

1                                   **UNCLAIMED PROPERTY ACT PROVISIONS**

2                                                           2007 GENERAL SESSION

3                                                           STATE OF UTAH

4                                   **Chief Sponsor: Fred R. Hunsaker**

5                                   Senate Sponsor: Peter C. Knudson

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies provisions of the Unclaimed Property Act.

10 **Highlighted Provisions:**

11           This bill:

12           ▶ reduces the time after which the following unclaimed property is considered to be  
13 abandoned from five years to three years:

- 14           • net intangible property;
- 15           • a bank draft;
- 16           • a deposit in a financial institution;
- 17           • a stock, shareholding, or other intangible ownership in a business;
- 18           • intangible property or income held in an agent or fiduciary capacity; or
- 19           • mineral proceeds;

20           ▶ provides that all unclaimed funds held or owing under a life or endowment  
21 insurance policy are considered to be abandoned after three years;

22           ▶ changes the month in which reports of unclaimed property are to be filed from June  
23 to November;

24           ▶ raises the dollar amount at which unclaimed property must be accompanied by  
25 specific information and be reported individually from \$25 to \$50;

26           ▶ permits an electronic book entry to be used as proof of ownership of stock or other  
27 intangible interests;

28           ▶ requires that the administrator publish notice of unclaimed property within 12  
29 months of the date the property was received;

- 30           ▶ removes certain content requirements for publication of unclaimed property via
- 31 newspaper;
- 32           ▶ permits sale of abandoned property via the Internet;
- 33           ▶ provides procedures for delivery of property and deductions of reasonable fees and
- 34 expenses at the time of sale;
- 35           ▶ modifies procedures and requirements for the sale of securities;
- 36           ▶ permits the administrator to examine records pertaining to abandoned or unclaimed
- 37 property that are in the possession of an agent of a business association or a
- 38 financial association;
- 39           ▶ permits the administrator to require a person to file a verified report stating whether
- 40 or not the person is holding any unclaimed property subject to the act;
- 41           ▶ provides that a person who fails to pay or deliver property when required by the act
- 42 shall pay interest on the value of the property at the rate of 12% per annum; and
- 43           ▶ makes technical changes.

44 **Monies Appropriated in this Bill:**

45           None

46 **Other Special Clauses:**

47           None

48 **Utah Code Sections Affected:**

49 AMENDS:

- 50           **67-4a-201**, as enacted by Chapter 198, Laws of Utah 1995
- 51           **67-4a-203**, as enacted by Chapter 198, Laws of Utah 1995
- 52           **67-4a-204**, as enacted by Chapter 198, Laws of Utah 1995
- 53           **67-4a-205**, as enacted by Chapter 198, Laws of Utah 1995
- 54           **67-4a-208**, as enacted by Chapter 198, Laws of Utah 1995
- 55           **67-4a-209**, as enacted by Chapter 198, Laws of Utah 1995
- 56           **67-4a-214**, as enacted by Chapter 198, Laws of Utah 1995
- 57           **67-4a-301**, as enacted by Chapter 198, Laws of Utah 1995

- 58           **67-4a-302**, as enacted by Chapter 198, Laws of Utah 1995
- 59           **67-4a-402**, as enacted by Chapter 198, Laws of Utah 1995
- 60           **67-4a-403**, as enacted by Chapter 198, Laws of Utah 1995
- 61           **67-4a-601**, as enacted by Chapter 198, Laws of Utah 1995
- 62           **67-4a-701**, as enacted by Chapter 198, Laws of Utah 1995
- 63           **67-4a-703**, as enacted by Chapter 198, Laws of Utah 1995



64  
65 *Be it enacted by the Legislature of the state of Utah:*

66           Section 1. Section **67-4a-201** is amended to read:

67           **67-4a-201. Abandoned and unclaimed property -- General rules.**

68           (1) (a) Property is considered to be "abandoned" or "unclaimed" when:

- 69           (i) the property is held, issued, or owing by a holder;
- 70           (ii) the identity, status, or present location of the apparent owner is unknown; and
- 71           (iii) the property cannot be paid, distributed, or given to the apparent owner after the

72 stated dormancy period for that type of unclaimed property established in this chapter.

73           (b) Property may not be considered to be "abandoned" or "unclaimed" when:

- 74           (i) the character or degree of ownership interest of the apparent owner in the property is
- 75 unsettled or in dispute; and
- 76           (ii) the holder is notified of this fact.

77           (2) (a) For purposes of this ~~[subsection]~~ section, property is payable or distributable  
78 even if the owner has failed to demand the property or to present any instrument or document  
79 required to receive payment.

80           (b) Except as otherwise provided by this chapter, net intangible property is considered  
81 abandoned if it is not claimed by the owner within ~~[five]~~ three years after it became payable or  
82 distributable.

83           Section 2. Section **67-4a-203** is amended to read:

84           **67-4a-203. Checks, drafts, and similar instruments issued or certified by banking**  
85 **and financial organizations.**

86 (1) Any sum payable on a bank draft that has been outstanding for more [~~that five~~] than  
87 three years after it was payable or after its issuance, if payable on demand, is considered  
88 abandoned unless the owner, within [~~five~~] three years, has communicated in writing with the  
89 banking or financial organization concerning it or otherwise indicated an interest as evidenced  
90 by a memorandum or other record on file prepared by an employee of the banking or financial  
91 organization.

92 (2) A holder may not deduct from the amount of a bank draft any charge imposed  
93 because of the failure to present the instrument for payment unless:

94 (a) there is a valid and enforceable written contract between the issuer and the owner of  
95 the instrument that authorizes the issuer to impose a charge; and

96 (b) the issuer regularly imposes those charges and does not regularly reverse or  
97 otherwise cancel them.

98 Section 3. Section **67-4a-204** is amended to read:

99 **67-4a-204. Deposits in a financial institution and funds in financial organizations.**

100 (1) Each deposit in a financial institution and any ownership purchase funds held by a  
101 banking or financial organization are considered abandoned after [~~five~~] three years if the  
102 location of the owner is unknown, unless:

103 (a) the owner, within the [~~five~~] three years, has:

104 (i) in the case of a deposit in a financial institution, increased or decreased its amount  
105 or presented the passbook or other similar evidence of the deposit for the crediting of interest;

106 (ii) communicated in writing with the banking or financial organization concerning the  
107 property; and

108 (iii) otherwise indicated an interest in the property as evidenced by a memorandum or  
109 other record on file prepared by an employee of the banking or financial organization;

110 (b) (i) the owner, within [~~five~~] three years, has owned other property to which

111 Subsection (1)(a)(i), (ii), or (iii) apply; and

112 (ii) the banking or financial organization communicates in writing with the owner with  
113 regard to the property that would otherwise be considered abandoned at the address to which

114 communications regarding the other property regularly are sent; or

115 (c) (i) the owner, within [~~five~~] three years, has had another relationship with the  
116 banking or financial organization concerning which the owner has communicated in writing  
117 with the banking or financial organization; and

118 (ii) the banking or financial organization communicates in writing with the owner with  
119 regard to the property that would otherwise be considered abandoned at the address to which  
120 communications regarding the other relationship regularly are sent.

121 (2) A holder may not impose any charge due to dormancy or inactivity or cease  
122 payment of interest on any property described in Subsection (1) unless:

123 (a) the holder is specifically exempted by federal law; or

124 (b) (i) there is a valid and enforceable written contract between the issuer and the  
125 owner of the instrument that authorizes the issuer to impose a charge; and

126 (ii) the issuer regularly imposes those charges and does not regularly reverse or  
127 otherwise cancel them.

128 (3) (a) Except as provided in Subsection (3)(b), any property described in Subsection  
129 (1) that is automatically renewable is considered matured for purposes of Subsection (1) when  
130 its initial time period expires.

131 (b) If the owner consents to any renewal at or about the time of renewal by  
132 communicating in writing with the banking or financial organization or otherwise indicating  
133 consent as evidenced by a memorandum or other record on file prepared by an employee of the  
134 organization, the property is considered matured for purposes of Subsection (1) when the last  
135 time period for which consent was given expires.

136 (c) If, at the time provided for delivery in Section 67-4a-302, a penalty or forfeiture in  
137 the payment of interest would result from the delivery of the property, the time for delivery is  
138 extended until the time when no penalty or forfeiture would result.

139 Section 4. Section **67-4a-205** is amended to read:

140 **67-4a-205. Funds owing under life insurance policies.**

141 (1) [~~(a) Except as provided in Subsection (b), funds~~] Funds held or owing under any

142 life or endowment insurance policy or annuity contract that has terminated or matured as  
143 defined in Subsection (3)(a) or (3)(b) are considered [~~abandoned if unclaimed for more than~~  
144 ~~five years after the funds became due and payable as established from the records of the~~  
145 ~~insurance company holding or owing the funds. (b) Funds held or owing under any life or~~  
146 ~~endowment insurance policy or annuity contract that has matured as defined in Subsection~~  
147 ~~(3)(b) are considered~~] abandoned if unclaimed for more than [~~two~~] three years.

148 (2) The insurance company shall presume that the last-known address of the person  
149 entitled to the funds is the same as the last-known address of the insured or annuitant according  
150 to the records of the company if:

151 (a) a person other than the insured or annuitant is entitled to the funds and an address  
152 of the person is not known to the company; or

153 (b) it is not definite and certain from the records of the company who is entitled to the  
154 funds.

155 (3) For purposes of this section, a life or endowment insurance policy or annuity  
156 contract not matured by actual proof of the death of the insured or annuitant according to the  
157 records of the company is matured and the proceeds are due and payable if the company:

158 (a) knows that the insured or annuitant has died; or

159 (b) determines that:

160 (i) the insured has attained, or would have attained if living, the limiting age under the  
161 mortality table on which the reserve is based;

162 (ii) the policy was in force at the time the insured attained, or would have attained, the  
163 limiting age specified [~~in~~] under Subsection (3)(b)(i); and

164 (iii) according to the records of the company, neither the insured nor any other person  
165 appearing to have an interest in the policy has, within the last two years:

166 (A) assigned, readjusted, or paid premiums on the policy;

167 (B) subjected the policy to a loan;

168 (C) corresponded in writing with the company concerning the policy; or

169 (D) otherwise indicated an interest in the policy as evidenced by a memorandum or

170 other record on file prepared by an employee of the company.

171 (4) For purposes of this section, the application of an automatic premium loan  
172 provision or other nonforfeiture provision contained in an insurance policy does not prevent a  
173 policy from being matured or terminated under Subsection (1) if the insured has died or the  
174 insured or the beneficiary of the policy otherwise has become entitled to the proceeds of the  
175 policy before the depletion of the cash surrender value of the policy by the application of those  
176 provisions.

177 Section 5. Section **67-4a-208** is amended to read:

178 **67-4a-208. Stock and other intangible interests in business associations.**

179 (1) Any stock, shareholding, or other intangible ownership interest in a business  
180 association that is evidenced by records available to the association is considered abandoned if:

181 (a) the interest in the association is owned by a person who for more than [~~five~~] three  
182 years has failed to:

183 (i) claim a dividend, distribution, or other sum payable as a result of the interest; or

184 (ii) communicate with the association regarding the interest or a dividend, distribution,  
185 or other sum payable as the result of the interest, as evidenced by a memorandum or other  
186 record on file with the association prepared by an employee of the association; and

187 (b) the association does not know the location of the owner at the end of the [~~five-year~~]  
188 three-year period.

189 (2) The return of official shareholder notifications or communications by the postal  
190 service as undeliverable is evidence that the association does not know the location of the  
191 owner.

192 (3) This section applies to:

193 (a) the underlying stock, shareholdings, or other intangible ownership interests of an  
194 owner;

195 (b) any stock, shareholdings, or other intangible ownership interest of an owner when  
196 the business association is in possession of the certificate or other evidence of ownership; and

197 (c) the stock, shareholdings, or other intangible ownership interests of dividend and

198 nondividend paying business associations whether or not the interest is represented by a  
199 certificate.

200 (4) At the time an interest is considered abandoned under this section, any dividend,  
201 distribution, or other sum then held for or owing to the owner as a result of the interest, and not  
202 previously considered abandoned, is considered abandoned.

203 (5) (a) This section does not apply to any stock or other intangible ownership interest  
204 enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or  
205 other sums payable as a result of the interest unless:

206 (i) the records available to the administrator of the plan show, with respect to any  
207 intangible ownership interest not enrolled in the reinvestment plan, that the owner has not  
208 communicated in any manner described in this section within [~~five~~] three years; or

209 (ii) [~~five~~] three years have elapsed since the location of the owner became unknown to  
210 the association, as evidenced by the return of official shareholder notifications or  
211 communications by the postal service as undeliverable, and the owner has not within those  
212 [~~five~~] three years communicated in any manner described in this section.

213 (b) The [~~five-year~~] three-year period from the return of official shareholder  
214 notifications or communications begins at the earlier of the return of the second of those  
215 notifications or communications or the time the holder discontinues mailings to the  
216 shareholder.

217 Section 6. Section **67-4a-209** is amended to read:

218 **67-4a-209. Property held by agents and fiduciaries.**

219 (1) All intangible property, and any income or increment derived from it, that is held in  
220 a fiduciary capacity for the benefit of another person is considered abandoned unless the owner  
221 has, within [~~five~~] three years after it has become payable or distributable:

222 (a) increased or decreased the principal;

223 (b) accepted payment of principal or income;

224 (c) communicated concerning the property; or

225 (d) otherwise indicated an interest as evidenced by a memorandum or other record on



226 file with the fiduciary.

227 (2) (a) As used in this ~~[subsection]~~ section, "distribution date" means the earliest of:

228 (i) the actual date of distribution or attempted distribution;

229 (ii) the date contracted for distribution in the plan or trust agreement governing the  
230 account or plan; or

231 (iii) the date specified in the internal revenue law of the United States by which  
232 distribution must begin in order to avoid a tax penalty.

233 (b) All intangible property and any income or increment derived from it that is held in  
234 an individual retirement account, a retirement plan for self-employed individuals, or similar  
235 account or plan established under the internal revenue laws of the United States that has not  
236 been paid or distributed for more than 90 days after the distribution date is considered  
237 abandoned unless the owner or beneficiary has, within ~~[five]~~ three preceding years:

238 (i) made additional payments or transfers of property to the account or plan;

239 (ii) been paid or received a distribution;

240 (iii) communicated concerning the property; or

241 (iv) otherwise indicated an interest as evidenced by a memorandum or  
242 other record on file with the account or plan fiduciary.

243 (3) For the purpose of this section, a person who holds property as an agent for a  
244 business association is considered to hold the property in a fiduciary capacity for that business  
245 association alone, unless the agreement between him and the business association provides  
246 otherwise.

247 (4) For the purposes of this section, a person who is considered to hold property in a  
248 fiduciary capacity for a business association alone is the holder of the property only for the  
249 interest of the business association in the property, and the business association is the holder of  
250 the property for the interest of any other person in the property.

251 Section 7. Section **67-4a-214** is amended to read:

252 **67-4a-214. Mineral proceeds.**

253 (1) (a) Any sum payable as mineral proceeds that has remained unclaimed by the

254 owner for more than [~~five~~] three years after it became payable or distributable is considered  
255 abandoned.

256 (b) The owner's underlying right to receive those mineral proceeds is considered  
257 abandoned when any sum payable as mineral proceeds has remained unclaimed by the owner  
258 for more than [~~five~~] three years.

259 (2) At the time an owner's underlying right to receive mineral proceeds is considered  
260 abandoned, any mineral proceeds then owing to the owner and any proceeds accruing after that  
261 time are considered abandoned.

262 (3) The sum considered abandoned is subject to the custody of this state as unclaimed  
263 property if:

264 (a) the last-known address of the apparent owner, as shown on the records of the  
265 holder, is in Utah;

266 (b) the records of the holder do not identify the last-known address and it is established  
267 that the last-known address of the apparent owner is in Utah;

268 (c) the records of the holder do not reflect the last-known address, and the holder is  
269 domiciled in or is a government or governmental subdivision or agency of Utah; or

270 (d) the mineral interest is located in Utah and:

271 (i) the last-known address of the apparent owner, as shown on the records of the  
272 holder, is in a state that does not provide by law for the escheat or custodial taking of the  
273 property or is in a state in which the state's escheat or unclaimed property law is not applicable  
274 to the property; or

275 (ii) the last-known address of the apparent owner is unknown and the holder is  
276 domiciled in a state that does not provide by law for the escheat or custodial taking of the  
277 property or a state in which the state escheat or unclaimed property law is not applicable to the  
278 property.

279 (4) A holder may not deduct from mineral proceeds any charge due to dormancy unless  
280 there is an enforceable written contract between the holder and the owner of the mineral  
281 proceeds under which the holder may impose a charge.

282 Section 8. Section **67-4a-301** is amended to read:

283 **67-4a-301. Report of abandoned property -- Notice.**

284 (1) (a) A person holding tangible or intangible property that is considered abandoned  
285 and subject to the state's custody as abandoned or unclaimed property under this chapter shall:

286 (i) file a report concerning the property with the administrator before [~~May~~] November  
287 1 of each year as of the preceding [~~December 31~~] June 30 containing the information required  
288 by this section; and

289 (ii) transfer the property identified in the report, including all interest, dividends,  
290 increments, and accretions due, payable, or distributable on the property as of [~~May~~] November  
291 1 of the year in which the report is required to the administrator as required by Section  
292 67-4a-302.

293 (b) The administrator may postpone the reporting date if he receives a written request  
294 to extend the time of the report from any person required to file a report.

295 (2) (a) The report shall include:

296 (i) except with respect to traveler's checks and money orders, the name, if known, and  
297 last-known address, if any, of each person appearing from the records of the holder to be the  
298 owner of property with a value of [~~\$25~~] \$50 or more that is considered abandoned under  
299 requirements of this chapter;

300 (ii) for unclaimed funds of [~~\$25~~] \$50 or more held or owing under any insurance policy  
301 or annuity contract, the full name and last-known address of the insured policy owner or  
302 annuitant and of the beneficiary according to the records of the insurance company holding or  
303 owing the funds;

304 (iii) for the contents of a safe deposit box or other safekeeping repository or of other  
305 tangible property, a description of the property and any amounts owing to the holder;

306 (iv) the nature and identifying number, if any, or description of the property and the  
307 amount appearing from the records to be due;

308 (v) the date the property became payable, demandable, or returnable and the date of the  
309 last transaction with the apparent owner with respect to the property;

310 (vi) a verification by the person completing the report that the information contained in  
311 it is true and accurate; ~~and~~

312 (vii) all known names and addresses of each previous holder of the property if:

313 (A) the person holding property considered abandoned and subject to custody as  
314 unclaimed property is a successor to other persons who previously held the property for the  
315 apparent owner; or

316 (B) the holder has changed a name while holding the property; and

317 (viii) other information required by the administrator.

318 (b) When reporting the nature and identifying number, if any, or description of the  
319 property and the amount appearing from the records to be due, items of value under ~~[\$25]~~ \$50  
320 each may be reported in the aggregate.

321 (3) Not more than 120 days before filing the report required by this section, the holder  
322 in possession of property considered abandoned and subject to the state's custody as unclaimed  
323 property under this chapter shall send written notice to the apparent owner at that owner's  
324 last-known address informing the owner that the holder is in possession of property subject to  
325 this chapter if:

326 (a) the holder has in its records an address for the apparent owner which the holder's  
327 records do not disclose to be inaccurate; or

328 (b) the property has a value of \$50 or more.

329 Section 9. Section **67-4a-302** is amended to read:

330 **67-4a-302. Payment or delivery of abandoned property.**

331 (1) (a) Each person holding property considered abandoned and subject to the state's  
332 custody as unclaimed property shall pay or deliver to the administrator all of the property  
333 shown on the report required by this part.

334 (b) The administrator may:

335 (i) postpone the payment or delivery of the property if requested by the person holding  
336 the property; and

337 (ii) impose terms and for payment and delivery upon the person holding the property.

338 (c) If the administrator authorizes postponement of payment or delivery of the property,  
339 the property paid or delivered to the administrator shall include all interest, dividends,  
340 increments and accretions due, payable, or distributable on the day that the property is paid or  
341 delivered to the administrator.

342 (2) (a) The holder of stocks and other intangible interests under Section 67-4a-208  
343 shall issue and deliver or transmit to the administrator a duplicate certificate, or other evidence  
344 of ownership if the holder does not issue certificates of ownership, [~~that is~~] including an  
345 electronic book entry registered in the name prescribed by the state treasurer.

346 (b) Upon delivery of a duplicate certificate or transmittance of a book entry to the  
347 administrator, the holder and any transfer agent, registrar, or other person acting for or on  
348 behalf of a holder in executing or delivering the duplicate certificate or other evidence of  
349 ownership is relieved of all liability in accordance with Section 67-4a-303 to every person,  
350 including any person acquiring the original certificate or the duplicate certificate issued to the  
351 administrator, for any losses or damages resulting to any person by the issuance and delivery of  
352 the duplicate certificate or other evidence of ownership to the administrator.

353 (3) (a) When a certificate or other evidence of ownership, or a bond or other debt  
354 security, registered in the name of a person is delivered to the administrator according to the  
355 procedures and requirements of this chapter and is presented by the administrator to the issuer  
356 or the issuer's agent, the issuer shall:

- 357 (i) transfer and register it in the name as prescribed by the state treasurer; and
- 358 (ii) deliver a new certificate or security registered in that name to the administrator.

359 (b) The issuer and its transfer agent, registrar, or other person acting on behalf of the  
360 issuer in executing and delivering the certificate or security is relieved from any liability to any  
361 person in accordance with Section 67-4a-303 for any loss or damage caused by the transfer,  
362 issuance, and delivery of the certificate or security to the administrator.

363 (4) (a) A holder, with the written consent of the administrator and upon conditions and  
364 terms prescribed by the administrator, may report and deliver property before the property is  
365 considered abandoned under this chapter.

366 (b) Property delivered under this Subsection (4) is presumed abandoned.

367 (c) The administrator shall advertise and dispose of the property according to the  
368 requirements of this chapter.

369 Section 10. Section **67-4a-402** is amended to read:

370 **67-4a-402. Publication of notice.**

371 [~~(1) In the calendar year in which~~] Within 12 months of the date the unclaimed  
372 property was paid or delivered to the administrator, the administrator shall:

373 [~~(a)~~] (1) cause a notice to be published once in a newspaper having general circulation  
374 in Utah; and

375 [~~(b)~~] (2) ensure that the notice is in a form that is likely to attract the attention of the  
376 apparent owner of the unclaimed property[;].

377 [~~(c) unless exempted by Subsection (2), ensure that the notice contains:~~]

378 [(i) the name of each person appearing to be the owner of property considered  
379 abandoned, as set forth in the report filed by the holder;]

380 [(ii) the last-known address or location of each person appearing to be the owner of  
381 property considered abandoned, if an address or location is set forth in the report filed by the  
382 holder;]

383 [(iii) a statement explaining that property of the owner is considered to be abandoned  
384 and has been taken into the protective custody of the administrator; and]

385 [(iv) a statement that information about the abandoned property and its return to the  
386 apparent owner can be obtained at any time by a person having a legal interest in that property  
387 by making an inquiry to the administrator.]

388 [(2) The administrator need not advertise:]

389 [(a) the name and address or location of an owner of abandoned property having a total  
390 value less than \$50; or]

391 [(b) information concerning traveler's checks, money orders, and other similar written  
392 instruments considered abandoned under Section 67-4a-202.]

393 Section 11. Section **67-4a-403** is amended to read:

394 **67-4a-403. Disposition of abandoned property -- Sale.**

395 (1) (a) Except as provided in Subsections (2)[,] and (3)[, ~~and (4)~~], the administrator  
396 shall:

397 (i) within three years after the receipt of abandoned property, sell the property to the  
398 highest bidder at a public sale, which may include sale via the Internet; and

399 (ii) if the sale is held at a specified physical location, publish notice of the sale in a  
400 newspaper of general circulation in this state at least three weeks before the sale.

401 (b) The administrator may hold the sale in whatever city in Utah he believes will  
402 provide the most favorable market for the property.

403 (c) The administrator may decline the highest bid and reoffer the property for sale if the  
404 bid is insufficient.

405 (d) If the administrator determines that the probable cost of sale exceeds the value of  
406 the property, the administrator need not offer the property for sale.

407 (e) When any person makes a claim, the administrator shall provide the person with:

408 (i) the property delivered by the holder to the administrator; or

409 (ii) the proceeds received from the sale.

410 (f) The administrator may, in the administrator's discretion, deduct reasonable fees and  
411 expenses incurred from the sale.

412 (2) (a) The administrator shall sell:

413 [~~(a)~~] (i) securities listed on an established stock exchange at prices prevailing at the  
414 time of sale on the exchange; and

415 [~~(b)~~] (ii) securities not listed on an established stock exchange:

416 [~~(i)~~] (A) over-the-counter at prices prevailing at the time of sale; or

417 [~~(ii)~~] (B) by any other method the administrator considers to be in the best interest of  
418 the state.

419 [~~(3) Unless the administrator considers it to be in the best interest of the state to do~~  
420 ~~otherwise, all securities received by the administrator, other than those considered abandoned~~  
421 ~~under Section 67-4a-208, shall be held for at least one year before they may be sold.]~~

422 ~~[(4) (a) Unless the administrator considers it to be in the best interest of the state to do~~  
423 ~~otherwise, all securities considered abandoned under Section 67-4a-208 and delivered to the~~  
424 ~~administrator shall be held for at least three years before the administrator may sell them.]~~

425 ~~[(b) (i) If the administrator sells any of those securities before the expiration of the~~  
426 ~~three years, the administrator shall pay any person claiming the securities before the end of the~~  
427 ~~three years either the proceeds of the sale of the securities or the market value of the securities~~  
428 ~~at the time the claim is made, whichever is greater.]~~

429 (b) The administrator may sell securities upon receipt.

430 ~~[(ii)] (c) When any person makes a claim [after three years], the administrator shall~~  
431 provide the person with:

432 ~~[(A)] (i) the securities delivered to the administrator by the holder, if they still remain~~  
433 in the hands of the administrator; or

434 ~~[(B)] (ii) the proceeds received from the sale.~~

435 (d) The administrator may, in the administrator's discretion, deduct reasonable fees and  
436 expenses incurred from the sale.

437 ~~[(e)] (e) A person making a claim under this [subsection] section may not make any~~  
438 claim against the state, the holder, any transfer agent, registrar or other person acting for or on  
439 behalf of a holder for any appreciation in the value of the property occurring after delivery by  
440 the holder to the administrator.

441 ~~[(5)] (3) (a) The purchaser of any property at any sale conducted by the administrator~~  
442 ~~under the authority of this chapter takes the property free of all claims of the owner or previous~~  
443 ~~holder of the property and of all persons claiming through or under them.~~

444 (b) The administrator shall execute all documents necessary to complete the transfer of  
445 ownership.

446 Section 12. Section **67-4a-601** is amended to read:

447 **67-4a-601. Records retention.**

448 (1) Except as provided in Subsection (2), each holder required to file a report under  
449 Part 3 shall maintain a record of the name and last-known address of the owner for five years



450 after the [~~property becomes reportable~~] date the holder files the report.

451 (2) Any business association that sells in this state its traveler's checks, money orders,  
452 or other similar written instruments, other than third-party bank checks on which the business  
453 association is directly liable, or that provides such instruments to others for sale in this state,  
454 shall maintain a record of those instruments while they remain outstanding, indicating the state  
455 and date of issue for three years after the date the property is reportable.

456 Section 13. Section **67-4a-701** is amended to read:

457 **67-4a-701. Examination of records.**

458 (1) (a) The administrator may examine at reasonable times and upon reasonable notice,  
459 the records pertaining to abandoned or unclaimed property of any person, including the records  
460 of an agent of a business association or financial association, to determine whether the person  
461 has complied with the provisions of this chapter.

462 (b) If an examination of the records of a person results in the disclosure of property  
463 reportable and deliverable under this chapter, and the unreported amount is more than \$12,500,  
464 the administrator:

465 (i) may assess the cost of the examination against the holder at the rate of up to \$200 a  
466 day for each examiner; and

467 (ii) may not charge more than \$5,000 or 10% of the value of the property found to be  
468 reportable and deliverable.

469 (2) If a holder fails to maintain the records required by Part 6, Duties of All Holders,  
470 and the records of the holder available for the periods subject to this act are insufficient to  
471 permit the preparation of a report, the administrator may require the holder to report and pay  
472 whatever amounts can be reasonably estimated from any available records.

473 (3) The administrator may require any person who has not filed a report to file a  
474 verified report stating whether or not the person is holding any unclaimed property reportable  
475 or deliverable under this chapter.

476 Section 14. Section **67-4a-703** is amended to read:

477 **67-4a-703. Interest and penalties.**

478 (1) A person who fails to pay or deliver property within the time required by this  
479 chapter shall pay interest to the administrator at the [~~annual~~] rate of [~~2% above the local prime~~  
480 ~~lending rate~~] 12% per annum on the property or value of the property from the date the  
481 property should have been paid or delivered.

482 (2) (a) A person who willfully fails to file any report, or perform a duty required by this  
483 chapter, or to pay or deliver property to the administrator as required by this chapter shall pay a  
484 civil penalty equal to 20% of the value of the property that should have been paid or delivered.

485 (b) The administrator shall comply with the procedures and requirements of Title 63,  
486 Chapter 46b, Administrative Procedures Act, in imposing civil penalties under this section.

487 (3) (a) It is unlawful for any person to willfully refuse to pay or deliver property to the  
488 administrator after written demand by the administrator as required by this chapter.

489 (b) Any person who violates this Subsection (3) is guilty of a class B misdemeanor.

490 (4) The administrator may, in appropriate circumstances:

491 (a) waive the payment of civil penalties;

492 (b) waive the payment of interest; or

493 (c) reduce the amount of the interest.