

1 **UNCLAIMED PROPERTY AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lyle W. Hillyard**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides and amends definitions;
- 14 ▶ specifies when a company is deemed to have knowledge of the death of an insured
15 or annuitant with respect to a life or endowment insurance policy or annuity contract
16 for which an amount is owed on proof of death, but which has not matured by proof
17 of death of the insured or annuitant;
- 18 ▶ specifies rules for when certain death master file matches occur;
- 19 ▶ provides that a death master file match does not constitute proof of death for the
20 purpose of a beneficiary, annuitant, or owner of an insurance policy or annuitant
21 contract submitting a claim to an insurance company;
- 22 ▶ provides that the death master file match or validation of the insured's or annuitant's
23 death does not alter the requirements for a beneficiary, annuitant, or owner of an
24 insurance policy or annuity contract to make a claim to receive proceeds under the
25 terms of the policy or contract;
- 26 ▶ requires an insurance company to make a good faith effort using other available
27 records and information to validate a death and document the effort taken in certain



28 circumstances; and
29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **67-4a-102**, as last amended by Laws of Utah 2018, Chapter 459

37 ENACTS:

38 **67-4a-215**, Utah Code Annotated 1953



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

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

42 **67-4a-102. Definitions.**

43 As used in this chapter:

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

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

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

51 (3) "Apparent owner" means a person whose name appears on the records of a holder
52 as the owner of property held, issued, or owing by the holder.

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

55 (b) "Bank draft" includes:

56 (i) a cashier's check; and

57 (ii) a certified check.

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

- 59 (i) a traveler's check; or
- 60 (ii) a money order.
- 61 (5) "Banking organization" means:
- 62 (a) a bank;
- 63 (b) an industrial bank;
- 64 (c) a trust company;
- 65 (d) a savings bank; or
- 66 (e) any organization defined by other law as a bank or banking organization.
- 67 (6) "Business association" means a corporation, joint stock company, investment
- 68 company other than an investment company registered under the Investment Company Act of
- 69 1940, partnership, unincorporated association, joint venture, limited liability company,
- 70 business trust, trust company, land bank, safe deposit company, safekeeping depository,
- 71 financial organization, banking organization, insurance company, federally chartered entity,
- 72 utility, sole proprietorship, or other business entity, whether or not for profit.
- 73 (7) "Cashier's check" means a check that:
- 74 (a) is drawn by a banking organization on itself;
- 75 (b) is signed by an officer of the banking organization; and
- 76 (c) authorizes payment of the amount shown on the check's face to the payee.
- 77 (8) "Class action" means a legal action:
- 78 (a) certified by the court as a class action; or
- 79 (b) treated by the court as a class action without being formally certified as a class
- 80 action.
- 81 (9) "Confidential information" means records, reports, and information that is
- 82 confidential under Section [67-4a-1402](#).
- 83 (10) (a) "Deposit in a financial institution" means a demand, savings, or matured time
- 84 deposit with a banking or financial organization.
- 85 (b) "Deposit in a financial institution" includes:
- 86 (i) any interest or dividends on a deposit; and
- 87 (ii) a deposit that is automatically renewable.
- 88 (11) "Domicile" means:
- 89 (a) for a corporation, the state of the corporation's incorporation;

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

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

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

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

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

99 (14) "Financial organization" means:

100 (a) a savings and loan association; or

101 (b) a credit union.

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

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

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

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

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

110 (B) digital codes.

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

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

113 (A) money; or

114 (B) goods or services that have more than minimal value; or

115 (ii) otherwise monetizes for use outside a game or platform.

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

117 (i) is usable at:

118 (A) a single merchant; or

119 (B) a specified group of merchants;

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

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

122 (b) "Gift card" includes a prepaid commercial mobile radio service as defined in 47
123 C.F.R. Sec. 20.3.

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

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

129 (a) accident insurance;

130 (b) burial insurance;

131 (c) casualty insurance;

132 (d) credit life insurance;

133 (e) contract performance insurance;

134 (f) dental insurance;

135 (g) disability insurance;

136 (h) fidelity insurance;

137 (i) fire insurance;

138 (j) health insurance;

139 (k) hospitalization insurance;

140 (l) illness insurance;

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

142 (n) malpractice insurance;

143 (o) marine insurance;

144 (p) mortgage insurance;

145 (q) surety insurance;

146 (r) wage protection insurance; and

147 (s) worker compensation insurance.

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

150 (20) (a) "Loyalty card" means a record given without direct monetary consideration
151 under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be

152 used or redeemed only to obtain goods or services or a discount on goods or services.

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

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

157 (b) "Mineral" includes:

158 (i) building stone;

159 (ii) cement material;

160 (iii) chemical raw material;

161 (iv) coal;

162 (v) colloidal and other clay;

163 (vi) fissionable and nonfissionable ore;

164 (vii) gas;

165 (viii) gemstone;

166 (ix) gravel;

167 (x) lignite;

168 (xi) oil;

169 (xii) oil shale;

170 (xiii) other gaseous liquid or solid hydrocarbon;

171 (xiv) road material;

172 (xv) sand;

173 (xvi) steam and other geothermal resources;

174 (xvii) sulphur; and

175 (xviii) uranium.

176 (22) (a) "Mineral proceeds" means an amount payable:

177 (i) for extraction, production, or sale of minerals; or

178 (ii) for the abandonment of an interest in minerals.

179 (b) "Mineral proceeds" includes an amount payable:

180 (i) for the acquisition and retention of a mineral lease, including a bonus, royalty,
181 compensatory royalty, shut-in royalty, minimum royalty, or delay rental;

182 (ii) for the extraction, production, or sale of minerals, including a net revenue interest,

183 royalty, overriding royalty, extraction payment, or production payment; and

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

186 (23) (a) "Money order" means a payment order for a specified amount of money.

187 (b) "Money order" includes an express money order and a personal money order on
188 which the remitter is the purchaser.

189 (c) "Money order" does not include a cashier's check.

190 (24) "Municipal bond" means a bond or evidence of indebtedness issued by a
191 municipality or other political subdivision of a state.

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

196 (b) "Nonfreely transferable security" includes a worthless security.

197 (26) (a) "Owner" means a person that has a legal, beneficial, or equitable interest in
198 property subject to this chapter or the person's legal representative when acting on behalf of the
199 owner.

200 (b) "Owner" includes:

201 (i) a depositor, for a deposit;

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

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

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

206 (27) "Payroll card" means a record that evidences a payroll card account as defined in
207 12 C.F.R. Part 1005, Electronic Fund Transfers (Regulation E).

208 (28) "Person" means:

209 (a) an individual;

210 (b) an estate;

211 (c) a business association;

212 (d) a public corporation;

213 (e) a government entity;

- 214 (f) an agency;
- 215 (g) a trust;
- 216 (h) an instrumentality; or
- 217 (i) any other legal or commercial entity.
- 218 (29) (a) "Property" means tangible property described in Section [67-4a-205](#) or a fixed
- 219 and certain interest in intangible property held, issued, or owed in the course of a holder's
- 220 business or by a government entity.
- 221 (b) "Property" includes:
- 222 (i) all income from or increments to the property;
- 223 (ii) property referred to as or evidenced by:
- 224 (A) money, virtual currency, interest, or a dividend, check, draft, or deposit;
- 225 (B) a credit balance, customer's overpayment, stored-value card, payroll card, security
- 226 deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an
- 227 obligation to provide a refund, mineral proceeds, or unidentified remittance; and
- 228 (C) a security except for:
- 229 (I) a worthless security; or
- 230 (II) a security that is subject to a lien, legal hold, or restriction evidenced on the records
- 231 of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the
- 232 holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;
- 233 (iii) a bond, debenture, note, or other evidence of indebtedness;
- 234 (iv) money deposited to redeem a security, make a distribution, or pay a dividend;
- 235 (v) an amount due and payable under an annuity contract or insurance policy;
- 236 (vi) an amount distributable from a trust or custodial fund established under a plan to
- 237 provide health, welfare, pension, vacation, severance, retirement, death, stock purchase,
- 238 profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit;
- 239 and
- 240 (vii) an amount held under a preneed funeral or burial contract, other than a contract
- 241 for burial rights or opening and closing services, where the contract has not been serviced
- 242 following the death or the presumed death of the beneficiary.
- 243 (c) "Property" does not include:
- 244 (i) property held in a plan described in Section 529A, Internal Revenue Code;

- 245 (ii) game-related digital content;
- 246 (iii) a loyalty card;
- 247 (iv) an in-store credit for returned merchandise; [or]
- 248 (v) patronage capital of an electric, telephone, or agricultural cooperative; or
- 249 [(v)] (vi) a gift card.
- 250 (30) "Putative holder" means a person believed by the administrator to be a holder,
- 251 until:
 - 252 (a) the person pays or delivers to the administrator property subject to this chapter; or
 - 253 (b) the administrator or a court makes a final determination that the person is or is not a
 - 254 holder.
- 255 (31) "Record" means information that is inscribed on a tangible medium or that is
- 256 stored in an electronic or other medium and is retrievable in perceivable form.
- 257 (32) "Security" means:
 - 258 (a) a security as defined in Revised Article 8 of the Uniform Commercial Code; or
 - 259 (b) a security entitlement as defined in Revised Article 8 of the Uniform Commercial
 - 260 Code, including a customer security account held by a registered broker-dealer, to the extent
 - 261 the financial assets held in the security account are not:
 - 262 (i) registered on the books of the issuer in the name of the person for which the
 - 263 broker-dealer holds the assets;
 - 264 (ii) payable to the order of the person;
 - 265 (iii) specifically endorsed to the person; or
 - 266 (iv) an equity interest in a business association not included in this Subsection (32).
- 267 (33) "Sign" means, with present intent to authenticate or adopt a record:
 - 268 (a) to execute or adopt a tangible symbol; or
 - 269 (b) to attach to or logically associate with the record an electronic symbol, sound, or
 - 270 process.
- 271 (34) "State" means a state of the United States, the District of Columbia, the
- 272 Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular
- 273 possession subject to the jurisdiction of the United States.
- 274 (35) (a) "Stored-value card" means a reloadable or non-reloadable record:
 - 275 (i) with a monetary value or amount that can be:

276 (A) used to purchase or otherwise acquire goods or services;
277 (B) used to obtain cash; or
278 (C) redeemed for cash value; and
279 (ii) of which the issuer or the issuer's agent has a record of the name and last known
280 address of the apparent owner and the address is in the state of Utah.

281 (b) "Stored-value card" does not include:
282 (i) a record described in Subsection (35)(a) that is purchased or acquired by an
283 intermediary or other party for resale, for sale on consignment, or as a gift to the card user,
284 when the issuer does not know the name and address of the ultimate buyer or recipient of the
285 record;
286 (ii) a loyalty card;
287 (iii) a gift card; or
288 (iv) game-related digital content.

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

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

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

298 (b) "Virtual currency" does not include:
299 (i) the software or protocols governing the transfer of the digital representation of
300 value;
301 (ii) game-related digital content;
302 (iii) a loyalty card;
303 (iv) membership rewards; or
304 (v) a gift card.

305 (38) "Worthless security" means a security whose cost of liquidation and delivery to
306 the administrator would exceed the value of the security on the date a report is due under this

307 chapter.

308 Section 2. Section **67-4a-215** is enacted to read:

309 **67-4a-215. Knowledge of death of insured or annuitant.**

310 (1) As used in this section, "death master file" means:

311 (a) the United States Social Security Administration death master file; or

312 (b) another database or service that is at least as comprehensive as the United States
313 Social Security Administration death master file for determining that an individual has
314 reportedly died.

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

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

321 (b) due diligence, performed as required under Section [31A-22-1903](#), to maintain
322 contact with the insured or annuitant to determine whether the insured or annuitant has died
323 validates the death of the insured or annuitant;

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

327 (d) the company:

328 (i) receives notice of the death of the insured or annuitant from an administrator,
329 beneficiary, policy owner, relative of the insured, or trustee or from a personal representative,
330 executor, or other legal representative of the insured's or annuitant's estate; and

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

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

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

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

336 (4) A death master file match does not constitute proof of death for the purpose of a
337 beneficiary, annuitant, or owner of an insurance policy or annuitant contract submitting a claim

338 to an insurance company.

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

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

346 (a) validate the death; and

347 (b) document the effort taken.

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

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

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