

Senator Lyle W. Hillyard proposes the following substitute bill:

**UNCLAIMED PROPERTY AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: V. Lowry Snow

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**LONG TITLE**

**General Description:**

This bill modifies the Uniform Unclaimed Property Act by amending unclaimed property provisions.

**Highlighted Provisions:**

This bill:

- ▶ provides and amends definitions;
- ▶ provides that an indication of apparent owner interest for determining whether property is presumed abandoned includes any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the account exists;
  - ▶ specifies when a company is deemed to have knowledge of the death of an insured or annuitant with respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant;
  - ▶ specifies rules for when certain death master file matches occur;
  - ▶ provides that a death master file match does not constitute proof of death for the purpose of a beneficiary, annuitant, or owner of an insurance policy or annuitant contract submitting a claim to an insurance company;



26           ▶ provides that the death master file match or validation of the insured's or annuitant's  
27 death does not alter the requirements for a beneficiary, annuitant, or owner of an  
28 insurance policy or annuity contract to make a claim to receive proceeds under the  
29 terms of the policy or contract;

30           ▶ requires an insurance company to make a good faith effort using other available  
31 records and information to validate a death and document the effort taken in certain  
32 circumstances; and

33           ▶ makes technical changes.

34 **Money Appropriated in this Bill:**

35           None

36 **Other Special Clauses:**

37           None

38 **Utah Code Sections Affected:**

39 AMENDS:

40           **67-4a-102**, as last amended by Laws of Utah 2018, Chapter 459

41           **67-4a-208**, as repealed and reenacted by Laws of Utah 2017, Chapter 371

42 ENACTS:

43           **67-4a-215**, Utah Code Annotated 1953



45 *Be it enacted by the Legislature of the state of Utah:*

46           Section 1. Section **67-4a-102** is amended to read:

47           **67-4a-102. Definitions.**

48           As used in this chapter:

49           (1) "Administrator" means the deputy state treasurer assigned by the state treasurer.

50           (2) (a) "Administrator's agent" means a person with which the administrator contracts  
51 to conduct an examination under Part 10, Verified Report of Property and Examination of  
52 Records, on behalf of the administrator.

53           (b) [~~"Administrator's~~] "Administrator's agent" includes an independent contractor of the  
54 person and each individual participating in the examination on behalf of the person or  
55 contractor.

56           (3) "Apparent owner" means a person whose name appears on the records of a holder

57 as the owner of property held, issued, or owing by the holder.

58 (4) (a) "Bank draft" means a check, draft, or similar instrument on which a banking or  
59 financial organization is directly liable.

60 (b) "Bank draft" includes:

61 (i) a cashier's check; and

62 (ii) a certified check.

63 (c) "Bank draft" does not include:

64 (i) a traveler's check; or

65 (ii) a money order.

66 (5) "Banking organization" means:

67 (a) a bank;

68 (b) an industrial bank;

69 (c) a trust company;

70 (d) a savings bank; or

71 (e) any organization defined by other law as a bank or banking organization.

72 (6) "Business association" means a corporation, joint stock company, investment  
73 company other than an investment company registered under the Investment Company Act of  
74 1940, partnership, unincorporated association, joint venture, limited liability company,  
75 business trust, trust company, land bank, safe deposit company, safekeeping depository,  
76 financial organization, banking organization, insurance company, federally chartered entity,  
77 utility, sole proprietorship, or other business entity, whether or not for profit.

78 (7) "Cashier's check" means a check that:

79 (a) is drawn by a banking organization on itself;

80 (b) is signed by an officer of the banking organization; and

81 (c) authorizes payment of the amount shown on the check's face to the payee.

82 (8) "Class action" means a legal action:

83 (a) certified by the court as a class action; or

84 (b) treated by the court as a class action without being formally certified as a class

85 action.

86 (9) "Confidential information" means records, reports, and information that is

87 confidential under Section [67-4a-1402](#).

88 (10) (a) "Deposit in a financial institution" means a demand, savings, or matured time  
89 deposit with a banking or financial organization.

90 (b) "Deposit in a financial institution" includes:

91 (i) any interest or dividends on a deposit; and

92 (ii) a deposit that is automatically renewable.

93 (11) "Domicile" means:

94 (a) for a corporation, the state of the corporation's incorporation;

95 (b) for a business association other than a corporation, whose formation requires a  
96 filing with a state, the state of the business association's filing;

97 (c) for a federally chartered entity or an investment company registered under the  
98 Investment Company Act of 1940, the state of the entity's or company's home office; and

99 (d) for any other holder, the state of the holder's principal place of business.

100 (12) "Electronic" means relating to technology having electrical, digital, magnetic,  
101 wireless, optical, electromagnetic, or similar capabilities.

102 (13) "Electronic mail" means a communication by electronic means that is  
103 automatically retained and stored and may be readily accessed or retrieved.

104 (14) "Financial organization" means:

105 (a) a savings and loan association; or

106 (b) a credit union.

107 (15) (a) "Game-related digital content" means digital content that exists only in an  
108 electronic game or electronic-game platform.

109 (b) "Game-related digital content" includes:

110 (i) game-play currency, including a virtual wallet, even if denominated in United States  
111 currency; and

112 (ii) the following, if for use or redemption only within the game or platform or another  
113 electronic game or electronic-game platform:

114 (A) points sometimes referred to as gems, tokens, gold, and similar names; and

115 (B) digital codes.

116 (c) "Game-related digital content" does not include an item that the issuer:

117 (i) permits to be redeemed for use outside a game or platform for:

118 (A) money; or

119 (B) goods or services that have more than minimal value; or  
120 (ii) otherwise monetizes for use outside a game or platform.

121 (16) (a) "Gift card" means a record that:

122 (i) is usable at:

123 (A) a single merchant; or

124 (B) a specified group of merchants;

125 (ii) is prefunded before the record is used; and

126 (iii) can be used for purchases of goods or services.

127 (b) "Gift card" includes a prepaid commercial mobile radio service as defined in 47

128 C.F.R. Sec. 20.3.

129 (17) "Holder" means a person obligated to hold for the account of, or to deliver or pay  
130 to, the owner property subject to this chapter.

131 (18) "Insurance company" means an association, corporation, or fraternal or mutual  
132 benefit organization, whether or not for profit, engaged in the business of providing life  
133 endowments, annuities, or insurance, including:

134 (a) accident insurance;

135 (b) burial insurance;

136 (c) casualty insurance;

137 (d) credit life insurance;

138 (e) contract performance insurance;

139 (f) dental insurance;

140 (g) disability insurance;

141 (h) fidelity insurance;

142 (i) fire insurance;

143 (j) health insurance;

144 (k) hospitalization insurance;

145 (l) illness insurance;

146 (m) life insurance, including endowments and annuities;

147 (n) malpractice insurance;

148 (o) marine insurance;

149 (p) mortgage insurance;

- 150 (q) surety insurance;
- 151 (r) wage protection insurance; and
- 152 (s) worker compensation insurance.

153 (19) "Last known address" means a description of the location of the apparent owner  
154 sufficient for the purpose of the delivery of mail.

155 (20) (a) "Loyalty card" means a record given without direct monetary consideration  
156 under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be  
157 used or redeemed only to obtain goods or services or a discount on goods or services.

158 (b) "Loyalty card" does not include a record that may be redeemed for money or  
159 otherwise monetized by the issuer.

160 (21) (a) "Mineral" means any substance that is ordinarily and naturally considered a  
161 mineral, regardless of the depth at which the substance is found.

162 (b) "Mineral" includes:

- 163 (i) building stone;
- 164 (ii) cement material;
- 165 (iii) chemical raw material;
- 166 (iv) coal;
- 167 (v) colloidal and other clay;
- 168 (vi) fissionable and nonfissionable ore;
- 169 (vii) gas;
- 170 (viii) gemstone;
- 171 (ix) gravel;
- 172 (x) lignite;
- 173 (xi) oil;
- 174 (xii) oil shale;
- 175 (xiii) other gaseous liquid or solid hydrocarbon;
- 176 (xiv) road material;
- 177 (xv) sand;
- 178 (xvi) steam and other geothermal resources;
- 179 (xvii) sulphur; and
- 180 (xviii) uranium.

- 181 (22) (a) "Mineral proceeds" means an amount payable:  
182 (i) for extraction, production, or sale of minerals; or  
183 (ii) for the abandonment of an interest in minerals.
- 184 (b) "Mineral proceeds" includes an amount payable:  
185 (i) for the acquisition and retention of a mineral lease, including a bonus, royalty,  
186 compensatory royalty, shut-in royalty, minimum royalty, or delay rental;  
187 (ii) for the extraction, production, or sale of minerals, including a net revenue interest,  
188 royalty, overriding royalty, extraction payment, or production payment; and  
189 (iii) under an agreement or option, including a joint-operating agreement, unit  
190 agreement, pooling agreement, and farm-out agreement.
- 191 (23) (a) "Money order" means a payment order for a specified amount of money.  
192 (b) "Money order" includes an express money order and a personal money order on  
193 which the remitter is the purchaser.  
194 (c) "Money order" does not include a cashier's check.
- 195 (24) "Municipal bond" means a bond or evidence of indebtedness issued by a  
196 municipality or other political subdivision of a state.
- 197 (25) (a) "Nonfreely transferable security" means a security that cannot be delivered to  
198 the administrator by the Depository Trust Clearing Corporation or a similar custodian of  
199 securities providing post-trade clearing and settlement services to financial markets or cannot  
200 be delivered because there is no agent to effect transfer.  
201 (b) "Nonfreely transferable security" includes a worthless security.
- 202 (26) (a) "Owner" means a person that has a legal, beneficial, or equitable interest in  
203 property subject to this chapter or the person's legal representative when acting on behalf of the  
204 owner.  
205 (b) "Owner" includes:  
206 (i) a depositor, for a deposit;  
207 (ii) a beneficiary, for a trust other than a deposit in trust;  
208 (iii) a creditor, claimant, or payee, for other property; and  
209 (iv) the lawful bearer of a record that may be used to obtain money, a reward, or a thing  
210 of value.  
211 (27) "Payroll card" means a record that evidences a payroll card account as defined in

212 12 C.F.R. Part 1005, Electronic Fund Transfers (Regulation E).

213 (28) "Person" means:

214 (a) an individual;

215 (b) an estate;

216 (c) a business association;

217 (d) a public corporation;

218 (e) a government entity;

219 (f) an agency;

220 (g) a trust;

221 (h) an instrumentality; or

222 (i) any other legal or commercial entity.

223 (29) (a) "Property" means tangible property described in Section [67-4a-205](#) or a fixed  
224 and certain interest in intangible property held, issued, or owed in the course of a holder's  
225 business or by a government entity.

226 (b) "Property" includes:

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

228 (ii) property referred to as or evidenced by:

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

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

233 (C) a security except for:

234 (I) a worthless security; or

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

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

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

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

241 (vi) an amount distributable from a trust or custodial fund established under a plan to  
242 provide health, welfare, pension, vacation, severance, retirement, death, stock purchase,



243 profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit;  
244 and

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

248 (c) "Property" does not include:

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

250 (ii) game-related digital content;

251 (iii) a loyalty card;

252 (iv) an in-store credit for returned merchandise; [~~or~~]

253 (v) patronage capital of an electric, telephone, or agricultural cooperative; or

254 [~~(v)~~] (vi) a gift card.

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

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

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

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

262 (32) "Security" means:

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

264 (b) a security entitlement as defined in Revised Article 8 of the Uniform Commercial  
265 Code, including a customer security account held by a registered broker-dealer, to the extent  
266 the financial assets held in the security account are not:

267 (i) registered on the books of the issuer in the name of the person for which the  
268 broker-dealer holds the assets;

269 (ii) payable to the order of the person;

270 (iii) specifically endorsed to the person; or

271 (iv) an equity interest in a business association not included in this Subsection (32).

272 (33) "Sign" means, with present intent to authenticate or adopt a record:

273 (a) to execute or adopt a tangible symbol; or

274 (b) to attach to or logically associate with the record an electronic symbol, sound, or  
275 process.

276 (34) "State" means a state of the United States, the District of Columbia, the  
277 Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular  
278 possession subject to the jurisdiction of the United States.

279 (35) (a) "Stored-value card" means a reloadable or non-reloadable record:

280 (i) with a monetary value or amount that can be:

281 (A) used to purchase or otherwise acquire goods or services;

282 (B) used to obtain cash; or

283 (C) redeemed for cash value; and

284 (ii) of which the issuer or the issuer's agent has a record of the name and last known  
285 address of the apparent owner and the address is in the state of Utah.

286 (b) "Stored-value card" does not include:

287 (i) a record described in Subsection (35)(a) that is purchased or acquired by an  
288 intermediary or other party for resale, for sale on consignment, or as a gift to the card user,  
289 when the issuer does not know the name and address of the ultimate buyer or recipient of the  
290 record;

291 (ii) a loyalty card;

292 (iii) a gift card; or

293 (iv) game-related digital content.

294 (36) "Utility" means a person that owns or operates for public use a plant, equipment,  
295 real property, franchise, or license for:

296 (a) the transmission of communications or information;

297 (b) the production, storage, transmission, sale, delivery, or furnishing of electricity,  
298 water, steam, or gas; or

299 (c) the provision of sewage or septic services, or trash, garbage, or recycling disposal.

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

303 (b) "Virtual currency" does not include:

304 (i) the software or protocols governing the transfer of the digital representation of

305 value;

306 (ii) game-related digital content;

307 (iii) a loyalty card;

308 (iv) membership rewards; or

309 (v) a gift card.

310 (38) "Worthless security" means a security whose cost of liquidation and delivery to  
311 the administrator would exceed the value of the security on the date a report is due under this  
312 chapter.

313 Section 2. Section **67-4a-208** is amended to read:

314 **67-4a-208. Indication of apparent owner interest in property.**

315 (1) The period after which property is presumed abandoned is measured from the later  
316 of:

317 (a) the date the property is presumed abandoned under this part; or

318 (b) the latest indication of interest by the apparent owner in the property.

319 (2) Under this chapter, an indication of an apparent owner's interest in property  
320 includes:

321 (a) a record communicated by the apparent owner to the holder or agent of the holder  
322 concerning the property or the account in which the property is held;

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

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

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

335 (e) a deposit into or withdrawal from an account at a banking organization or financial

336 organization, [~~except for~~] including an automatic deposit or withdrawal previously authorized  
 337 by the apparent owner [or] other than an automatic reinvestment of dividends or interest; [and]

338 (f) any other action by the apparent owner which reasonably demonstrates to the holder  
 339 that the apparent owner knows that the account exists; and

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

341 (3) An action by an agent or other representative of an apparent owner, other than the  
 342 holder acting as the apparent owner's agent, is presumed to be an action on behalf of the  
 343 apparent owner.

344 (4) A communication with an apparent owner by a person other than the holder or the  
 345 holder's representative is not an indication of interest in the property by the apparent owner  
 346 unless a record of the communication evidences the apparent owner's knowledge of a right to  
 347 the property.

348 (5) If the insured dies or the insured or beneficiary of an insurance policy otherwise  
 349 becomes entitled to the proceeds before depletion of the cash surrender value of the policy by  
 350 operation of an automatic premium loan provision or other nonforfeiture provision contained in  
 351 the policy, the operation does not prevent the policy from maturing or terminating.

352 Section 3. Section **67-4a-215** is enacted to read:

353 **67-4a-215. Knowledge of death of insured or annuitant.**

354 (1) As used in this section  $\hat{S} \rightarrow [s]$  :

354a (a)  $\leftarrow \hat{S}$  "  $\hat{S} \rightarrow$  [~~death~~] **Death**  $\leftarrow \hat{S}$  master file" means:

355  $\hat{S} \rightarrow$  [(a)] (i)  $\leftarrow \hat{S}$  the United States Social Security Administration death master file; or

356  $\hat{S} \rightarrow$  [(b)] (ii)  $\leftarrow \hat{S}$  another database or service that is at least as comprehensive as the United

356a States

357 Social Security Administration death master file for determining that an individual has

358 reportedly died.

358a  $\hat{S} \rightarrow$  (b) "**Special administrator**" means the same as that term is defined in Section 75-1-201.

358b  $\leftarrow \hat{S}$

359 (2) With respect to a life or endowment insurance policy or annuity contract for which  
 360 an amount is owed on proof of death, but which has not matured by proof of death of the  
 361 insured or annuitant, the company is deemed to have knowledge of the death of an insured or  
 362 annuitant when:

363 (a) the company receives a death certificate or court order determining that the insured  
 364 or annuitant has died;

365 (b) due diligence, performed as required under Section [31A-22-1903](#), to maintain  
 366 contact with the insured or annuitant to determine whether the insured or annuitant has died

367 validates the death of the insured or annuitant;

368 (c) the company conducts a comparison for any purpose between a death master file  
 369 and the names of some of the company's insureds or annuitants and finds a match that provides  
 370 notice that the insured or annuitant has died, and the company validates the death; or

371 (d) the company:

372 (i) receives notice of the death of the insured or annuitant from ~~an~~ a special ←  
 372a administrator,

373 beneficiary, policy owner, relative of the insured, or trustee or from a personal representative,  
 374 executor, or other legal representative of the insured's or annuitant's estate; and

375 (ii) validates the death of the insured or annuitant.

376 (3) A death master file match under Subsection (2)(c) occurs if the criteria for an exact  
 377 or partial match are satisfied as provided by:

378 (a) a law of this state other than this chapter, including Section 31A-22-1903; or

379 (b) a rule or policy adopted by the Insurance Department.

380 (4) A death master file match does not constitute proof of death for the purpose of a  
 381 beneficiary, annuitant, or owner of an insurance policy or annuitant contract submitting a claim  
 382 to an insurance company.

383 (5) The death master file match or validation of the insured's or annuitant's death does  
 384 not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to  
 385 make a claim to receive proceeds under the terms of the policy or contract.

386 (6) If a provision in Section 31A-22-1903 does not establish a time for validation of a  
 387 death of an insured or annuitant, the insurance company shall make a good faith effort using  
 388 other available records and information, no later than 90 days after the insurance company has  
 389 notice of the death, to:

390 (a) validate the death; and

391 (b) document the effort taken.

392 (7) This section does not affect the determination of the extent to which an insurance  
 393 company, before May 14, 2019:

394 (a) had knowledge of the death of an insured or annuitant; or

395 (b) was required to conduct a death master file comparison to determine whether  
 396 amounts owed by the company on a life or endowment insurance policy or annuity contract  
 397 were presumed or abandoned.