any costs incurred in connection with the sale of abandoned property;
  - (c) costs of mailing and publication in connection with any abandoned property;
  - (d) reasonable service charges; and
  - (e) costs incurred in examining records of holders of property and in collecting the property from those holders.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-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 67-4a-401 to be the apparent owner of property delivered to the administrator;
- (2) record and retain the name and last known address of each insured or annuitant and beneficiary shown on the report;
- (3) for 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) for each apparent owner listed in the report, record and retain the name of the holder that filed the report and the amount due or paid.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-803. Expenses and service charges of administrator.***

Before making a deposit of funds received under this chapter to the Uniform School Fund or the Crime Victim Reparations Fund, the administrator may deduct:

- (1) expenses of disposition of property delivered to the administrator under this chapter;
- (2) costs of mailing and publication in connection with property delivered to the administrator under this chapter;
- (3) reasonable service charges; and
- (4) expenses incurred in examining records of or collecting property from a putative holder or holder.

Enacted by Chapter 371, 2017 General Session

***67-4a-804. Administrator holds property as custodian for owner.***

Property received by the administrator under this chapter is held in custody for the benefit of the owner and is not owned by the state.  
Enacted by Chapter 371, 2017 General Session

**Part 9. Claim to Recover Property  
from Administrator**

***67-4a-901. Claim of another state to recover property.***

- (1) If the administrator knows that property held by the administrator under this chapter is subject to a superior claim of another state, the administrator shall:
  - (a) report and pay or deliver the property to the other state; or
  - (b) return the property to the holder so that the holder may pay or deliver the property to the other state.
- (2) The administrator is not required to enter into an agreement to transfer property to the other state under Subsection (1).

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-902. When property subject to recovery by another state.***

- (1) Property held under this chapter by the administrator is subject to the right of another state to take custody of the property if:
  - (a)(i) the property was paid or delivered to the administrator because the records of the holder did not reflect a last known address in the other state of the apparent owner; and
  - (ii)(A) the other state establishes that the last known address of the apparent owner or other person entitled to the property was in the other state; or
  - (B) under the law of the other state, the property has become subject to a claim by the other state of abandonment;
- (b) the records of the holder did not accurately identify the owner of the property, the last known address of the owner was in another state, and, under the law of the other state, the property has become subject to a claim by the other state of abandonment;
- (c) the property was subject to the custody of the administrator of this state under Section 67-4a-305 and, under the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or

- (d) the property:
  - (i) is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered to the administrator under Section 67-4a-306; and
  - (ii) under the law of the other state, has become subject to a claim by the other state of abandonment.
- (2) A claim by another state to recover property under this section shall be presented in a form prescribed by the administrator, unless the administrator waives presentation of the form.
- (3)(a) The administrator shall decide a claim under this section not later than 90 days after it is presented.
  - (b) If the administrator determines that the other state is entitled under Subsection (1) to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.
- (4) The administrator may require another state, before recovering property under this section, to agree to indemnify this state and its agents, officers, and employees against any liability on a claim to the property.

Repealed and Re-enacted by Chapter 371, 2017 General Session

***67-4a-903. Claim for property by person claiming to be owner.***

- (1)(a) A person claiming to be the owner of property held under this chapter by the administrator may file a claim for the property on a form prescribed by the administrator.
  - (b) The claimant shall verify the claim as to its completeness and accuracy.
- (2) If the owner claiming the unclaimed property is a creditor the following apply:
  - (a)(i) the exclusive remedy for satisfying a creditor's judgement is payment of a claim under the act; and
  - (ii) a writ of attachment, garnishment, or execution is prohibited on unclaimed property;
  - (b) a creditor may only receive the value of the creditor's judgment or the amount held by the administrator, whichever is less; and
  - (c) the administrator may waive the requirement in Subsection (1) and may pay or deliver property directly to a person if:
    - (i) the person receiving the property or payment is shown to be the apparent owner included on a report filed under Section 67-4a-401;
    - (ii) the administrator reasonably believes the person is entitled to receive the property or payment; and
    - (iii) the property has a value of less than \$500.

Enacted by Chapter 371, 2017 General Session

**67-4a-904. When administrator shall honor claim for property.**

- (1) The administrator shall pay or deliver property to a claimant under Subsection 67-4a-903(1) if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property.
- (2) Not later than 90 days after a claim is filed under Subsection 67-4a-903(1), the administrator shall allow or deny the claim and give the claimant notice in a record of the decision.
- (3) If the claim is denied under Subsection (2):
  - (a) 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;
  - (b) the claimant may file an amended claim with the administrator or commence an action under Subsection 67-4a-906; and
  - (c) the administrator shall consider an amended claim filed under Subsection (3)(b) as an initial claim.
- (4) If the administrator does not take action on a claim during the 90-day period following the filing of a claim under Subsection 67-4a-903(1), the claim is considered denied.

Enacted by Chapter 371, 2017 General Session

**67-4a-905. Allowance of claim for property.**

- (1)(a) The administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property together with income or gain to which the owner is entitled under Section 67-4a-607.
  - (b) On request of the owner, the administrator may sell or liquidate a security and pay the net proceeds to the owner.
- (2) Property held under this chapter by the administrator is subject to a claim for the payment of an enforceable debt the owner owes in this state for:
  - (a) child support arrearages, including child support collection costs and child support arrearages that are combined with maintenance;
  - (b) a civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or a final court judgment; or
  - (c) state taxes, penalties, and interest that have been determined to be delinquent or as to which notice has been recorded with the State Tax Commission.
- (3)(a) Before delivery or payment to an owner under Subsection (1) of property or payment to the owner of net proceeds of a sale of the

property, the administrator first shall apply the property or net proceeds to a debt under Subsection (2) the administrator determines is owed by the owner.

(b) The administrator shall pay the amount to the appropriate state agency and notify the owner of the payment.

- (4)(a) The administrator may make periodic inquiries of state agencies in the absence of a claim filed under Section 67-4a-903 to determine whether an apparent owner included in the unclaimed property records of this state has enforceable debts described in Subsection (2).

(b) The administrator first shall apply the property or net proceeds of a sale of property held by the administrator to a debt under Subsection (2) of an apparent owner that appears in the records of the administrator and deliver the amount to the appropriate state agency.

(c) The administrator shall notify the apparent owner of the payment.

Enacted by Chapter 371, 2017 General Session

### ***67-4a-906. Action by person whose claim is denied.***

Not later than one year after filing a claim under Subsection 67-4a-903(1), the claimant may commence an action against the administrator in the district court to establish a claim that has been denied or considered denied under Subsection 67-4a-904(2).

Enacted by Chapter 371, 2017 General Session

## **Part 10. Verified Report of Property and Examination of Records**

### ***67-4a-1001. Verified report of property.***

- (1) If a person does not file a report required by Section 67-4a-401 or the administrator believes that a person may have filed an inaccurate, incomplete, or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator.
- (2) The verified report under Subsection (1) shall:
- (a) state whether the person is holding property reportable under this chapter;
  - (b) describe property not previously reported or about which the administrator has inquired;
  - (c) specifically identify property described under Subsection (2)(b) about which there is a dispute whether it is reportable under this chapter; and
  - (d) state the amount or value of the property.

***67-4a-1002. Examination of records to determine compliance.***

The administrator, at reasonable times and on reasonable notice, may:

- (1) examine the records of a person, including examination of appropriate records in the possession of an agent of the person under examination, if the records are reasonably necessary to determine whether the person has complied with this chapter;
- (2) issue an administrative subpoena requiring the person or agent of the person to make records available for examination; and
- (3) bring an action seeking judicial enforcement of the subpoena.

Enacted by Chapter 371, 2017 General Session

***67-4a-1003. Rules for conducting examination.***

- (1)(a) The administrator may adopt rules governing procedures and standards for an examination under Section 67-4a-1002.  
(b) The rules may reference any standards concerning unclaimed property examinations promulgated by the National Association of Unclaimed Property Administrators.
- (2) An examination under Section 67-4a-1002 shall be performed under rules adopted under Subsection (1).
- (3) If a person subject to examination under Section 67-4a-1002 has filed the reports required under Section 67-4a-401 and Section 67-4a-1001 and has retained the records required by Section 67-4a-404, the following rules apply:
  - (a) the examination shall include a review of the person's records;
  - (b) the examination may not be based on an estimate unless the person expressly consents in a record to the use of an estimate; and
  - (c) the person conducting the examination shall consider the evidence presented in good faith by the person in preparing the findings of the examination under Section 67-4a-1007.

Enacted by Chapter 371, 2017 General Session:

***67-4a-1004. Records obtained in examination.***

Records obtained and records, including work papers, compiled by the administrator in the course of conducting an examination under Section 67-4a-1002:

- (1) are subject to the confidentiality and security provisions of Part 14, Confidentiality and Security of Information, and are not public

records;

- (2) may be used by the administrator in an action to collect property or otherwise enforce this chapter;
- (3) may be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity if the governmental entity conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to Part 14, Confidentiality and Security of Information;
- (4) shall be disclosed, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in this part, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to Part 14, Confidentiality and Security of Information;
- (5) shall be produced by the administrator under an administrative or judicial subpoena or administrative or court order; and
- (6) shall be produced by the administrator on request of the person subject to the examination in an administrative or judicial proceeding relating to the property.

Enacted by Chapter 371, 2017 General Session

***67-4a-1005. Evidence of unpaid debt or  
undischarged obligation.***

- (1) A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation.
- (2) A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in Subsection (1) or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.
- (3) A putative holder may overcome prima facie evidence under Subsection (1) by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:
  - (a) issued as an unaccepted offer in settlement of an unliquidated amount;
  - (b) issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;
  - (c) issued to a party affiliated with the issuer;
  - (d) paid, satisfied, or discharged;
  - (e) issued in error;

- (f) issued without consideration;
  - (g) issued but there was a failure of consideration;
  - (h) voided within a reasonable time after issuance for a valid business reason set forth in a contemporaneous record; or
  - (i) issued but not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.
- (4) In asserting a defense under this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice.

Enacted by Chapter 371, 2017 General Session

***67-4a-1006. Failure of person examined to retain records.***

- (1) If a person subject to examination under Section 67-4a-1002 does not retain the records required by Section 67-4a-404, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under Subsection 67-4a-1003(1) and in accordance with Subsection 67-4a-1003(2).
- (2) A payment made based on estimation under this section is a penalty for failure to maintain the records required by Section 67-4a-404 and does not relieve a person from an obligation to report and deliver property to a state in which the holder is domiciled.

Enacted by Chapter 371, 2017 General Session

***67-4a-1007. Report to person whose records were examined.***

At the conclusion of an examination under Section 67-4a-1002, unless waived in writing by the person being examined, the administrator shall provide to the person whose records were examined a report that specifies:

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

Enacted by Chapter 371, 2017 General Session



**67-4a-1008. *Informal conference.***

- (1) If a person subject to examination under Section 67-4a-1002 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may request an informal conference with the administrator.
- (2)(a) If a person in a record requests an informal conference with the administrator, the administrator shall hold the informal conference not later than 30 days after receiving the request.  
(b) For good cause, and after notice in a record to the person requesting an informal conference, the administrator may extend the time for the holding of an informal conference.  
(c) The administrator may hold the informal conference in person, by telephone, or by electronic means.
- (3) If an informal conference is held under Subsection (2), not later than 30 days after the conference ends, the administrator shall provide a response to the person that requested the conference.
- (4)(a) The administrator may deny a request for an informal conference under this section if the administrator reasonably believes that the request was made in bad faith or primarily to delay the examination.  
(b) If the administrator denies a request for an informal conference, the denial shall be in a record provided to the person requesting the informal conference.

Enacted by Chapter 371, 2017 General Session

**67-4a-1009. *Administrator's contract with another to conduct examination.***

- (1) The administrator may contract with a person to conduct an examination under this chapter.
- (2) If the administrator contracts with a person under Subsection (1):
  - (a) the contract may provide for compensation of the person based on a fixed fee, hourly fee, or contingent fee; and
  - (b) a contingent fee arrangement may not provide for a payment that exceeds 15% of the amount or value of property paid or delivered as a result of the examination.
- (3) A contract under Subsection (1) is a public record under Section 63G-2-301.

Enacted by Chapter 371, 2017 General Session

**67-4a-1010. *Report by administrator to state official.***

- (1) Not later than three months after the end of the fiscal year, the administrator shall compile and submit a report to the treasurer, president of the Senate, and speaker of the House.
- (2) The report shall contain the following information about property presumed abandoned for the preceding fiscal year for the state:
  - (a) the total amount and value of all property paid or delivered under this chapter to the administrator, separated into:
    - (i) the part voluntarily paid or delivered; and
    - (ii) the part paid or delivered as a result of an examination under Section 67-4a-1002;
  - (b) the total amount and value of all property paid or delivered by the administrator to persons that made claims for property held by the administrator;
  - (c) the total amount expended to provide notice to apparent owners under Section 67-4a-503; and
  - (d) other information the administrator believes would be useful or informative.

Enacted by Chapter 371, 2017 General Session

***67-4a-1011. Determination of liability for unreported reportable property.***

If the administrator determines from an examination conducted under Section 67-4a-1002 that a putative holder failed or refused to pay or deliver to the administrator property that is reportable under this chapter, the administrator shall issue a determination of the putative holder's liability to pay or deliver and give notice in a record to the putative holder of the determination.

Enacted by Chapter 371, 2017 General Session

**Part 11. Determination of Liability and Putative Holder Remedies**

***67-4a-1101. Informal conference.***

- (1)(a) Not later than 30 days after receipt of a notice under Section 67-4a-1011, the putative holder may request an informal conference with the administrator to review the determination.
  - (b) Except as otherwise provided in this section, the administrator may designate an employee to act on behalf of the administrator.
- (2) If a putative holder makes a timely request under Subsection (1) for an informal conference:
  - (a) not later than 20 days after the date of the request, the administra-

- tor shall set the time and place of the conference;
  - (b) the administrator shall give the putative holder notice in a record of the time and place of the conference;
  - (c) the conference may be held in person, by telephone, or by electronic means, as determined by the administrator;
  - (d) the request tolls the 90-day period under Sections 67-4a-1103 and 67-4a-1104 until notice of a decision under Subsection (2)(g) has been given to the putative holder or the putative holder withdraws the request for the conference;
  - (e) the conference may be postponed, adjourned, and reconvened as the administrator determines appropriate;
  - (f) the administrator or the administrator's designee with the approval of the administrator may modify a determination made under Section 67-4a-1011 or withdraw it; and
  - (g) the administrator shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than 20 days after the conference ends.
- (3)(a) A conference under Subsection (2) is not an administrative remedy and is not a contested case subject to the state administrative procedure act.
- (b) An oath is not required and rules of evidence do not apply in the conference.
- (4) At a conference under Subsection (2), the putative holder shall be given an opportunity to confer informally with the administrator and the person that examined the records of the putative holder to:
- (a) discuss the determination made under Section 67-4a-1011; and
  - (b) present any issue concerning the validity of the determination.
- (5) If the administrator fails to act within the period prescribed in Subsection (2)(a) or (g), the failure does not affect a right of the administrator, except that interest does not accrue on the amount for which the putative holder was determined to be liable under Section 67-4a-1011 during the period in which the administrator failed to act until the earlier of:
- (a) the date under Section 67-4a-1103 the putative holder initiates administrative review or files an action under Section 67-4a-1104; or
  - (b) 90 days after the putative holder received notice of the administrator's determination under Section 67-4a-1011 if no review was initiated under Section 67-4a-1103 and no action was filed under Section 67-4a-1104.
- (6) The administrator may hold an informal conference with a putative holder about a determination under Section 67-4a-1011 without a request at any time before the putative holder initiates administrative review under Section 67-4a-1103 or files an action under Section 67-4a-1104.
- (7) Interest and penalties under Section 67-4a-1204 continue to ac-

crue on property not reported, paid, or delivered as required by this chapter after the initiation, and during the pendency, of an informal conference under this section.

Enacted by Chapter 371, 2017 General Session

### ***67-4a-1102. Review of administrator's determination.***

A putative holder may seek relief from a determination under Section 67-4a-1011 by:

- (1) administrative review under Section 67-4a-1103; or
- (2) judicial review under Section 67-4a-1104.

Enacted by Chapter 371, 2017 General Session

### ***67-4a-1103. Administrative review.***

- (1) Not later than 30 days after receiving notice of the administrator's determination under Section 67-4a-1011, a putative holder may initiate a proceeding under Section 63G-4-301 for review of the administrator's determination.
- (2) A final decision in an administrative proceeding initiated under Subsection (1) is subject to judicial review by the district court as a matter of right in a de novo proceeding on the record in which either party is entitled to introduce evidence as a supplement to the record.

Enacted by Chapter 371, 2017 General Session

### ***67-4a-1104. Judicial remedy.***

- (1) Not later than 90 days after receiving notice of the administrator's determination under Section 67-4a-1011, the putative holder may:
  - (a) file an action against the administrator in the district court challenging the administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or
  - (b) pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than six months after payment or delivery, file an action against the administrator in the district court for a refund of all or part of the amount paid or return of all or part of the property delivered.
- (2) If a putative holder pays or delivers property the administrator determined shall be paid or delivered to the administrator at any time after the putative holder files an action under Subsection (1)(a), the court shall continue the action as if the action had been filed original-

ly as an action for a refund or return of property under Subsection (1) (b).

- (3) On the final determination of an action filed under Subsection (1), the court may, on application, award to the prevailing party the prevailing party's reasonable attorney fees, costs, and expenses of litigation.
- (4) A putative holder that is the prevailing party in an action under this section for refund of money paid to the administrator is entitled to interest on the amount refunded, at the same rate a holder is required to pay to the administrator under Subsection 67-4a-1204(1), from the date paid to the administrator until the date of the refund.

Enacted by Chapter 371, 2017 General Session

## **Part 12. Enforcement by Administrator**

### ***67-4a-1201. Judicial action to enforce liability.***

- (1)(a) If a determination under Section 67-4a-1011 becomes final and is not subject to administrative or judicial review, the administrator may commence an action in the district court or in a district court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property.  
(b) The action shall be brought not later than one year after the determination becomes final.
- (2) In an action under Subsection (1), if no court in this state has jurisdiction over the defendant, the administrator may commence an action in any court having jurisdiction over the defendant.

Enacted by Chapter 371, 2017 General Session

### ***67-4a-1202. Interstate and international agreement -- Cooperation.***

- (1) Subject to Subsection (2), the administrator may:
  - (a) exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and
  - (b) authorize in a record another state or foreign country or a person acting on behalf of the other state or foreign country to examine the other state or foreign country's records of a putative holder as provided in Part 10, Verified Report of Property and Examination of Records.
- (2) An exchange or examination under Subsection (1) may be done

only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in Part 14, Confidentiality and Security of Information, or agrees in a record to be bound by this state's confidentiality and security requirements.

Enacted by Chapter 371, 2017 General Session

***67-4a-1203. Action involving another state or foreign country.***

- (1) The administrator may join another state or foreign country to examine and seek enforcement of this chapter against a putative holder.
- (2) On request of another state or foreign country, the attorney general may commence an action on behalf of the other state or foreign country to enforce, in this state, the law of the other state or foreign country against a putative holder subject to a claim by the other state or foreign country, if the other state or foreign country agrees to pay costs incurred by the attorney general in the action.
- (3)(a) The administrator may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or foreign country on behalf of the administrator.  
(b) This state shall pay the costs, including reasonable attorney fees and expenses, incurred by the other state or foreign country in an action under this Subsection (3).
- (4) The administrator may pursue an action on behalf of this state to recover property subject to this chapter but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.
- (5) The attorney general may retain an attorney for the administrator in this state, another state, or a foreign country to commence an action to recover property on behalf of the administrator and may agree to pay attorney fees based in whole or in part on a fixed fee, an hourly fee, or a percentage of the amount or value of property recovered in the action.
- (6)(a) Expenses incurred by this state in an action under this section may be paid from property received under this chapter or the net proceeds of the property.  
(b) Expenses paid to recover property may not be deducted from the amount that is subject to a claim under this chapter by the owner.

Enacted by Chapter 371, 2017 General Session

***67-4a-1204. Interest and penalty for failure to act in timely manner.***

- (1) A holder that fails to report, pay, or deliver property within the time prescribed by this chapter shall pay to the administrator interest at an annual rate calculated based on the federal short-term rate determined by the secretary of the treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter plus four percentage points on the property or value of the property from the date the property should have been reported, paid, or delivered to the administrator until the date reported, paid, or delivered.
- (2) Except as otherwise provided in Section 67-4a-1205 or 67-4a-1206, the administrator may require a holder that fails to report, pay, or deliver property within the time prescribed by this chapter to pay to the administrator, in addition to interest included under Subsection (1), a civil penalty of \$200 for each day the duty is not performed, up to a cumulative maximum amount of \$5,000.

Enacted by Chapter 371, 2017 General Session

#### ***67-4a-1205. Other civil penalties.***

- (1) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the administrator may require the holder to pay the administrator, in addition to interest as provided in Subsection 67-4a-1204(1), a civil penalty of \$1,000 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$25,000, plus 25% of the amount or value of property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.
- (2) If a holder makes a fraudulent report under this chapter, the administrator may require the holder to pay to the administrator, in addition to interest under Subsection 67-4a-1204(1), a civil penalty of \$1,000 for each day from the date the report was made until corrected, up to a cumulative maximum of \$25,000, plus 25% of the amount or value of any property that should have been reported but was not included in the report or was under reported.

Enacted by Chapter 371, 2017 General Session

#### ***67-4a-1206. Waiver of interest and penalty.***

The administrator:

- (1) may waive, in whole or in part, interest under Subsection 67-4a-1204(1) and penalties under Subsection 67-4a-1204(2) or Section 67-4a-1205; and

- (2) may waive a penalty under Subsection 67-4a-1204(2) if the administrator determines that the holder acted in good faith and without negligence.

Enacted by Chapter 371, 2017 General Session

## **Part 13. Agreement to Locate Property of Apparent Owner Held by Administrator**

### ***67-4a-1301. When agreement to locate property enforceable.***

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

- (1) is in a record that clearly states the nature of the property and the services to be provided;
- (2) is signed by or on behalf of the apparent owner; and
- (3) states the amount or value of the property reasonably expected to be recovered, computed before and after a fee or other compensation to be paid to the person has been deducted.

Enacted by Chapter 371, 2017 General Session

### ***67-4a-1302. When agreement to locate property void.***

- (1) Subject to Subsection (2), an agreement under Section 67-4a-1301 is void if the agreement is entered into during the period beginning on the date the property was paid or delivered by a holder to the administrator and ending 24 months after the payment or delivery.
- (2) If a provision in an agreement described in Subsection (1) applies to mineral proceeds for which compensation is to be paid to the other person based in whole or in part on a part of the underlying minerals or mineral proceeds not then presumed abandoned, the provision is void regardless of when the agreement was entered into.
- (3)(a) An agreement under Subsection (1) that provides for compensation in an amount that is unconscionable is unenforceable except by the apparent owner.  
(b) An apparent owner that believes the compensation the apparent owner has agreed to pay is unconscionable or the administrator, acting on behalf of an apparent owner, or both, may file an action in the district court to reduce the compensation to the maximum amount that is not unconscionable.  
(c) On the final determination of an action filed under this Subsec-



tion (3), the court may, on application, award the prevailing party the prevailing party's reasonable attorney fees, costs, and expenses of litigation.

- (4) An apparent owner or the administrator may assert that an agreement described in this section is void on a ground other than it provides for payment of unconscionable compensation.
- (5) This section does not apply to an apparent owner's agreement with an attorney to pursue a claim for recovery of specifically identified property held by the administrator or to contest the administrator's denial of a claim for recovery of the property.

Enacted by Chapter 371, 2017 General Session

***67-4a-1303. Right of agent of apparent owner to recover property held by administrator.***

- (1)(a) An apparent owner that contracts with another person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner that is held by the administrator may designate the person as the agent of the apparent owner.
  - (b) The designation under Subsection (1)(a) shall be in a record signed by the apparent owner.
- (2) The administrator shall give the agent of the apparent owner all information concerning the property that the apparent owner is entitled to receive, including information that otherwise is confidential information under Section 67-4a-1402.
- (3) If authorized by the apparent owner, the agent of the apparent owner may bring an action against the administrator on behalf of and in the name of the apparent owner.

Enacted by Chapter 371, 2017 General Session

## **Part 14. Confidentiality and Security of Information**

***67-4a-1401. Definitions -- Applicability.***

- (1) As used in this part, "personal information" means:
  - (a) information that identifies or reasonably can be used to identify an individual, such as first and last name in combination with the individual's:
    - (i) social security number or other government-issued number or identifier;
    - (ii) date of birth;

- (iii) home or physical address;
  - (iv) electronic mail address or other online contact information or Internet provider address;
  - (v) financial account number or credit or debit card number;
  - (vi) biometric data, health or medical data, or insurance information;
  - or
  - (vii) passwords or other credentials that permit access to an online or other account;
  - (b) personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and
  - (c) any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of the data, or if lost or misused, would require notice or reporting under Section 13-44-202 and federal privacy and data security law, regardless of whether the administrator or the administrator's agent is subject to the law.
- (2) A provision of this part that applies to the administrator or the administrator's records applies to an administrator's agent.

Enacted by Chapter 371, 2017 General Session

***67-4a-1402. Confidential information.***

- (1) Except as otherwise provided in this chapter, the following are confidential and exempt from public inspection or disclosure:
- (a) records of the administrator and the administrator's agent related to the administration of this chapter;
  - (b) reports and records of a holder in the possession of the administrator or the administrator's agent; and
  - (c) personal information and other information derived or otherwise obtained by or communicated to the administrator or the administrator's agent from an examination under this chapter of the records of a person.
- (2) A record or other information that is confidential under the law of this state other than in this chapter, another state, or the United States continues to be confidential when disclosed or delivered under this chapter to the administrator or the administrator's agent.

Enacted by Chapter 371, 2017 General Session

***67-4a-1403. When confidential information may be disclosed.***

- (1) When reasonably necessary to enforce or implement this chapter, the administrator may disclose confidential information concerning property held by the administrator or the administrator's agent only

to:

- (a) an apparent owner or the apparent owner's personal representative, attorney, other legal representative, relative, or agent designated under Section 67-4a-1303 to have the information;
  - (b) the personal representative, other legal representative, relative of a deceased apparent owner, agent designated under Section 67-4a-1303 by the deceased apparent owner, or person entitled to inherit from the deceased apparent owner;
  - (c) another department or agency of this state or of the United States;
  - (d) the person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator of this state if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to Part 14, Confidentiality and Security of Information; or
  - (e) a person subject to an examination as required by Subsection 67-4a-1004(6).
- (2)(a) Except as otherwise provided in Subsection 67-4a-1402(1), the administrator shall include on the website or in the database required by Subsection 67-4a-503(4)(a) the name of each apparent owner of property held by the administrator.
- (b) The administrator may include in published notices, printed publications, telecommunications, the Internet, other media, on the website, or in the database additional information concerning the apparent owner's property if the administrator believes the information will assist in identifying and returning property to the owner and does not disclose personal information except the home or physical address of an apparent owner.
- (3) The administrator and the administrator's agent may not use confidential information provided to the administrator or the administrator's agent or in the administrator or the administrator's agent's possession except as expressly authorized by this chapter or required by law other than in this chapter.

Enacted by Chapter 371, 2017 General Session

### ***67-4a-1404. Confidentiality agreement.***

A person to be examined under Section 67-4a-1002 may require, as a condition of disclosure of the records of the person to be examined, that each person having access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

- (1) is in a form that is reasonably satisfactory to the administrator; and
- (2) requires the person having access to the records to comply with the

provisions of this part applicable to the person.

Enacted by Chapter 371, 2017 General Session

***67-4a-1405. No confidential information in notice.***

Except as otherwise provided in Sections 67-4a-501 and 67-4a-502, a holder is not required under this chapter to include confidential information in a notice the holder is required to provide to an apparent owner under this chapter.

Enacted by Chapter 371, 2017 General Session

***67-4a-1406. Security of information.***

- (1) If a holder is required to include confidential information in a report to the administrator, the information shall be provided by a secure means.
- (2) If confidential information in a record is provided to and maintained by the administrator or the administrator's agent as required by this chapter, the administrator or the administrator's agent shall:
  - (a) implement administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the information required by Section 13-44-202 and federal privacy and data security law regardless of whether the administrator or the administrator's agent is subject to the law;
  - (b) protect against reasonably anticipated threats or hazards to the security, confidentiality, or integrity of the information; and
  - (c) protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to a holder or the holder's customers, including insureds, annuitants, and policy or contract owners and the insureds', annuitants', and policy or contract owners' beneficiaries.
- (3) The administrator:
  - (a) after notice and comment, shall adopt and implement a security plan that identifies and assesses reasonably foreseeable internal and external risks to confidential information in the administrator's possession and seeks to mitigate the risks; and
  - (b) shall ensure that an administrator's agent adopts and implements a similar plan with respect to confidential information in the administrator's agent's possession.
- (4) The administrator and the administrator's agent shall educate and train the administrator's and the administrator's agent's employees regarding the plan adopted under Subsection (3).
- (5) The administrator and the administrator's agent shall in a secure

manner return or destroy all confidential information no longer reasonably needed under this chapter.

Enacted by Chapter 371, 2017 General Session

**67-4a-1407. Security breach.**

- (1) Except to the extent prohibited by law other than in this chapter, the administrator or the administrator's agent shall notify a holder as soon as practicable of:
  - (a) a suspected loss, misuse, unauthorized access, disclosure, modification, or destruction of confidential information obtained from the holder in the possession of the administrator or the administrator's agent; and
  - (b) any interference with operations in any system hosting or housing confidential information that:
    - (i) compromises the security, confidentiality, or integrity of the information; or
    - (ii) creates a substantial risk of identity fraud or theft.
- (2) Except as necessary to inform an insurer, attorney, investigator, or others as required by law, the administrator and the administrator's agent may not disclose, without the express consent in a record of the holder, an event described in Subsection (1) to a person whose confidential information was supplied by the holder.
- (3) If an event described in Subsection (1) occurs, the administrator and the administrator's agent shall:
  - (a) take action necessary for the holder to understand and minimize the effect of the event and determine the event's scope; and
  - (b) cooperate with the holder with respect to:
    - (i) any notification required by law concerning a data or other security breach; and
    - (ii) a regulatory inquiry, litigation, or similar action.

Enacted by Chapter 371, 2017 General Session

**67-4a-1408. Indemnification for breach.**

- (1) If a claim is made or action commenced arising out of an event described in Subsection 67-4a-1407(1) relating to confidential information possessed by the administrator, this state shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:
  - (a) any claim or action; and
  - (b) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or other expense, including reasonable attorney fees

and costs, established by the claim or action.

- (2) If a claim is made or action commenced arising out of an event described in Subsection 67-4a-1407(1) relating to confidential information possessed by an administrator's agent, the administrator's agent shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:
  - (a) any claim or action; and
  - (b) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or other expense, including reasonable attorney fees and costs, established by the claim or action.
- (3) The administrator shall require the administrator's agent that will receive confidential information required under this chapter to maintain adequate insurance for indemnification obligations of the administrator's agent under Subsection (2).
- (4) The agent required to maintain the insurance shall provide evidence of the insurance to:
  - (a) the administrator not less frequently than annually; and
  - (b) the holder on commencement of an examination and annually thereafter until all confidential information is returned or destroyed under Subsection 67-4a-1406(5).

Enacted by Chapter 371, 2017 General Session

## **Part 15. Miscellaneous Provisions**

### ***67-4a-1501. Uniformity of application and construction.***

In applying and construing this uniform chapter, consideration shall be given to the need to promote uniformity of the law with respect to the chapter's subject matter among states that enact it.

Enacted by Chapter 371, 2017 General Session

### ***67-4a-1502. Relation to Electronic Signatures in Global and National Commerce Act.***

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., except this chapter does not:

- (1) modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c); or
- (2) authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 371, 2017 General Session

***67-4a-1503. Transitional provision.***

- (1) An initial report filed under this chapter for property that was not required to be reported before May 9, 2017, but that is required to be reported under this chapter, shall include all items of property that would have been presumed abandoned during the 10-year period preceding May 9, 2017, as if this chapter had been in effect during that period.
- (2) This chapter does not relieve a holder of a duty that arose before May 9, 2017, to report, pay, or deliver property.
- (3) Subject to Subsections 67-4a-610(2) and (3), a holder that did not comply with the law governing unclaimed property before May 9, 2017, is subject to applicable provisions for enforcement and penalties in effect before May 9, 2017.

Enacted by Chapter 371, 2017 General Session

***67-4a-1504. Severability.***

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Enacted by Chapter 371, 2017 General Session