

TITLE 67

State Officers and Employees Chapter 4a Unclaimed Property Act

Part 1. General Provisions

67-4a-101. Title.

This act may be cited as the "Unclaimed Property Act."

67-4a-102. Definitions.

As used in this chapter:

(1) "Administrator" means the deputy state treasurer assigned by the state treasurer to administer the law governing unclaimed property in Utah.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) (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) cashier's checks; and
- (ii) certified checks.

(c) "Bank draft" does not include:

- (i) traveler's checks; or
- (ii) money orders.

(4) "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 organization.

(5) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including:

- (a) a banking organization;
- (b) a financial organization;
- (c) an insurance company; or
- (d) a utility.

(6) "Cashier's check" means a check drawn by a banking organization on itself, signed by an officer of the banking organization, authorizing payment of the amount shown on its face to the payee.

(7) "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.

(8) (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.

(9) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(10) "Financial organization" means:

- (a) a savings and loan association; or
- (b) a credit union.

(11) "Government entity" means:

- (a) the state;
- (b) any administrative unit of the state;
- (c) any political subdivision of the state;
- (d) any administrative unit of a political subdivision of the state; or
- (e) any officer or employee of an entity described in Subsections (11) (a) through (d).

(12) "Holder" means a person, wherever organized or domiciled, who is:

- (a) in possession of property belonging to another;
- (b) a trustee;
- (c) indebted to another on an obligation; or
- (d) charged with the duty of paying or delivering intangible property under Section 67-4a-302.

(13) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether

or not for profit, that is engaged in providing insurance coverage, including:

- (a) accident insurance;
- (b) burial insurance;
- (c) casualty insurance;
- (d) credit life insurance;
- (e) contract performance insurance;
- (f) dental insurance;
- (g) fidelity insurance;
- (h) fire insurance;
- (i) health insurance;
- (j) hospitalization insurance;
- (k) illness insurance;
- (l) life insurance, including endowments and annuities;
- (m) malpractice insurance;
- (n) marine insurance;
- (o) mortgage insurance;
- (p) surety insurance; and
- (q) wage protection insurance.

(14) (a) "Intangible property" includes:

- (i) monies, checks, drafts, deposits in a financial institution, interest, dividends, and income;
- (ii) credit balances, customer overpayments, gift certificates over \$25, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;
- (iii) stocks, mutual funds, and other intangible ownership interests in business associations;
- (iv) monies deposited to redeem stocks, bonds, coupons, and other securities or to make distributions;
- (v) bonds, notes, and any other debt obligations;
- (vi) amounts due and payable under the terms of insurance policies;
- (vii) amounts 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 similar benefits; and
- (viii) amounts distributable from a mineral interest in land.

(b) "Intangible property" does not include patronage capital of electric, telephone, and agricultural cooperatives.

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

(16) "Mineral" means oil, gas, uranium, sulphur, lignite, coal, and any other substance that is ordinarily and naturally considered a mineral, regardless of the depth at which the oil, gas, uranium, sulphur, lignite, coal, or other substance is found.

(17) "Mineral proceeds" includes:

(a) all obligations to pay resulting from the production and sale of minerals, including:

- (i) net revenue interest;
- (ii) royalties;
- (iii) overriding royalties;
- (iv) production payments; and
- (v) joint operating agreements; and

(b) all obligations for the acquisition and retention of a mineral lease, including:

- (i) bonuses;
- (ii) delay rentals;
- (iii) shut-in royalties; and
- (iv) minimum royalties.

(18) (a) "Money order" means a negotiable draft issued by a business association for which the business association is not directly liable.

(b) "Money order" does not mean a cashier's check.

(19) "Net intangible property" means intangible property that is held, issued, or owing in the ordinary course of a holder's business plus any income or increment derived from it and less any lawful charges.

(20) "Owner" means:

- (a) a depositor in the case of a deposit;
- (b) a beneficiary in the case of a trust other than a deposit in trust;
- (c) a creditor, claimant, or payee in the case of other intangible property; or
- (d) a person or that person's legal representative having a legal or equitable interest in property subject to this chapter.

(21) (a) "Ownership purchase funds" means any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking or financial organization.

(b) "Ownership purchase funds" includes any interest or dividends paid on those funds.

(22) "Person" means:

- (a) an individual;
- (b) a business association;
- (c) a government entity;
- (d) a public corporation;
- (e) a public authority;
- (f) an estate;
- (g) a trust;
- (h) two or more persons having a joint or common interest; or
- (i) any other legal or commercial entity.

(23) "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

(24) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for:

- (a) the transmission of communications, including cable television; or
- (b) the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

67-4a-103. General rules for taking custody of intangible unclaimed property.

(1) Unless otherwise provided in this chapter or by other statute, the state of Utah may take custody of intangible property if the property is considered abandoned according to the standards established in Part 2 and:

- (a) the last-known address, as shown on the records of the holder, of the apparent owner is in Utah;
- (b) the records of the holder do not reflect the identity of the person entitled to the property and it is established that the last-known address of the person entitled to the property is in Utah;
- (c) the records of the holder do not reflect the last-known address of the apparent owner and it is established that:

- (i) the last-known address of the person entitled to the property is in Utah; or

- (ii) the holder is a domiciliary or a government or governmental subdivision or agency of Utah and has not previously paid or delivered the property to the state of the last-known address of the apparent owner or other person entitled to the property;

- (d) the last-known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of Utah;

- (e) the last-known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of Utah; or

- (f) the transaction out of which the property arose occurred in Utah and:

- (i) the holder is domiciled in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property; and

- (ii) the last-known address of the apparent owner or other person entitled to the property is:

- (A) unknown; or

- (B) in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

(2) The expiration, before or after the effective date of this chapter, of any period of time specified by contract, statute, or court order, during which a claim for money or property can be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property, does not prevent the money or property from being considered abandoned or affect any duty to file a report or to pay or deliver abandoned property to the administrator as required by this chapter.

Part 2. Standards for Determining When Property is Abandoned or Unclaimed

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

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

- (i) the property is held, issued, or owing by a holder;

- (ii) the identity, status, or present location of the apparent owner is unknown; and

- (iii) the property cannot be paid, distributed, or given to the apparent owner after the stated dormancy period for that type of unclaimed property established in this chapter.

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

- (i) the character or degree of ownership interest of the apparent owner in the property is unsettled or in dispute; and

- (ii) the holder is notified of this fact.

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

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

67-4a-202. Traveler's checks and money orders.

(1) Except as provided in Subsection (4), any sum payable on a traveler's check that has been outstanding for

more than 15 years after its issuance is considered abandoned unless the owner, within the 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(2) Except as provided in Subsection (4), any sum payable on a money order that has been outstanding for more than seven years after its issuance is considered abandoned unless the owner, within the seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(3) A holder may not deduct from the amount of a traveler's check or money order any charge imposed because of the failure to present the instrument for payment unless:

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

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

(4) The state may not claim custody of a sum payable on a traveler's check or money order described in Subsections (1) and (2) as unclaimed property unless:

(a) the records of the issuer show that the traveler's check or money order was purchased in Utah;

(b) the issuer has its principal place of business in Utah and the records of the issuer do not show the state in which the traveler's check or money order was purchased; or

(c) the issuer has its principal place of business in Utah, the records of the issuer show the state in which the traveler's check or money order was purchased, and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

(5) Notwithstanding any other provision of this chapter, Subsection (4) applies to sums payable on traveler's checks or money orders considered abandoned on or after May 2, 1994.

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

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

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

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

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

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

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

(a) the owner, within the three years, has:

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

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

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

(b) (i) the owner, within three years, has owned other property to which Subsection

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

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

(c) (i) the owner, within three years, has had another relationship with the banking or financial organization concerning which the owner has communicated in writing with the banking or financial organization; and

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

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

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

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

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

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

(b) If the owner consents to any renewal at or about the time of renewal by communicating in writing with the

banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is considered matured for purposes of Subsection (1) when the last time period for which consent was given expires.

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

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

(1) Funds held or owing under any life or endowment insurance policy or annuity contract that has terminated or matured as defined in Subsection (3)(a) or (3)(b) are considered abandoned if unclaimed for more than three years.

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

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

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

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

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

(b) determines that:

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

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

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

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

(B) subjected the policy to a loan;

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

(D) otherwise indicated an interest in the policy as evidenced by a memorandum or other record on file prepared by an employee of the company.

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

67-4a-206. Deposits held by utilities.

A deposit, including any interest on it, made by a subscriber with a utility to secure payment and any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one year after termination of the services for which the deposit or advance payment was made is considered abandoned.

67-4a-207. Refunds and payments resulting from judicial or administrative proceedings.

(1) The sum to be paid as a refund, under an order or decision of a court or administrative agency or by agreement, that remains outstanding for more than one year after it became payable is considered abandoned unless the apparent owner has communicated in writing with the holder concerning that sum within the preceding six months.

(2) Any sum payable or intangible property distributable in the course of a voluntary or involuntary dissolution or liquidation that remains unclaimed for one year after the date of the final distribution or liquidation is considered abandoned unless the apparent owner has communicated in writing with the holder concerning that sum or distribution within the preceding six months.

(3) Intangible property payable or distributable to a member of or participant in a class action that remains unclaimed for more than one year after the time for the final payment or distribution is considered abandoned, unless the apparent owner has communicated in writing with the holder concerning the property within the preceding six months.

(4) Intangible property payable or distributable as the result of litigation or settlement of a dispute before a judicial or administrative body that remains unclaimed for more than one year after the time for the final payment or distribution is considered abandoned unless the apparent owner has communicated in writing concerning the property within the preceding six months.

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

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

(a) the interest in the association is owned by a person who for more than three years has failed to:

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

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

(b) the association does not know the location of the owner at the end of the three-year period.

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

(3) This section applies to:

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

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

(c) the stock, shareholdings, or other intangible ownership interests of dividend and nondividend paying business associations whether or not the interest is represented by a certificate.

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

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

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

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

(b) The three-year period from the return of official shareholder notifications or communications begins at the earlier of the return of the second of those notifications or communications or the time the holder discontinues mailings to the shareholder.

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

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

(a) increased or decreased the principal;

(b) accepted payment of principal or income;

(c) communicated concerning the property; or

(d) otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

(2) (a) As used in this section, "distribution date" means the earliest of:

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

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

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

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

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

(ii) been paid or received a distribution;

(iii) communicated concerning the property; or

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

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

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

67-4a-210. Property held by courts and public agencies.

(1) Any intangible property held by the executive, legislative, or judicial branch of the United States government, or a state or a county or municipal subdivision of a state, or any of their authorities, agencies, instrumentalities, administrations, services, or other organizations that remains unclaimed for more than one year after it became payable or distributable is considered abandoned.

(2) Property held, issued, or owing by the court is payable or distributable if:

(a) the court has notified all persons whose names appear on the records of the court as having an

unadjudicated claim to the property that the property is being held subject to the claim; and

(b) no claim is made, or property remains after all claims are resolved.

(3) A claim filed under Section 67-4a-501 for property reported by the court to the administrator under this Section may be referred to the court for adjudication of the claim.

67-4a-211. Gift certificates and credit memos.

(1) A gift certificate greater than \$25 or a credit memo that remains unreconsidered for more than five years after issuance is considered abandoned.

(2) (a) In the case of a gift certificate, the amount considered abandoned is the price paid for the certificate itself.

(b) In the case of a credit memo, the amount considered abandoned is the amount credited as shown on the memo itself.

(3) The amount of a gift certificate or credit memo considered abandoned is subject to the custody of this state when:

(a) the records of the issuer show that the last-known address of the purchaser of the certificate or recipient of the memo is in Utah;

(b) the records of the issuer do not show the address of the purchaser or recipient, but do show that the certificate or memo was issued in Utah;

(c) the records of the issuer do not show the address of the purchaser or of the recipient and do not show the state where the certificate or memo was issued, but the issuer is domiciled in Utah; or

(d) the records of the issuer show that the state contained in the address of the purchaser or recipient, or if none, the state where the certificate or memo was issued, is a state whose escheat or unclaimed property law does not provide for the escheat or custodial taking of gift certificates and credit memos, and the issuer is domiciled in Utah.

67-4a-212. Wages.

Unpaid wages, bonuses, and commissions, including wages represented by un-presented payroll checks, owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than one year after becoming payable are considered abandoned.

67-4a-213. Contents of safe deposit box or other safekeeping repository.

All tangible and intangible property held in a safe deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business and all proceeds resulting from the sale of the property permitted by other law that remain unclaimed by the owner for more than five years after the lease or rental period on the box or other repository has expired are considered abandoned.

67-4a-214. Mineral proceeds.

(1) (a) Any sum payable as mineral proceeds that has remained unclaimed by the owner for more than three years after it became payable or distributable is considered abandoned.

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

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

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

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

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

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

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

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

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

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

Part 3. Procedures for Reporting and Submitting Abandoned or Unclaimed Property

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

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

(i) file a report concerning the property with the administrator before November 1 of each year as of the preceding June 30 containing the information required by this section; and

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

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

(2) (a) The report shall include:

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

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

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

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

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

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

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

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

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

(viii) other information required by the administrator.

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

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

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

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

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

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

(b) The administrator may:

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

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

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

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

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

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

(i) transfer and register it in the name as prescribed by the state treasurer; and

(ii) deliver a new certificate or security registered in that name to the administrator.

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

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

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

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

67-4a-303. Custody by state -- Holder relieved from liability -- Reimbursement of holder paying claim -- Reclaiming for owner -- Defense of holder -- Payment of safe deposit box or repository charges.

(1) As used in this section, "good faith" means that:

(a) payment or delivery of the property to the administrator was made in a reasonable attempt to comply with this chapter;

(b) the person delivering the property:

(i) was not a fiduciary in breach of trust in respect to the property at the time of delivery; and

(ii) had a reasonable basis for believing that the property was abandoned for the purposes of this chapter, based on the facts known to the person at the time of delivery; and

(c) there is no showing that the records under which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(2) (a) Upon the payment or delivery of property to the administrator, the state assumes custody and responsibility for the safekeeping of the property.

(b) A person who pays or delivers property to the administrator in good faith is, to the extent of the value of the property paid or delivered, relieved of all liability for:

(i) any existing claim to the property; and

(ii) any claim to the property that may arise later.

(c) Upon the payment or delivery of property to the administrator, the person who pays or delivers the property is not liable for interest.

(3) (a) (i) A holder who has paid money to the administrator according to the procedures and requirements of this chapter may:

(A) pay any person appearing to the holder to be entitled to payment; and

(B) file a request for reimbursement with the administrator that establishes proof of payment and proof that the payee was entitled to payment.

(ii) The administrator shall promptly reimburse the holder for the payment without imposing any fee or other charge.

(b) If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the administrator shall reimburse the holder for the payment if the administrator has received proof that:

(i) the instrument was presented; and

(ii) payment was made to a person who appeared to the holder to be entitled to payment.

(4) A holder who has delivered any property other than money, including a certificate of any interest in a business association, to the administrator according to the procedures and requirements of this chapter may reclaim the property if it is still in the possession of the administrator, without paying any fee or other charge, by filing proof that the owner has claimed the property from the holder.

(5) The administrator may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

(6) If, after a holder has paid or delivered property to the administrator in good faith, another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator shall, upon written notice of the claim:

(a) defend the holder against the claim; and

(b) indemnify the holder against any liability on the claim.

(7) The administrator takes possession of property removed from a safe deposit box or other safekeeping repository subject to:

(a) the holder's right to be reimbursed for the actual cost of the opening of the box or repository; and

(b) any valid lien or contract in favor of the holder that provides for the holder to be reimbursed for unpaid rent, storage, or any other charges that are reasonable and related.

Part 4. Disposition of Abandoned or Unclaimed Property in the Administrator's Custody

67-4a-401. Amount recoverable by owner.

Whenever property is paid or delivered to the administrator under this act, the owner may receive from the administrator the principal amount turned over to the state.

67-4a-402. Publication of notice.

Within 12 months of the date the unclaimed property was paid or delivered to the administrator, the administrator shall:

(1) cause a notice to be published once in a newspaper having general circulation in Utah; and

(2) ensure that the notice is in a form that is likely to attract the attention of the apparent owner of the unclaimed property.

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

- (1) (a) Except as provided in Subsections (2) and (3), the administrator shall:
- (i) within three years after the receipt of abandoned property, sell the property to the highest bidder at a public sale, which may include sale via the Internet; and
 - (ii) if the sale is held at a specified physical location, publish notice of the sale in a newspaper of general circulation in this state at least three weeks before the sale.
- (b) The administrator may hold the sale in whatever city in Utah he believes will provide the most favorable market for the property.
- (c) The administrator may decline the highest bid and reoffer the property for sale if the bid is insufficient.
- (d) If the administrator determines that the probable cost of sale exceeds the value of the property, the administrator need not offer the property for sale.
- (e) When any person makes a claim, the administrator shall provide the person with:
- (i) the property delivered by the holder to the administrator; or
 - (ii) the proceeds received from the sale.
- (f) The administrator may, in the administrator's discretion, deduct reasonable fees and expenses incurred from the sale.
- (2) (a) The administrator shall sell:
- (i) securities listed on an established stock exchange at prices prevailing at the time of sale on the exchange; and
 - (ii) securities not listed on an established stock exchange:
 - (A) over-the-counter at prices prevailing at the time of sale; or
 - (B) by any other method the administrator considers to be in the best interest of the state.
- (b) The administrator may sell securities upon receipt.
- (c) When any person makes a claim, the administrator shall provide the person with:
- (i) the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator; or
 - (ii) the proceeds received from the sale.
- (d) The administrator may, in the administrator's discretion, deduct reasonable fees and expenses incurred from the sale.
- (e) A person making a claim under this section may not make any claim against the state, the holder, any transfer agent, registrar or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.
- (3) (a) The purchaser of any property at any sale conducted by the administrator under the authority of this chapter takes the property free of all claims of the owner or previous holder of the property and of all persons claiming through or under them.
- (b) The administrator shall execute all documents necessary to complete the transfer of ownership.

67-4a-404. Disposition of abandoned property -- Destruction.

- (1) (a) If, after an investigation, the administrator determines that any property delivered under this chapter has insubstantial commercial value, the administrator may destroy or otherwise dispose of the property at any time.
- (b) The administrator shall keep a public record of all destroyed property, identifying the property and the date and nature of the disposition.
- (2) The state, any officer or employee of the state, and the holder are immune from suit for or on account of any action taken by the administrator under this section.

67-4a-405. Deposit of funds.

- (1) (a) There is created a private-purpose trust fund entitled the "Unclaimed Property Trust Fund."
- (b) The fund consists of all funds received under this chapter, including the proceeds from the sale of abandoned property.
- (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 Reparation 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.

Part 5. Claiming Ownership of Abandoned or Unclaimed Property Held by the Administrator

67-4a-501. Filing of claim with administrator.

(1) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a form prescribed by the administrator and verified by the claimant.

(2) (a) The administrator shall:

- (i) consider each claim within 90 days after it is filed; and
- (ii) give written notice to the claimant if the claim is denied in whole or in part.

(b) The administrator may give notice by:

- (i) mailing notice to the last address, if any, stated in the claim as the address to which notices are to be sent; or
- (ii) if no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim.

(c) The administrator need not send notice of denial of the claim if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

(3) (a) If a claim is allowed, the administrator shall pay to the claimant:

- (i) the monies received from the holder; or
- (ii) if property has been sold by the administrator, the net proceeds from the sale.

(b) If the claim is for property considered abandoned under Section **67-4a-208** that was sold by the administrator within three years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater.

67-4a-502. Claim of another state to recover property -- Procedure.

(1) At any time after property has been paid or delivered to the administrator under this chapter, another state may recover the property if:

(a) the property was subjected to custody by this state because the records of the holder did not reflect the last-known address of the apparent owner when the property was considered abandoned under this chapter, and the other state establishes that:

- (i) the last-known address of the apparent owner or other person entitled to the property was in that state; and
- (ii) the property escheated to or was subject to a claim of abandonment by that state;

(b) the last-known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state;

(c) the records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last-known address of the actual owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;

(d) the property was subjected to custody by this state and, under the laws of the state of domicile of the holder, the property has escheated to or become subject to a claim of abandonment by that state; or

(e) the property is the sum payable on a traveler's check, money order, or other similar instrument that was subjected to custody by this state under Section 67-4a-202, and the instrument was purchased in the other state and, under the laws of that state, the property escheated to or became subject to a claim of abandonment by that state.

(2) The administrator shall:

- (a) develop a claim form for use by other states that wish to recover escheated or abandoned property;
- (b) decide the claim within 90 days after it is presented, using the standards established by this section; and
- (c) require a state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim for the property.

Part 6. Duties of All Holders

67-4a-601. Records retention.

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

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

67-4a-602. Businesses not to circumvent requirements of chapter.

A corporation or business may not, through its articles of incorporation, by-laws, by private agreement, or otherwise, circumvent the unclaimed property process established by this chapter by making a private escheat that would:

- (1) take or divert funds or personal property into income;
- (2) divide funds or personal property among locatable patrons or stockholders;

- (3) place funds or personal property in education or other funds; or
- (4) divert funds or personal property by any other type of appropriation.

Part 7. Enforcement

67-4a-701. Examination of records.

- (1) (a) The administrator may examine at reasonable times and upon reasonable notice, the records pertaining to abandoned or unclaimed property of any person, including the records of an agent of a business association or financial association, to determine whether the person has complied with the provisions of this chapter.
- (b) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter, and the unreported amount is more than \$12,500, the administrator:
 - (i) may assess the cost of the examination against the holder at the rate of up to \$200 a day for each examiner; and
 - (ii) may not charge more than \$5,000 or 10% of the value of the property found to be reportable and deliverable.
- (2) If a holder fails to maintain the records required by Part 6, Duties of All Holders, and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay whatever amounts can be reasonably estimated from any available records.
- (3) The administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.

67-4a-702. Enforcement -- Limitation of actions.

- (1) The administrator, for and on behalf of the state of Utah, may begin an action in the district court of the county where the defendant resides or in the district court where the property is located to:
 - (a) obtain an order that certain property is unclaimed and payable or distributable to the administrator;
 - (b) compel presentation of a report or payment or distribution of property to the administrator;
 - (c) enforce the duty of a person to permit the examination or audit of the records of that person;
 - (d) enjoin any act that violates the provisions of this chapter; or
 - (e) enforce any aspect of this chapter in any manner.
- (2) The administrator may begin an action under this section when:
 - (a) the holder is a person domiciled in Utah or is a governmental entity of Utah;
 - (b) the holder is a person engaged in or transacting any business in Utah, although not domiciled in Utah; or
 - (c) the subject matter is tangible personal property held in Utah.
- (3) If a Utah court cannot obtain the personal jurisdiction necessary to pursue an action authorized by this section, the administrator may begin an action authorized by this section in a federal court or state court of another state having jurisdiction over that person.
- (4) The administrator is an indispensable party to any judicial or administrative proceedings concerning the disposition and handling of unclaimed property that is or may be payable or distributable into the protective custody of the administrator.
- (5) The administrator may intervene and participate in any judicial or administrative proceeding when to intervene will:
 - (a) be in the best interest of the state of Utah or the apparent owner of the unclaimed property; or
 - (b) conserve and safeguard the unclaimed property against dissipation, undue diminishment, or adverse discriminatory treatment.
- (6) The administrator may not begin an action or proceeding against any holder more than ten years after the holder:
 - (a) specifically reported the property to the administrator; or
 - (b) gave notice of a dispute regarding the property to the administrator.

67-4a-703. Interest and penalties.

- (1) A person who fails to pay or deliver property within the time required by this chapter shall pay interest to the administrator at the rate of 12% per annum on the property or value of the property from the date the property should have been paid or delivered.
- (2) (a) A person who willfully fails to file any report, or perform a duty required by this chapter, or to pay or deliver property to the administrator as required by this chapter shall pay a civil penalty equal to 20% of the value of the property that should have been paid or delivered.
- (b) The administrator shall comply with the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, in imposing civil penalties under this section.
- (3) (a) It is unlawful for any person to willfully refuse to pay or deliver property to the administrator after written demand by the administrator as required by this chapter.
- (b) Any person who violates this Subsection 3 is guilty of a class B misdemeanor.
- (4) The administrator may, in appropriate circumstances:
 - (a) waive the payment of civil penalties;
 - (b) waive the payment of interest; or
 - (c) reduce the amount of the interest.

67-4a-704. Judicial review.

Any person aggrieved by a decision of the administrator may obtain judicial review.

67-4a-705. Certain property recovery agreements unenforceable.

Each agreement to pay compensation to recover or assist in the recovery of property reported under Section 67-4a-301 that is made within 24 months after the date payment or delivery is made under Section 67-4a-302 is unenforceable.

Part 8. Cooperation with Other States and Foreign Governments

67-4a-801. Interstate agreements and cooperation -- Joint and reciprocal actions with other states.

(1) (a) The administrator may enter into agreements with other states to exchange information needed to enable Utah or another state to audit or otherwise determine unclaimed property that Utah or another state may be entitled to subject to a claim of custody.

(b) The administrator may:

(i) require the reporting of information needed to enable compliance with agreements made under this section;

and

(ii) prescribe the form for reporting that information.

(2) The administrator may join with other states to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

(3) At the request of another state, the attorney general of Utah may bring an action in the name of the administrator of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in bringing the action.

(4) (a) The administrator may request that the attorney general of another state or any other person bring an action in the name of the administrator in the other state.

(b) The administrator shall pay all expenses including attorney's fees in any action under this subsection.

(c) The administrator may agree to pay the person bringing the action attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action.

(d) The administrator may not deduct any expenses paid under this subsection from the amount that is subject to the claim by the owner under this chapter.

67-4a-802. Foreign transactions.

This chapter does not apply to any property held, due, and owing in a foreign country and arising out of a foreign transaction.

Part 9. Transition Clauses

67-4a-901. Duty to comply with prior law.

(1) This chapter does not relieve a holder of any duty that arose before the effective date of this chapter to report, pay, or deliver property.

(2) A holder who did not comply with the prior law is subject to the applicable enforcement and penalty provisions that existed under that law.

67-4a-902. Property not subject to reporting under prior law.

The initial report filed under this chapter for property that was not required to be reported under prior law shall include all items of property that are considered abandoned as of the effective date of this chapter.