

2022 South Dakota Legislature

Senate Bill 208**AMENDMENT 208A FOR THE INTRODUCED BILL**

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

1 **An Act to revise the Uniform Unclaimed Property Act.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 43-41B be amended with a NEW SECTION:**

4 This chapter may be cited as the Revised Uniform Unclaimed Property Act.

5 **Section 2. That chapter 43-41B be amended with a NEW SECTION:**

6 In this Act:

7 (1) "Administrator" means the state treasurer.

8 (2) "Administrator's agent" means a person with which the administrator
9 contracts to conduct an examination under section 60 of this Act on behalf of the
10 administrator. The term includes an independent contractor of the person and each
11 individual participating in the examination on behalf of the person or contractor.

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

14 (4) "Business association" means a corporation, joint stock company,
15 investment company other than an investment company registered under the Investment
16 Company Act of 1940, as amended, 15 U.S.C. §§ 80a-1 through 80a-64 as effective
17 January 1, 2022, partnership, unincorporated association, joint venture, limited liability
18 company, business trust, trust company, land bank, safe deposit company, safekeeping
19 depository, financial organization, insurance company, federally chartered entity, utility,
20 sole proprietorship, or other business entity, whether or not for profit.

21 (5) "Confidential information" means records, reports, and information that
22 are confidential under section 74 of this Act.

23 (6) "Domicile" means:

- 1 (A) for a corporation, the state of its incorporation;
2 (B) for a business association whose formation requires a filing with
3 a state, other than a corporation, the state of its filing;
4 (C) for a federally chartered entity or an investment company
5 registered under the Investment Company Act of 1940, as amended, 15 U.S.C. Sections
6 80a-1 through 80a-64 as effective January 1, 2022, the state of its home office; and
7 (D) for any other holder, the state of its principal place of business.
8 (7) "Electronic" means relating to technology having electrical, digital,
9 magnetic, wireless, optical, electromagnetic, or similar capabilities.
10 (8) "Electronic mail" means a communication by electronic means which is
11 automatically retained and stored and may be readily accessed or retrieved.
12 (9) "Financial organization" means a savings and loan association, building
13 and loan association, savings bank, industrial bank, bank, banking organization, or credit
14 union.
15 (10) "Game-related digital content" means digital content that exists only in
16 an electronic game or electronic-game platform. The term:
17 (A) includes:
18 (i) game-play currency such as a virtual wallet, even if
19 denominated in United States currency; and
20 (ii) the following if for use or redemption only within the
21 game or platform or another electronic game or electronic-game platform:
22 (I) points sometimes referred to as gems, tokens,
23 gold, and similar names; and
24 (II) digital codes; and
25 (B) does not include an item that the issuer:
26 (i) permits to be redeemed for use outside a game or platform
27 for:
28 (I) money; or
29 (II) goods or services that have more than minimal value;
30 or
31 (ii) otherwise monetizes for use outside a game or platform.
32 (11) "Gift card" means:
33 (A) a stored-value card or certificate:
34 (i) the value of which does not expire;

1 _____ (ii) that may be decreased in value only by redemption for
2 merchandise, goods, or services;

3 _____ (iii) that is not subject to a dormancy, inactivity, or service fee;
4 and

5 _____ (iv) that, unless required by law, may not be redeemed for or
6 converted into money or otherwise monetized by the issuer; and

7 _____ (12) "Holder" means a person obligated to hold for the account of, or to deliver
8 or pay to, the owner, property subject to this Act.

9 _____ (13) "Insurance company" means an association, corporation, or fraternal or
10 mutual-benefit organization, whether or not for profit, engaged in the business of
11 providing life endowments, annuities, or insurance, including accident, burial, casualty,
12 credit-life, contract-performance, dental, disability, fidelity, fire, health, hospitalization,
13 illness, life, malpractice, marine, mortgage, surety, wage-protection, and worker-
14 compensation insurance.

15 _____ (14) "Loyalty card" means a record given without direct monetary consideration
16 under an award, reward, benefit, loyalty, incentive, rebate, or promotional program which
17 may be used or redeemed only to obtain goods or services or a discount on goods or
18 services. The term does not include a record that may be redeemed for money or
19 otherwise monetized by the issuer.

20 _____ (15) "Mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid
21 hydrocarbon, cement material, sand and gravel, road material, building stone, chemical
22 raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay,
23 steam and other geothermal resources, and any other substance defined as a mineral by
24 law of this state other than this Act.

25 _____ (16) "Mineral proceeds" means an amount payable for extraction, production,
26 or sale of minerals, or, on the abandonment of the amount, an amount that becomes
27 payable after abandonment. The term includes an amount payable:

28 _____ (A) for the acquisition and retention of a mineral lease, including a
29 bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental;

30 _____ (B) for the extraction, production, or sale of minerals, including a net
31 revenue interest, royalty, overriding royalty, extraction payment, and production
32 payment; and

33 _____ (C) under an agreement or option, including a joint-operating
34 agreement, unit agreement, pooling agreement, and farm-out agreement.

1 (17) "Money order" means a payment order for a specified amount of money.
2 The term includes an express money order and a personal money order on which the
3 remitter is the purchaser.

4 (18) "Municipal bond" means a bond or evidence of indebtedness issued by a
5 municipality or other political subdivision of a state.

6 (19) "Net card value" means the original purchase price or original issued value
7 of a stored-value card, plus amounts added to the original price or value, minus amounts
8 used and any service charge, fee, or dormancy charge permitted by law.

9 (20) "Non-freely transferable security" means a security that cannot be
10 delivered to the administrator by the Depository Trust Clearing Corporation or similar
11 custodian of securities providing post-trade clearing and settlement services to financial
12 markets or cannot be delivered because there is no agent to effect transfer. The term
13 includes a worthless security.

14 (21) "Owner" means a person that has a legal, beneficial, or equitable interest
15 in property subject to this Act or the person's legal representative when acting on behalf
16 of the owner. The term includes:

17 (A) a depositor, for a deposit;

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

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

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

22 (22) "Payroll card" means a record that evidences a payroll-card account as
23 defined in Regulation E, 12 C.F.R. Part 1005, as amended, effective January 1, 2022.

24 (23) "Person" means an individual, estate, business association, public
25 corporation, government or governmental subdivision, agency, or instrumentality, or
26 other legal entity.

27 (24) "Property" means tangible property described in section 9 of this Act or a
28 fixed and certain interest in intangible property held, issued, or owed in the course of a
29 holder's business or by a government, governmental subdivision, agency, or
30 instrumentality. The term:

31 (A) includes all income from or increments to the property;

32 (B) includes property referred to as or evidenced by:

33 (i) money, virtual currency, interest, or a dividend, check, draft,
34 deposit, or payroll card;

1 _____ (ii) a credit balance, customer's overpayment, stored-value card,
2 gift card or certificate, security deposit, refund, credit memorandum, unpaid wage, unused
3 ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or
4 unidentified remittance;

5 _____ (iii) a security except for:

6 _____ (I) a worthless security; or

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

11 _____ (iv) a bond, debenture, note, or other evidence of indebtedness;

12 _____ (v) money deposited to redeem a security, make a distribution,
13 or pay a dividend;

14 _____ (vi) an amount due and payable under an annuity contract or
15 insurance policy; and

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

20 _____ (C) does not include:

21 _____ (i) property held in a plan described in section 529A of the
22 Internal Revenue Code, as amended, 26 U.S.C. § 529A, effective January 1, 2022;

23 _____ (ii) game-related digital content; or

24 _____ (iii) a loyalty card; or

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

26 _____ (25) "Putative holder" means a person believed by the administrator to be a
27 holder, until the person pays or delivers to the administrator property subject to this Act
28 or the administrator or a court makes a final determination that the person is or is not a
29 holder.

30 _____ (26) "Record" means information that is inscribed on a tangible medium or that
31 is stored in an electronic or other medium and is retrievable in perceivable form.

32 _____ (27) "Security" means:

33 _____ (A) a security as defined in chapter 57A-8;

1 _____ (B) a security entitlement as defined in chapter 57A-8, including a
2 customer security account held by a registered broker-dealer, to the extent the financial
3 assets held in the security account are not:

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

6 _____ (ii) payable to the order of the person; or

7 _____ (iii) specifically indorsed to the person; or

8 _____ (C) an equity interest in a business association not included in
9 subparagraph (A) or (B).

10 _____ (28) "Sign" means, with present intent to authenticate or adopt a record:

11 _____ (A) to execute or adopt a tangible symbol; or

12 _____ (B) to attach to or logically associate with the record an electronic
13 symbol, sound, or process.

14 _____ (29) "State" means a state of the United States, the District of Columbia, the
15 Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular
16 possession subject to the jurisdiction of the United States.

17 _____ (30) "Stored-value card" means a record evidencing a promise made for
18 consideration by the seller or issuer of the record that goods, services, or money will be
19 provided to the owner of the record to the value or amount shown in the record. The
20 term:

21 _____ (A) includes:

22 _____ (i) a record that contains or consists of a microprocessor chip,
23 magnetic strip, or other means for the storage of information, which is prefunded and
24 whose value or amount is decreased on each use and increased by payment of additional
25 consideration; and

26 _____ (ii) a gift card and payroll card; and

27 _____ (B) does not include a loyalty card, or game-related digital content.

28 _____ (31) "Utility" means a person that owns or operates for public use a plant,
29 equipment, real property, franchise, or license for the following public services:

30 _____ (A) transmission of communications or information;

31 _____ (B) production, storage, transmission, sale, delivery, or furnishing of
32 electricity, water, steam, or gas; or

33 _____ (C) provision of sewage or septic services, or trash, garbage, or
34 recycling disposal.

1 (32) "Virtual currency" means a digital representation of value used as a
2 medium of exchange, unit of account, or store of value, which does not have legal tender
3 status recognized by the United States. The term does not include:

4 (A) the software or protocols governing the transfer of the digital
5 representation of value;

6 (B) game-related digital content; or

7 (C) a loyalty card.

8 (33) "Worthless security" means a security whose cost of liquidation and
9 delivery to the administrator would exceed the value of the security on the date a report
10 is due under this Act.

11 **Section 3. That chapter 43-41B be amended with a NEW SECTION:**

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

14 **Section 4. That chapter 43-41B be amended with a NEW SECTION:**

15 The administrator may adopt under chapter 1-26 rules to implement and
16 administer this Act.

17 **Section 5. That chapter 43-41B be amended with a NEW SECTION:**

18 Subject to section 14 of this Act, the following property is presumed abandoned if
19 it is unclaimed by the apparent owner during the period specified below:

20 (1) a traveler's check, fifteen years after issuance;

21 (2) a money order, three years after issuance;

22 (3) a state or municipal bond, bearer bond, or original-issue-discount bond,
23 three years after the earliest of the date the bond matures or is called or the obligation to
24 pay the principal of the bond arises;

25 (4) a debt of a business association, three years after the obligation to pay
26 arises;

27 (5) a payroll card or demand, savings, or time deposit, including a deposit that
28 is automatically renewable, three years after the maturity of the deposit, except a deposit
29 that is automatically renewable is deemed matured on its initial date of maturity unless
30 the apparent owner consented in a record on file with the holder to renewal at or about
31 the time of the renewal;

1 _____ (6) money or a credit owed to a customer as a result of a retail business
2 transaction, other than in-store credit for returned merchandise, three years after the
3 obligation arose;

4 _____ (7) an amount owed by an insurance company on a life or endowment
5 insurance policy or an annuity contract that has matured or terminated, three years after
6 the obligation to pay arose under the terms of the policy or contract or, if a policy or
7 contract for which an amount is owed on proof of death has not matured by proof of the
8 death of the insured or annuitant, as follows:

9 _____ (A) with respect to an amount owed on a life or endowment insurance
10 policy, three years after the earlier of the date:

11 _____ (i) the insurance company has knowledge of the death of the
12 insured; or

13 _____ (ii) the insured has attained, or would have attained if living, the
14 limiting age under the mortality table on which the reserve for the policy is based; and

15 _____ (B) with respect to an amount owed on an annuity contract, three years
16 after the date the insurance company has knowledge of the death of the annuitant.

17 _____ (8) property distributable by a business association in the course of dissolution,
18 one year after the property becomes distributable;

19 _____ (9) property held by a court, including property received as proceeds of a class
20 action, one year after the property becomes distributable;

21 _____ (10) property held by a government or governmental subdivision, agency, or
22 instrumentality, including municipal bond interest and unredeemed principal under the
23 administration of a paying agent or indenture trustee, one year after the property becomes
24 distributable;

25 _____ (11) wages, commissions, bonuses, or reimbursements to which an employee
26 is entitled, or other compensation for personal services, other than amounts held in a
27 payroll card, one year after the amount becomes payable;

28 _____ (12) a deposit or refund owed to a subscriber by a utility, one year after the
29 deposit or refund becomes payable; and

30 _____ (13) property not specified in this section or sections 6 to 12, inclusive, of this
31 Act, the earlier of three years after the owner first has a right to demand the property or
32 the obligation to pay or distribute the property arises.

33 **Section 6. That chapter 43-41B be amended with a NEW SECTION:**

1 (a) Subject to section 14 of this Act, property held in a pension account or
2 retirement account that qualifies for tax deferral under the income-tax laws of the United
3 States is presumed abandoned if it is unclaimed by the apparent owner three years after
4 the later of:

5 _____ (1) the following dates:

6 _____ (A) except as in subparagraph (B), the date a second consecutive
7 communication sent by the holder by first-class United States mail to the apparent owner
8 is returned to the holder undelivered by the United States Postal Service; or

9 _____ (B) if the second communication is sent later than 30 days after
10 the date the first communication is returned undelivered, the date the first communication
11 was returned undelivered by the United States Postal Service; or

12 _____ (2) the earlier of the following dates:

13 _____ (A) the date the apparent owner becomes 70.5 years of age, if
14 determinable by the holder; or

15 _____ (B) if the Internal Revenue Code, as amended, 26 U.S.C. § 1 et
16 seq., effective January 1, 2022, requires distribution to avoid a tax penalty, two years
17 after the date the holder:

18 _____ (i) receives confirmation of the death of the apparent
19 owner in the ordinary course of its business; or

20 _____ (ii) confirms the death of the apparent owner under subsection (b).

21 _____ (b) If a holder in the ordinary course of its business receives notice or an
22 indication of the death of an apparent owner and subsection (a)(2) applies, the holder
23 shall attempt not later than 90 days after receipt of the notice or indication to confirm
24 whether the apparent owner is deceased.

25 _____ (c) If the holder does not send communications to the apparent owner of an
26 account described in subsection (a) by first-class United States mail, the holder shall
27 attempt to confirm the apparent owner's interest in the property by sending the apparent
28 owner an electronic-mail communication not later than two years after the apparent
29 owner's last indication of interest in the property. However, the holder promptly shall
30 attempt to contact the apparent owner by first-class United States mail if:

31 _____ (1) the holder does not have information needed to send the apparent
32 owner an electronic mail communication or the holder believes that the apparent owner's
33 electronic mail address in the holder's records is not valid;

34 _____ (2) the holder receives notification that the electronic-mail
35 communication was not received; or

1 _____ (3) the apparent owner does not respond to the electronic-mail
2 communication not later than 30 days after the communication was sent.

3 _____ (d) If first-class United States mail sent under subsection (c) is returned to the
4 holder undelivered by the United States Postal Service, the property is presumed
5 abandoned three years after the later of:

6 _____ (1) except as in paragraph (2), the date a second consecutive
7 communication to contact the apparent owner sent by first-class United States mail is
8 returned to the holder undelivered;

9 _____ (2) if the second communication is sent later than 30 days after the date
10 the first communication is returned undelivered, the date the first communication was
11 returned undelivered; or

12 _____ (3) the date established by subsection (a)(2).

13 **Section 7. That chapter 43-41B be amended with a NEW SECTION:**

14 Subject to section 14 of this Act and except for property described in section 6 of
15 this Act and property held in a plan described in section 529A of the Internal Revenue
16 Code as amended, 26 U.S.C. §§ 529A, effective January 1, 2022, property held in an
17 account or plan, including a health savings account, that qualifies for tax deferral under
18 the income-tax laws of the United States is presumed abandoned if it is unclaimed by the
19 apparent owner three years after the earlier of:

20 _____ (1) the date, if determinable by the holder, specified in the income-tax laws
21 and regulations of the United States by which distribution of the property must begin to
22 avoid a tax penalty, with no distribution having been made; or

23 _____ (2) 30 years after the date the account was opened.

24 **Section 8. That chapter 43-41B be amended with a NEW SECTION:**

25 (a) Subject to section 14 of this Act, property held in an account established under
26 a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act is presumed
27 abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account was
28 opened three years after the later of:

29 _____ (1) except as in subparagraph (2), the date a second consecutive
30 communication sent by the holder by first-class United States mail to the custodian of the
31 minor on whose behalf the account was opened is returned undelivered to the holder by
32 the United States Postal Service;

1 (2) if the second communication is sent later than 30 days after the date
2 the first communication is returned undelivered, the date the first communication was
3 returned undelivered; or

4 (3) the date on which the custodian is required to transfer the property
5 to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or
6 Uniform Transfers to Minors Act of the state in which the account was opened.

7 (b) If the holder does not send communications to the custodian of the minor
8 on whose behalf an account described in subsection (a) was opened by first-class United
9 States mail, the holder shall attempt to confirm the custodian's interest in the property by
10 sending the custodian an electronic-mail communication not later than two years after the
11 custodian's last indication of interest in the property. However, the holder promptly shall
12 attempt to contact the custodian by first-class United States mail if:

13 (1) the holder does not have information needed to send the custodian
14 an electronic mail communication or the holder believes that the custodian's electronic-
15 mail-mail address in the holder's records is not valid;

16 (2) the holder receives notification that the electronic-mail
17 communication was not received; or

18 (3) the custodian does not respond to the electronic-mail
19 communication not later than 30 days after the communication was sent.

20 (c) If first-class United States mail sent under subsection (b) is returned
21 undelivered to the holder by the United States Postal Service, the property is presumed
22 abandoned three years after the later of:

23 (1) the date a second consecutive communication to contact the
24 custodian by first-class United States mail is returned to the holder undelivered by the
25 United States Postal Service; or

26 (2) the date established by subsection (a)(3).

27 (d) When the property in the account described in subsection (a) is transferred
28 to the minor on whose behalf an account was opened or to the minor's estate, the property
29 in the account is no longer subject to this section.

30 **Section 9. That chapter 43-41B be amended with a NEW SECTION:**

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

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

5 **Section 10. That chapter 43-41B be amended with a NEW SECTION:**

- 6 (a) Subject to section 14 of this Act, the net card value of a stored-value card,
7 other than a payroll card, is presumed abandoned on the latest of three years after:
8 (1) December 31 of the year in which the card is issued or additional
9 funds are deposited into it;
10 (2) the most recent indication of interest in the card by the apparent
11 owner; or
12 (3) a verification or review of the balance by or on behalf of the apparent
13 owner.
14 (b) The amount presumed abandoned in a stored-value card is the net card
15 value at the time it is presumed abandoned.

16 **Section 11. That chapter 43-41B be amended with a NEW SECTION:**

- 17 Subject to section 14 of this Act, a gift card is presumed abandoned if it is
18 unclaimed by the apparent owner five years after the later of the date of purchase or its
19 most recent use.
20 The provisions of this chapter do not apply to open-loop prepaid cards for which
21 the underlying funds do not expire and the records of the depository institution do not
22 disclose the identity of the actual owner. For the purposes of this section, an open-loop
23 prepaid card is an electronic payment device that meets the following conditions:
24 (1) Is purchased or loaded, or both, on a prepaid basis for the future purchase
25 or delivery of any goods or services; and
26 (2) Can be used to purchase goods and services at multiple unaffiliated
27 merchants or service providers.
28 The provisions of this chapter do not apply to any rewards card. For the purposes
29 of this section, a rewards card is any awards, rewards, rebate, loyalty, incentive, or
30 promotional card for which no money was paid by the cardholder.
31 Any unredeemed gift certificate or closed-loop card that meets the requirements
32 of this section or any open-loop prepaid card or rewards card is subject only to any rights

1 of a purchaser or owner of the gift certificate or card and is not subject to any claim made
2 by any state acting on behalf of a purchaser or owner.

3 The provisions of this chapter do not apply to any gift certificate or closed-loop
4 prepaid card that has no expiration date and that is not subject to a dormancy, inactivity,
5 or service fee. For purposes of this chapter, a closed-loop prepaid card is an electronic
6 payment device that meets the following conditions:

7 (1) Is purchased or loaded, or both, on a prepaid basis in exchange for payment
8 for the future purchase or delivery of goods or services; and

9 (2) Is redeemable upon presentation to a single merchant or an affiliated group
10 of merchants for goods and services.

11 **Section 12. That chapter 43-41B be amended with a NEW SECTION:**

12 (a) Subject to section 14 of this Act, a security is presumed abandoned three
13 years after:

14 (1) the date a second consecutive communication sent by the holder by
15 first-class United States mail to the apparent owner is returned to the holder undelivered
16 by the United States Postal Service; or

17 (2) if the second communication is made later than 30 days after the
18 first communication is returned, the date the first communication is returned undelivered
19 to the holder by the United States Postal Service.

20 (b) If the holder does not send communications to the apparent owner of a
21 security by first-class United States mail, the holder shall attempt to confirm the apparent
22 owner's interest in the security by sending the apparent owner an electronic-mail
23 communication not later than two years after the apparent owner's last indication of
24 interest in the security. However the holder promptly shall attempt to contact the apparent
25 owner by first-class United States mail if:

26 (1) the holder does not have information needed to send the apparent
27 owner an electronic-mail communication or the holder believes that the apparent owner's
28 electronic-mail address in the holder's records is not valid;

29 (2) the holder receives notification that the electronic-mail
30 communication was not received; or

31 (3) the apparent owner does not respond to the electronic-mail
32 communication not later 30 days after the communication was sent.

1 (c) If first-class United States mail sent under subsection (b) is returned to the
2 holder undelivered by the United States Postal Service, the security is presumed
3 abandoned three years after the date the mail is returned.

4 **Section 13. That chapter 43-41B be amended with a NEW SECTION:**

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

8 **Section 14. That chapter 43-41B be amended with a NEW SECTION:**

9 (a) The period after which property is presumed abandoned is
10 measured from the later of:

- 11 (1) the date the property is presumed abandoned under this section; or
12 (2) the latest indication of interest by the apparent owner in the property.

13 (b) Under this Act, an indication of an apparent owner's interest in property
14 includes:

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

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

21 (3) presentment of a check or other instrument of payment of a
22 dividend, interest payment, or other distribution, or evidence of receipt of a distribution
23 made by electronic or similar means, with respect to an account, underlying security, or
24 interest in a business association.

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

29 (5) a deposit into or withdrawal from an account at a financial
30 organization, including an automatic deposit or withdrawal previously authorized by the
31 apparent owner other than an automatic reinvestment of dividends or interest;

32 (6) subject to subsection (e), payment of a premium on an insurance
33 policy; and

1 (7) any other action by the apparent owner which reasonably
2 demonstrates to the holder that the apparent owner knows that the property exists.

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

6 (d) A communication with an apparent owner by a person other than the holder
7 or the holder's representative is not an indication of interest in the property by the
8 apparent owner unless a record of the communication evidences the apparent owner's
9 knowledge of a right to the property.

10 (e) If the insured dies or the insured or beneficiary of an insurance policy
11 otherwise becomes entitled to the proceeds before depletion of the cash surrender value
12 of the policy by operation of an automatic-premium-loan provision or other nonforfeiture
13 provision contained in the policy, the operation does not prevent the policy from maturing
14 or terminating.

15 **Section 15. That chapter 43-41B be amended with a NEW SECTION:**

16 (a) In this section, "death master file" means the United States Social Security
17 Administration Death Master File or other database or service that is at least as
18 comprehensive as the United States Social Security Administration Death Master File for
19 determining that an individual reportedly has died.

20 (b) With respect to a life or endowment insurance policy or annuity contract for
21 which an amount is owed on proof of death, but which has not matured by proof of death
22 of the insured or annuitant, the company has knowledge of the death of an insured or
23 annuitant when:

24 (1) the company receives a death certificate or court order determining
25 that the insured or annuitant has died;

26 (2) due diligence, performed as required under title 58 to maintain
27 contact with the insured or annuitant or determine whether the insured or annuitant has
28 died, validates the death of the insured or annuitant;

29 (3) the company conducts a comparison for any purpose between a
30 death master file and the names of some or all of the company's insureds or annuitants,
31 finds a match that provides notice that the insured or annuitant has died, and validates
32 the death;

33 (4) the administrator or the administrator's agent conducts a
34 comparison for the purpose of finding matches during an examination conducted under

1 section 60 between a death master file and the names of some or all of the company's
2 insureds or annuitants, finds a match that provides notice that the insured or annuitant
3 has died, and the company validates the death; or

4 _____ (5) the company:

5 _____ (A) receives notice of the death of the insured or annuitant from
6 an administrator, beneficiary, policy owner, relative of the insured, or trustee or from a
7 personal representative, executor, or other legal representative of the insured's or
8 annuitant's estate; and

9 _____ (B) validates the death of the insured or annuitant.

10 _____ (c) The following rules apply under this section:

11 _____ (1) A death-master-file match under subsection (b)(3) or (4) occurs if
12 the criteria for an exact or partial match are satisfied as provided by:

13 _____ (A) law of this state other than this Act;

14 _____ (B) a rule or policy adopted by director of insurance or

15 _____ (C) absent a law, rule, or policy under subparagraph (A) or (B)
16 standards in the National Conference of Insurance Legislators' "Model Unclaimed Life
17 Insurance Benefits Act" as published in 2014.

18 _____ (2) The death-master-file match does not constitute proof of death for
19 the purpose of submission to an insurance company of a claim by a beneficiary, annuitant,
20 or owner of the policy or contract for an amount due under an insurance policy or annuity
21 contract.

22 _____ (3) The death-master-file match or validation of the insured's or
23 annuitant's death does not alter the requirements for a beneficiary, annuitant, or owner
24 of the policy or contract to make a claim to receive proceeds under the terms of the policy
25 or contract.

26 _____ (4) If no provision in Title 58 which establishes a time for validation of
27 a death of an insured or annuitant, the insurance company shall make a good faith effort
28 using other available records and information to validate the death and document the
29 effort taken not later than 90 days after the insurance company has notice of the death.

30 _____ (d) This Act does not affect the determination of the extent to which an
31 insurance company before the effective date of this Act had knowledge of the death of an
32 insured or annuitant or was required to conduct a death-master-file comparison to
33 determine whether amounts owed by the company on a life or endowment insurance
34 policy or annuity contract were presumed abandoned or unclaimed.

35 **Section 16. That chapter 43-41B be amended with a NEW SECTION:**

1 If proceeds payable under a life or endowment insurance policy or annuity contract
2 are deposited into an account with check or draft-writing privileges for the beneficiary of
3 the policy or contract and, under a supplementary contract not involving annuity benefits
4 other than death benefits, the proceeds are retained by the insurance company or the
5 financial organization where the account is held, the policy or contract includes the assets
6 in the account.

7 **Section 17. That chapter 43-41B be amended with a NEW SECTION:**

8 In this section, the following rules apply:

9 _____ (1) The last-known address of an apparent owner is any description, code, or
10 other indication of the location of the apparent owner which identifies the state, even if
11 the description, code, or indication of location is not sufficient to direct the delivery of
12 first-class United States mail to the apparent owner.

13 _____ (2) If the United States postal zip code associated with the apparent owner is
14 for a post office located in this state, this state is deemed to be the state of the last-known
15 address of the apparent owner unless other records associated with the apparent owner
16 specifically identify the physical address of the apparent owner to be in another state.

17 _____ (3) If the address under paragraph (2) is in another state, the other state is
18 deemed to be the state of the last-known address of the apparent owner.

19 _____ (4) The address of the apparent owner of a life or endowment insurance policy
20 or annuity contract or its proceeds is presumed to be the address of the insured or
21 annuitant if a person other than the insured or annuitant is entitled to the amount owed
22 under the policy or contract and the address of the other person is not known by the
23 insurance company and cannot be determined under section 18 of this Act.

24 **Section 18. That chapter 43-41B be amended with a NEW SECTION:**

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

27 _____ (1) the last-known address of the apparent owner in the records of the holder
28 is in this state; or

29 _____ (2) the records of the holder do not reflect the identity or last-known address
30 of the apparent owner, but the administrator has determined that the last-known address
31 of the apparent owner is in this state.

32 **Section 19. That chapter 43-41B be amended with a NEW SECTION:**

1 (a) Except as in subsection (b), if records of a holder reflect multiple addresses for
2 an apparent owner and this state is the state of the most recently recorded address, this
3 state may take custody of property presumed abandoned, whether located in this state or
4 another state.

5 (b) If it appears from records of the holder that the most recently recorded
6 address of the apparent owner under subsection (a) is a temporary address and this state
7 is the state of the next most recently recorded address that is not a temporary address,
8 this state may take custody of the property presumed abandoned.

9 **Section 20. That chapter 43-41B be amended with a NEW SECTION:**

10 (a) Except as in subsection (b) or section 18 or 19 of this Act, the administrator
11 may take custody of property presumed abandoned, whether located in this state, another
12 state, or a foreign country, if the holder is domiciled in this state or is this state or a
13 governmental subdivision, agency, or instrumentality of this state, and

14 (1) another state or foreign country is not entitled to the property
15 because there is no last-known address of the apparent owner or other person entitled to
16 the property in the records of the holder; or

17 (2) the state or foreign country of the last-known address of the
18 apparent owner or other person entitled to the property does not provide for custodial
19 taking of the property.

20 (b) Property is not subject to custody of the administrator under subsection (a)
21 if the property is specifically exempt from custodial taking under the law of this state or
22 the state or foreign country of the last-known address of the apparent owner.

23 (c) If a holder's state of domicile has changed since the time property was
24 presumed abandoned, the holder's state of domicile in this section is deemed to be the
25 state where the holder was domiciled at the time the property was presumed abandoned.

26 **Section 21. That chapter 43-41B be amended with a NEW SECTION:**

27 Except as in section 18, 19, or 20 of this Act, the administrator may take custody
28 of property presumed abandoned whether located in this state or another state if:

29 (1) the transaction out of which the property arose took place in this state;

30 (2) the holder is domiciled in a state that does not provide for the custodial
31 taking of the property, except that if the property is specifically exempt from custodial
32 taking under the law of the state of the holder's domicile, the property is not subject to
33 the custody of the administrator; and

1 (3) the last-known address of the apparent owner or other person entitled to
2 the property is unknown or in a state that does not provide for the custodial taking of the
3 property, except that if the property is specifically exempt from custodial taking under the
4 law of the state of the last-known address, the property is not subject to the custody of
5 the administrator.

6 **Section 22. That chapter 43-41B be amended with a NEW SECTION:**

7 The administrator may take custody of sums payable on a traveler's check, money
8 order, or similar instrument presumed abandoned to the extent permissible under 12
9 U.S.C. §§ 2501 through 2503, as amended and effective January 1, 2022.

10 **Section 23. That chapter 43-41B be amended with a NEW SECTION:**

11 If the administrator asserts a right to custody of unclaimed property, the
12 administrator has the burden to prove:

13 (1) the existence and amount of the property;

14 (2) the property is presumed abandoned; and

15 (3) the property is subject to the custody of the administrator.

16 **Section 24. That chapter 43-41B be amended with a NEW SECTION:**

17 (a) A holder of property presumed abandoned and subject to the custody of the
18 administrator shall report in a record to the administrator concerning the property. The
19 administrator does require a holder to file an electronic report.

20 (b) A holder may contract with a third party to make the report required under
21 subsection (a).

22 (c) Whether or not a holder contracts with a third party under subsection (b),
23 the holder is responsible:

24 (1) to the administrator for the complete, accurate, and timely reporting
25 of property presumed abandoned; and

26 (2) for paying or delivering to the administrator property described in
27 the report.

28 **Section 25. That chapter 43-41B be amended with a NEW SECTION:**

29 (a) The report required under section 24 of this Act must:

1 (1) be signed by the holder and verified as to its completeness and
2 accuracy;

3 (2) if filed electronically, be in a secure format approved by the
4 administrator which protects confidential information of the apparent owner in the same
5 manner as required of the administrator and the administrator's agent under section 75
6 of this Act;

7 (3) describe the property;

8 (4) except for a traveler's check, money order, or similar instrument,
9 contain the name, if known, last-known address, if known, and Social Security number or
10 taxpayer identification number, if known or readily ascertainable, of the apparent owner
11 of property with a value of \$50 or more;

12 (5) for an amount held or owing under a life or endowment insurance
13 policy or annuity contract, contain the name and last-known address of the insured,
14 annuitant or other apparent owner of the policy or contract and of the beneficiary;

15 (6) for property held in or removed from a safe-deposit box, indicate
16 the bank branch location the box was removed from, and any amounts owed to the holder
17 under section 38 of this Act;

18 (7) contain the commencement date for determining abandonment
19 under section 5 of this Act;

20 (8) state that the holder has complied with the notice requirements of
21 section 29 of this Act;

22 (9) contain other information the administrator prescribes by rules.

23 (b) A report under section 24 of this Act may include in the aggregate items
24 valued under \$10 each. If the report includes items in the aggregate valued under \$10
25 each, the administrator may not require the holder to provide the name and address of
26 an apparent owner of an item unless the information is necessary to verify or process a
27 claim in progress by the apparent owner.

28 (c) A report under section 24 of this Act may include personal information as
29 defined in section 74(a) of this Act about the apparent owner or the apparent owner's
30 property to the extent not otherwise prohibited by federal law.

31 (d) If a holder has changed its name while holding property presumed
32 abandoned or is a successor to another person that previously held the property for the
33 apparent owner, the holder must include in the report under section 24 of this Act its
34 former name or the name of the previous holder, if any, and the known name and address
35 of each previous holder of the property.

1 **Section 26. That chapter 43-41B be amended with a NEW SECTION:**

2 (a) Except as otherwise provided in subsection (c), the report under section 24 of
3 this Act must be filed before November 1 of each year and cover the 12 months preceding
4 July 1 of that year.

5 (b) Subject to subsection (c), the report under section 24 of this Act to be filed
6 by an insurance company must be filed before November 1 of each year and cover the 12
7 months preceding July 1 of that year.

8 (c) Before the date for filing the report under section 24 of this Act, the holder
9 of property presumed abandoned may request the administrator to extend the time for
10 filing. The administrator may grant an extension.

11 **Section 27. That chapter 43-41B be amended with a NEW SECTION:**

12 A holder required to file a report under section 24 of this Act shall retain records
13 for 10 years after the later of the date the report was filed or the last date a timely report
14 was due to be filed, unless a shorter period is provided by rule of the administrator. The
15 holder may satisfy the requirement to retain records under this section through an agent.
16 The records must contain:

17 (1) the information required to be included in the report;

18 (2) the date, place, and nature of the circumstances that gave rise to the
19 property right;

20 (3) the amount or value of the property;

21 (4) the last address of the apparent owner, if known to the holder; and

22 (5) if the holder sells, issues, or provides to others for sale or issue in this state
23 traveler's checks, money orders, or similar instruments, other than third-party bank
24 checks, on which the holder is directly liable, a record of the instruments while they remain
25 outstanding indicating the state and date of issue.

26 **Section 28. That chapter 43-41B be amended with a NEW SECTION:**

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

30 **Section 29. That chapter 43-41B be amended with a NEW SECTION:**

1 (a) Subject to subsection (b), the holder of property presumed abandoned shall
2 send to the apparent owner notice by first-class United States mail that complies with
3 section 30 of this Act in a format acceptable to the administrator not more than 180 days
4 nor less than 60 days before filing the report under section 24 of this Act if:

5 (1) the holder has in its records an address for the apparent owner which
6 the holder's records do not disclose to be invalid and is sufficient to direct the delivery of
7 first-class United States mail to the apparent owner; and

8 (2) the value of the property is \$50 or more.

9 (b) If an apparent owner has consented to receive electronic-mail delivery from
10 the holder, the holder shall send the notice described in subsection (a) both by first-class
11 United States mail to the apparent owner's last-known mailing address and by electronic
12 mail, unless the holder believes that the apparent owner's electronic-mail address is
13 invalid.

14 **Section 30. That chapter 43-41B be amended with a NEW SECTION:**

15 (a) Notice under section 29 of this Act must contain a heading that reads
16 substantially as follows: "Notice. The State of South Dakota requires us to notify you that
17 your property may be transferred to the custody of the state's unclaimed property
18 administrator if you do not contact us before (insert date that is 30 days after the date of
19 this notice)."

20 (b) The notice under section 29 of this Act must:

21 (1) identify the nature and, except for property that does not have a
22 fixed value, the value of the property that is the subject of the notice;

23 (2) state that the property will be turned over to the administrator;

24 (3) state that after the property is turned over to the administrator an
25 apparent owner that seeks return of the property must file a claim with the administrator;

26 (4) state that property that is not legal tender of the United States may
27 be sold by the administrator; and

28 (5) provide instructions that the apparent owner must follow to prevent
29 the holder from reporting and paying or delivering the property to the administrator.

30 **Section 31. That chapter 43-41B be amended with a NEW SECTION:**

31 (a) The administrator shall:

1 _____ (1) publish every six months in at least one newspaper of general
2 circulation in each county in this state notice of property held by the administrator which
3 must include:

4 _____ (A) the total value of property received by the administrator
5 during the preceding six-month period, taken from the reports under section 24 of this
6 Act;

7 _____ (B) the total value of claims paid by the administrator during the
8 preceding six-month period;

9 _____ (C) the Internet web address of the unclaimed property website
10 maintained by the administrator;

11 _____ (D) a telephone number and electronic-mail address to contact
12 the administrator to inquire about or claim property; and

13 _____ (E) a statement that a person may access the Internet by a
14 computer to search for unclaimed property and a computer may be available as a service
15 to the public at a local public library; and

16 _____ (2) maintain a website or database accessible by the public and
17 electronically searchable which contains the names reported to the administrator of all
18 apparent owners for whom property is being held by the administrator.

19 _____ (b) The website or database maintained under subsection (a)(2) must include
20 instructions for filing with the administrator a claim to property and a printable claim form
21 with instructions for its use.

22 _____ (c) In addition to publishing the information under subsection (a)(1) and
23 maintaining the website or database under subsection (a)(2), the administrator may use
24 other printed publication, telecommunication, the Internet, or other media to inform the
25 public of the existence of unclaimed property held by the administrator.

26 **Section 32. That chapter 43-41B be amended with a NEW SECTION:**

27 Unless prohibited by law of this state other than this Act, on request of the
28 administrator, each officer, agency, board, commission, division, and department of this
29 state, any body politic and corporate created by this state for a public purpose, and each
30 political subdivision of this state shall make its books and records available to the
31 administrator and cooperate with the administrator to determine the current address of
32 an apparent owner of property held by the administrator under this Act.

33 **Section 33. That chapter 43-41B be amended with a NEW SECTION:**

1 In this section, payment or delivery of property is made in good faith if a holder:
2 _____ (1) had a reasonable basis for believing, based on the facts then known, that
3 the property was required or permitted to be paid or delivered to the administrator under
4 this Act; or
5 _____ (2) made payment or delivery:
6 _____ (A) in response to a demand by the administrator or administrator's
7 agent; or
8 _____ (B) under a guidance or ruling issued by the administrator which the
9 holder reasonably believed required or permitted the property to be paid or delivered.

10 **Section 34. That chapter 43-41B be amended with a NEW SECTION:**

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

22 **Section 35. That chapter 43-41B be amended with a NEW SECTION:**

23 (a) Except as otherwise provided in this section, on filing a report under section 24
24 of this Act, the holder shall pay or deliver to the administrator the property described in
25 the report.
26 _____ (b) If property in a report under section 24 of this Act is an automatically
27 renewable deposit and a penalty or forfeiture in the payment of interest would result from
28 paying the deposit to the administrator at the time of the report, the date for payment of
29 the property to the administrator is extended until a penalty or forfeiture no longer would
30 result from payment, if the holder informs the administrator of the extended date.
31 _____ (c) If property reported to the administrator under section 24 of this Act is a
32 security, the administrator may:

1 _____ (1) make an endorsement, instruction, or entitlement order on behalf of
2 the apparent owner to invoke the duty of the issuer, its transfer agent, or the securities
3 intermediary to transfer the security; or

4 _____ (2) dispose of the security under section 44.

5 _____ (d) If the holder of property reported to the administrator under section 24 of
6 this Act is the issuer of a certificated security, the administrator may obtain a replacement
7 certificate in physical or book-entry form under § 57A-8-405. An indemnity bond is not
8 required.

9 _____ (e) The administrator shall establish procedures for the registration, issuance,
10 method of delivery, transfer, and maintenance of securities delivered to the administrator
11 by a holder.

12 _____ (f) An issuer, holder, and transfer agent or other person acting under this
13 section under instructions of and on behalf of the issuer or holder is not liable to the
14 apparent owner for, and must be indemnified by the state against, a claim arising with
15 respect to property after the property has been delivered to the administrator.

16 _____ (g) A holder is not required to deliver to the administrator a security identified
17 by the holder as a non-freely transferable security. If the administrator or holder
18 determines that a security is no longer a non-freely transferable security, the holder shall
19 deliver the security on the next regular date prescribed for delivery of securities under
20 this Act. The holder shall make a determination annually whether a security identified in
21 a report filed under section 24 of this Act as a non-freely transferable security is no longer
22 a non-freely transferable security.

23 **Section 36. That chapter 43-41B be amended with a NEW SECTION:**

24 (a) On payment or delivery of property to the administrator under this Act, the
25 administrator as agent for the state assumes custody and responsibility for safekeeping
26 the property. A holder that pays or delivers property to the administrator in good faith
27 and substantially complies with sections 29 and 30 of this Act is relieved of liability arising
28 thereafter with respect to payment or delivery of the property to the administrator.

29 _____ (b) This state shall defend and indemnify a holder against liability on a claim
30 against the holder resulting from the payment or delivery of property to the administrator
31 made in good faith and after the holder substantially complied with sections 29 and 30 of
32 this Act.

33 **Section 37. That chapter 43-41B be amended with a NEW SECTION:**

1 (a) A holder that under this Act pays money to the administrator may file a claim
2 for reimbursement from the administrator of the amount paid if the holder:

3 (1) paid the money in error; or

4 (2) after paying the money to the administrator, paid money to a person
5 the holder reasonably believed entitled to the money.

6 (b) If a claim for reimbursement under subsection (a) is made for a payment
7 made on a negotiable instrument, including a traveler's check, money order, or similar
8 instrument, the holder must submit proof that the instrument was presented and payment
9 was made to a person the holder reasonably believed entitled to payment. The holder
10 may claim reimbursement even if the payment was made to a person whose claim was
11 made after expiration of a period of limitation on the owner's right to receive or recover
12 property, whether specified by contract, statute, or court order.

13 (c) If a holder is reimbursed by the administrator under subsection (a)(2), the
14 holder may also recover from the administrator income or gain under section 39 that
15 would have been paid to the owner if the money had been claimed from the administrator
16 by the owner to the extent the income or gain was paid by the holder to the owner.

17 (d) A holder that under this Act delivers property other than money to the
18 administrator may file a claim for return of the property from the administrator if:

19 (1) the holder delivered the property in error; or

20 (2) the apparent owner has claimed the property from the holder.

21 (e) If a claim for return of property under subsection (d) is made, the holder
22 shall include with the claim evidence sufficient to establish that the apparent owner has
23 claimed the property from the holder or that the property was delivered by the holder to
24 the administrator in error.

25 (f) The administrator may determine that an affidavit submitted by a holder is
26 evidence sufficient to establish that the holder is entitled to reimbursement or to recover
27 property under this section.

28 (g) A holder is not required to pay a fee or other charge for reimbursement or
29 return of property under this section.

30 (h) Not later than 90 days after a claim is filed under subsection (a) or (d), the
31 administrator shall allow or deny the claim and give the claimant notice of the decision in
32 a record. If the administrator does not take action on a claim during the 90-day period,
33 the claim is deemed denied.

1 (i) The claimant may initiate a proceeding under the state administrative
2 procedures act for review of the administrator's decision or the deemed denial under
3 subsection (h) not later than:

4 (1) Thirty days following receipt of the notice of the administrator's
5 decision; or

6 (2) One hundred twenty days following the filing of a claim under
7 subsection (a) or (d) in the case of a deemed denial under subsection (h).

8 (j) A final decision in an administrative proceeding initiated under subsection
9 (i) is subject to judicial review by the court as a matter of right in a de novo proceeding
10 on the record in which either party is entitled to introduce evidence as a supplement to
11 the record.

12 **Section 38. That chapter 43-41B be amended with a NEW SECTION:**

13 Property removed from a safe-deposit box and delivered under this Act to the
14 administrator under this Act is subject to the holder's right to reimbursement for the cost
15 of opening the box and a lien or contract providing reimbursement to the holder for unpaid
16 rent charges for the box. The administrator shall reimburse the holder from the proceeds
17 remaining after deducting the expense incurred by the administrator in selling the
18 property.

19 **Section 39. That chapter 43-41B be amended with a NEW SECTION:**

20 (a) If property other than money is delivered to the administrator, the owner is
21 entitled to receive from the administrator income or gain realized or accrued on the
22 property before the property is sold. If the property was an interest-bearing demand,
23 savings, or time deposit, the administrator shall pay interest at the lesser of the rate of
24 [insert legal rate] or the rate the property earned while in the possession of the holder.
25 Interest begins to accrue when the property is delivered to the administrator and ends on
26 the earlier of the expiration of 10 years after its delivery or the date on which payment is
27 made to the owner.

28 (b) Interest on interest-bearing property is not payable under this section for
29 any period before the effective date of this Act.

30 **Section 40. That chapter 43-41B be amended with a NEW SECTION:**

1 (a) The administrator may decline to take custody of property reported under
2 section 24 of this Act if the administrator determines that:

3 _____ (1) the property has a value less than the estimated expenses of notice
4 and sale of the property; or

5 _____ (2) taking custody of the property would be unlawful.

6 (b) A holder may pay or deliver property to the administrator before the
7 property is presumed abandoned under this Act if the holder:

8 _____ (1) sends the apparent owner of the property notice required by section
9 29 of this Act and provides the administrator evidence of the holder's compliance with this
10 paragraph;

11 _____ (2) includes with the payment or delivery a report regarding the
12 property conforming to section 25 of this Act; and

13 _____ (3) first obtains the administrator's consent in a record to accept
14 payment or delivery.

15 (c) A holder's request for the administrator's consent under subsection (b)(3)
16 must be in a record. If the administrator fails to respond to the request not later than 30
17 days after receipt of the request, the administrator is deemed to consent to the payment
18 or delivery of the property and the payment or delivery is considered to have been made
19 in good faith.

20 (d) On payment or delivery of property under subsection (b), the property is
21 presumed abandoned.

22 **Section 41. That chapter 43-41B be amended with a NEW SECTION:**

23 (a) If the administrator takes custody of property delivered under this Act and later
24 determines that the property has no substantial commercial value or that the cost of
25 disposing of the property will exceed the value of the property, the administrator may
26 destroy or otherwise dispose of the property.

27 (b) An action or proceeding may not be commenced against the state, an
28 agency of the state, the administrator, another officer, employee, or agent of the state,
29 or a holder for or because of an act of the administrator under this section, except for
30 intentional misconduct or malfeasance.

31 **Section 42. That chapter 43-41B be amended with a NEW SECTION:**

32 (a) Expiration, before, on, or after the effective date of this Act, of a period of
33 limitation on an owner's right to receive or recover property, whether specified by

1 contract, statute, or court order, does not prevent the property from being presumed
2 abandoned or affect the duty of a holder under this Act to file a report or pay or deliver
3 property to the administrator.

4 (b) The administrator may not commence an action or proceeding to enforce
5 this Act with respect to the reporting, payment, or delivery of property more than five
6 years after the holder filed a non-fraudulent report under section 24 of this Act with the
7 administrator. The parties may agree in a record to extend the limitation in this
8 subsection.

9 (c) The administrator may not commence an action, proceeding, or examination
10 with respect to a duty of a holder under this Act more than 10 years after the duty arose.

11 **Section 43. That chapter 43-41B be amended with a NEW SECTION:**

12 (a) Subject to section 44 of this Act, not earlier than three years after receipt of
13 property presumed abandoned, the administrator may sell the property.

14 (b) Before selling property under subsection (a), the administrator shall give
15 notice to the public of:

16 (1) the date of the sale; and

17 (2) a reasonable description of the property.

18 (c) A sale under subsection (a) must be to the highest bidder:

19 (1) at public sale at a location in this state which the administrator
20 determines to be the most favorable market for the property;

21 (2) on the Internet; or

22 (3) on another forum the administrator determines is likely to yield the
23 highest net proceeds of sale.

24 (d) The administrator may decline the highest bid at a sale under this section
25 and reoffer the property for sale if the administrator determines the highest bid is
26 insufficient.

27 **Section 44. That chapter 43-41B be amended with a NEW SECTION:**

28 (a) The administrator shall sell or otherwise liquidate a security prior to three years
29 after the administrator receives the security and gives the apparent owner notice that the
30 administrator holds the security.

31 (b) The administrator may not sell a security listed on an established stock
32 exchange for less than the price prevailing on the exchange at the time of sale. The

1 administrator may sell a security not listed on an established exchange by any
2 commercially reasonable method.

3 **Section 45. That chapter 43-41B be amended with a NEW SECTION:**

4 _____ (a) A person that makes a valid claim under this Act of ownership of a security
5 prior to the mandatory sale of the security by the administrator is entitled to receive:

6 _____ (1) the security the holder delivered to the administrator, if it is in the
7 custody of the administrator, plus dividends and other increments on the security up to
8 the time the administrator delivers the security to the person; or

9 _____ (2) the net proceeds of the sale of the security, plus dividends and other
10 increments on the security up to the time the security was sold.

11 **Section 46. That chapter 43-41B be amended with a NEW SECTION:**

12 A purchaser of property at a sale conducted by the administrator under this Act
13 takes the property free of all claims of the owner, a previous holder, or a person claiming
14 through the owner or holder. The administrator shall execute documents necessary to
15 complete the transfer of ownership to the purchaser.

16 **Section 47. That chapter 43-41B be amended with a NEW SECTION:**

17 (a) The administrator may not sell a medal or decoration awarded for military
18 service in the armed forces of the United States.

19 (b) The administrator, with the consent of the respective organization under
20 paragraph (1), agency under paragraph (2), or entity under paragraph (3), may deliver a
21 medal or decoration described in subsection (a) to be held in custody for the owner, to:

22 _____ (1) a military veterans organization qualified under the Internal Revenue
23 Code, as amended, 26 U.S.C. Section 501(c)(19);

24 _____ (2) the agency that awarded the medal or decoration; or

25 _____ (3) a governmental entity.

26 (c) On delivery under subsection (b), the administrator is not responsible for
27 safekeeping the medal or decoration.

28 **Section 48. That chapter 43-41B be amended with a NEW SECTION:**

29 (a) United States savings bonds which are unclaimed property and subject to the
30 provisions of chapter 43-41B shall escheat to this state three years after becoming

1 unclaimed property and subject to the provisions of chapter 43-41B and all property rights
2 and legal title to and ownership of such United States savings bonds or proceeds from
3 such bonds, including all rights, powers, and privileges of survivorship of any owner, co-
4 owner, or beneficiary, shall vest solely in this state.

5 (b) Within one hundred eighty days after the three year period in subsection
6 (a), if no claim has been filed in accordance with the provisions of chapter 43-41B for such
7 United States savings bonds, the administrator shall commence a civil action in the Sixth
8 Judicial Circuit for a determination that such United States savings bonds shall escheat to
9 this state. The administrator may postpone the bringing of such action until sufficient
10 United States savings bonds have accumulated in the administrator's custody to justify
11 the expense of the proceedings.

12 (c) The administrator shall make service by publication of the proceeding in
13 Hughes County in accordance with § 15-9-7. The notice shall name any defendant to be
14 served and notify the defendant:

15 (1) The defendant has been sued in a named court;

16 (2) The defendant shall answer the petition or other pleading or
17 otherwise defend, on or before a specified date, not less than forty-one days after the
18 date the notice is first published; and

19 (3) If the defendant does not answer or otherwise defend, the petition
20 or other pleading will be taken as true and judgment, the nature of which will be stated,
21 will be rendered accordingly.

22 In addition, before service by publication under this section can be
23 made, the administrator or the administrator's attorney shall file an affidavit or a
24 declaration stating all of the following facts that apply:

25 (i) The residences of all named defendants sought to be served, if
26 known, and the names of all defendants whose residences are unknown after reasonable
27 effort to ascertain them and the specific efforts made to ascertain their residences;

28 (ii) The affiant or declarant has made a reasonable but unsuccessful
29 effort to ascertain the names and residences of any defendants sought to be served as
30 unknown parties and the specific efforts made to ascertain the names and residences;

31 (iii) The party seeking service by publication is unable to obtain service
32 of summons on the defendants in this state; and

33 (iv) The case is one in which the party with due diligence is unable to
34 serve summons on the defendant in this state and:

1 (A) The case relates to or involves real or personal property in this
2 state, if any defendant has or claims a lien or interest, vested or contingent, in the
3 property; or

4 (B) In which the relief demanded consists wholly or partly in excluding
5 the defendant from any interest in the property.

6 (d) If no person files a claim or appears at the hearing to substantiate a claim,
7 or where the court determines that a claimant is not entitled to the property claimed by
8 such claimant, then the court, if satisfied by evidence that the administrator has
9 substantially complied with the laws of this state, shall enter a judgment that the subject
10 United States savings bonds have escheated to this state, and all property rights and legal
11 title to and ownership of such United States savings bonds or proceeds from such bonds,
12 including all rights, powers, and privileges of survivorship of any owner, co-owner, or
13 beneficiary, have vested solely to this state.

14 (e) The administrator shall redeem such United States savings bonds escheated
15 to the state and the proceeds from the redemption of United States savings bonds shall
16 be deposited into an account in the state treasury in accordance with the provisions of §
17 43-41B-24.

18 (f) Any person making a claim for the United States savings bonds escheated
19 to the state under this section, or for the proceeds from such bonds, may file a claim in
20 accordance with the provisions of chapter 43-41B. Upon providing sufficient proof of the
21 validity of the person's claim, the administrator may pay the claim in accordance with the
22 provisions of chapter 43-41B.

23 **Section 49. That chapter 43-41B be amended with a NEW SECTION:**

24 (a) Except as otherwise provided in this section, the administrator shall deposit in
25 the general fund of the state all funds received under this Act, including proceeds from
26 the sale of property under section 43 of this Act.

27 (b) The administrator shall maintain an account with an amount of funds the
28 administrator reasonably estimates is sufficient to pay claims allowed under this Act. If
29 the aggregate amount of claims by owners allowed at any time exceeds the amount held
30 in the account, an excess claim must be paid out of the general funds of the state.

31 **Section 50. That chapter 43-41B be amended with a NEW SECTION:**

32 The administrator shall:

1 _____ (1) record and retain the name and last-known address of each person shown
2 on a report filed under section 24 of this Act to be the apparent owner of property delivered
3 to the administrator;

4 _____ (2) record and retain the name and last-known address of each insured or
5 annuitant and beneficiary shown on the report;

6 _____ (3) for each policy of insurance or annuity contract listed in the report of an
7 insurance company, record and retain the policy or account number, the name of the
8 company, and the amount due or paid; and

9 _____ (4) for each apparent owner listed in the report, record and retain the name of
10 the holder that filed the report and the amount due or paid.

11 **Section 51. That chapter 43-41B be amended with a NEW SECTION:**

12 Before making a deposit of funds received under this Act to the general fund of the
13 state, the administrator may deduct:

14 _____ (1) expenses of disposition of property delivered to the administrator under this
15 Act;

16 _____ (2) costs of mailing and publication in connection with property delivered to the
17 administrator under this Act;

18 _____ (3) reasonable service charges; and

19 _____ (4) expenses incurred in examining records of or collecting property from a
20 putative holder or holder.

21 **Section 52. That chapter 43-41B be amended with a NEW SECTION:**

22 Property received by the administrator under this Act is held in custody for the
23 benefit of the owner and is not owned by the state.

24 **Section 53. That chapter 43-41B be amended with a NEW SECTION:**

25 (a) If the administrator knows that property held by the administrator under this
26 Act is subject to a superior claim of another state, the administrator shall:

27 _____ (1) report and pay or deliver the property to the other state; or

28 _____ (2) return the property to the holder so that the holder may pay or
29 deliver the property to the other state.

30 _____ (b) The administrator is not required to enter into an agreement to transfer
31 property to the other state under subsection (a).

1 **Section 54. That chapter 43-41B be amended with a NEW SECTION:**

2 (a) Property held under this Act by the administrator is subject to the right of
3 another state to take custody of the property if:

4 _____ (1) the property was paid or delivered to the administrator because the
5 records of the holder did not reflect a last-known address in the other state of the apparent
6 owner and:

7 _____ (A) the other state establishes that the last-known address of
8 the apparent owner or other person entitled to the property was in the other state; or

9 _____ (B) under the law of the other state, the property has become
10 subject to a claim by the other state of abandonment;

11 _____ (2) the records of the holder did not accurately identify the owner of the
12 property, the last-known address of the owner was in another state, and, under the law
13 of the other state, the property has become subject to a claim by the other state of
14 abandonment;

15 _____ (3) the property was subject to the custody of the administrator of this
16 state under Section 21 of this Act and, under the law of the state of domicile of the holder,
17 the property has become subject to a claim by the state of domicile of the holder of
18 abandonment; or

19 _____ (4) the property:

20 _____ (A) is a sum payable on a traveler's check, money order, or
21 similar instrument that was purchased in the other state and delivered to the administrator
22 under section 22 of this Act; and

23 _____ (B) under the law of the other state, has become subject to a
24 claim by the other state of abandonment.

25 _____ (b) A claim by another state to recover property under this section must be
26 presented in a form prescribed by the administrator, unless the administrator waives
27 presentation of the form.

28 _____ (c) The administrator shall decide a claim under this section not later than 90
29 days after it is presented. If the administrator determines that the other state is entitled
30 under subsection (a) to custody of the property, the administrator shall allow the claim
31 and pay or deliver the property to the other state.

32 _____ (d) The administrator may require another state, before recovering property
33 under this section, to agree to indemnify this state and its agents, officers and employees
34 against any liability on a claim to the property.

1 **Section 55. That chapter 43-41B be amended with a NEW SECTION:**

2 (a) A person claiming to be the owner of property held under this Act by the
3 administrator may file a claim for the property on a form prescribed by the administrator.
4 The claimant must verify the claim as to its completeness and accuracy.

5 (b) The administrator may waive the requirement in subsection (a) and may
6 pay or deliver property directly to a person if:

7 (1) the person receiving the property or payment is shown to be the
8 apparent owner included on a report filed under section 24 of this Act;

9 (2) the administrator reasonably believes the person is entitled to
10 receive the property or payment; and

11 (3) the property has a value of less than \$2000.

12 **Section 56. That chapter 43-41B be amended with a NEW SECTION:**

13 (a) The administrator shall pay or deliver property to a claimant under section
14 55(a) of this Act if the administrator receives evidence sufficient to establish to the
15 satisfaction of the administrator that the claimant is the owner of the property.

16 (b) Not later than 90 days after a claim is filed under section 55(a) of this Act,
17 the administrator shall allow or deny the claim and give the claimant notice in a record of
18 the decision.

19 (c) If the claim is denied under subsection (b):

20 (1) the administrator shall inform the claimant of the reason for the
21 denial and specify what additional evidence, if any, is required for the claim to be allowed;

22 (2) the claimant may file an amended claim with the administrator or
23 commence an action under section 58 of this Act; and

24 (3) the administrator shall consider an amended claim filed under
25 paragraph (2) as an initial claim.

26 (d) If the administrator does not take action on a claim during the 90-day period
27 following the filing of a claim under section 55(a) of this Act, the claim is deemed denied.

28 **Section 57. That chapter 43-41B be amended with a NEW SECTION:**

29 (a) Not later than 30 days after a claim is allowed under section 56(b) of this Act,
30 the administrator shall pay or deliver to the owner the property or pay to the owner the
31 net proceeds of a sale of the property. On request of the owner, the administrator may
32 sell or liquidate a security and pay the net proceeds to the owner, even if the security had

1 been held by the administrator for less than three years or the administrator has not
2 complied with the notice requirements under section 44 of this Act.

3 ____ (b) The administrator may make periodic inquiries of state and local agencies
4 in the absence of a claim filed under section 55 of this Act to determine whether an
5 apparent owner included in the unclaimed-property records of this state have enforceable
6 debts. The administrator first shall apply the property or net proceeds of a sale of property
7 held by the administrator to a debt under subsection (b) of an apparent owner which
8 appears in the records of the administrator and deliver the amount to the appropriate
9 state or local agency. The administrator shall notify the apparent owner of the payment.

10 **Section 58. That chapter 43-41B be amended with a NEW SECTION:**

11 Not later than one year after filing a claim under section 55(a) of this Act, the
12 claimant may commence an action against the administrator in the appropriate court to
13 establish a claim that has been denied or deemed denied under section 55(d) of this Act.
14 On final determination of the action, the court may, on application, award to the prevailing
15 party its reasonable attorney's fees, costs, and expenses of litigation.

16 **Section 59. That chapter 43-41B be amended with a NEW SECTION:**

17 If a person does not file a report required by section 24 of this Act or the
18 administrator believes that a person may have filed an inaccurate, incomplete, or false
19 report, the administrator may require the person to file a verified report in a form
20 prescribed by the administrator. The verified report must:

21 ____ (1) state whether the person is holding property reportable under this Act;

22 ____ (2) describe property not previously reported or about which the administrator
23 has inquired;

24 ____ (3) specifically identify property described under paragraph (2) about which
25 there is a dispute whether it is reportable under this Act; and

26 ____ (4) state the amount or value of the property.

27 **Section 60. That chapter 43-41B be amended with a NEW SECTION:**

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

29 ____ (1) examine the records of a person, including examination of appropriate
30 records in the possession of an agent of the person under examination, if the records are
31 reasonably necessary to determine whether the person has complied with this Act;

- 1 (2) issue an administrative subpoena requiring the person or agent of the
2 person to make records available for examination; and
3 (3) bring an action seeking judicial enforcement of the subpoena.

4 **Section 61. That chapter 43-41B be amended with a NEW SECTION:**

5 (a) The administrator may adopt rules governing procedures and standards for an
6 examination under section 60 of this Act, including rules for use of an estimation,
7 extrapolation, and statistical sampling in conducting an examination.

8 (b) An examination under section 60 of this Act must be performed with
9 generally accepted examination practices and standards applicable to an unclaimed-
10 property examination.

11 (c) If a person subject to examination under section 60 of this Act has filed the
12 reports required under section 24 of this Act and section 59 of this Act and has retained
13 the records required by section 27 of this Act, the following rules apply:

14 (1) The examination must include a review of the person's records.

15 (2) The examination may not be based on an estimate unless the person
16 expressly consents in a record to the use of an estimate.

17 (3) The person conducting the examination shall consider the evidence
18 presented in good faith by the person in preparing the findings of the examination under
19 section 65 of this Act.

20 **Section 62. That chapter 43-41B be amended with a NEW SECTION:**

21 Records obtained and records, including work papers, compiled by the
22 administrator in the course of conducting an examination under section 60 of this Act:

23 (1) are subject to the confidentiality and security provisions of section 75 of
24 this Act and are not public records;

25 (2) may be used by the administrator in an action to collect property or
26 otherwise enforce this Act;

27 (3) may be used in a joint examination conducted with another state, the United
28 States, a foreign country or subordinate unit of a foreign country, or any other
29 governmental entity if the governmental entity conducting the examination is legally
30 bound to maintain the confidentiality and security of information obtained from a person
31 subject to examination in a manner substantially equivalent to section 75 of this Act;

32 (4) may be disclosed at the discretion of the Treasurer, on request, to the
33 person that administers the unclaimed property law of another state for that state's use

1 in circumstances equivalent to circumstances described in this section, if the other state
2 is required to maintain the confidentiality and security of information obtained in a manner
3 substantially equivalent to section 75;

4 _____ (5) may be produced by the administrator under an administrative or judicial
5 subpoena or administrative or court order; and

6 _____ (6) may be produced by the administrator on request of the person subject to
7 the examination in an administrative or judicial proceeding relating to the property.

8 **Section 63. That chapter 43-41B be amended with a NEW SECTION:**

9 (a) A record of a putative holder showing an unpaid debt or undischarged obligation
10 is prima facie evidence of the debt or obligation.

11 _____ (b) A putative holder may establish by a preponderance of the evidence that
12 there is no unpaid debt or undischarged obligation for a debt or obligation described in
13 subsection (a) or that the debt or obligation was not, or no longer is, a fixed and certain
14 obligation of the putative holder.

15 _____ (c) A putative holder may overcome prima facie evidence under subsection (a)
16 by establishing by a preponderance of the evidence that a check, draft, or similar
17 instrument was:

18 _____ (1) issued as an unaccepted offer in settlement of an unliquidated
19 amount;

20 _____ (2) issued but later was replaced with another instrument because the
21 earlier instrument was lost or contained an error that was corrected;

22 _____ (3) issued to a party affiliated with the issuer;

23 _____ (4) paid, satisfied, or discharged;

24 _____ (5) issued in error;

25 _____ (6) issued without consideration;

26 _____ (7) issued but there was a failure of consideration;

27 _____ (8) voided not later than 90 days after issuance for a valid business
28 reason set forth in a contemporaneous record; or

29 _____ (9) issued but not delivered to the third-party payee for a sufficient
30 reason recorded within a reasonable time after issuance.

31 _____ (d) In asserting a defense under this section, a putative holder may present
32 evidence of a course of dealing between the putative holder and the apparent owner or of
33 custom and practice.

1 **Section 64. That chapter 43-41B be amended with a NEW SECTION:**

2 If a person subject to examination under section 60 of this Act does not retain the
3 records required by section 27 of this Act, the administrator may determine the value of
4 property due using a reasonable method of estimation based on all information available
5 to the administrator, including extrapolation and use of statistical sampling when
6 appropriate and necessary, consistent with examination procedures and standards
7 adopted under section 61(a) of this Act and in accord with section 61(b) of this Act.

8 **Section 65. That chapter 43-41B be amended with a NEW SECTION:**

9 At the conclusion of an examination under section 60 of this Act, the administrator
10 or the administrator's agent shall provide to the person whose records were examined a
11 complete and unredacted examination report that specifies:

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

18 **Section 66. That chapter 43-41B be amended with a NEW SECTION:**

19 (a) If a person subject to examination under section 60 of this Act believes the
20 person conducting the examination has made an unreasonable or unauthorized request
21 or is not proceeding expeditiously to complete the examination, the person in a record
22 may ask the administrator to intervene and take appropriate remedial action, including
23 countermanding the request of the person conducting the examination, imposing a time
24 limit for completion of the examination, or reassigning the examination to another person.

25 ___ (b) If a person in a record requests a conference with the administrator to
26 present matters that are the basis of a request under subsection (a), the administrator
27 shall hold the conference not later than 30 days after receiving the request. The
28 administrator may hold the conference in person, by telephone, or by electronic means.

29 ___ (c) If a conference is held under subsection (b), not later than 30 days after
30 the conference ends, the administrator shall provide a report in a record of the conference
31 to the person that requested the conference.

1 **Section 67. That chapter 43-41B be amended with a NEW SECTION:**

2 If the administrator determines from an examination conducted under section 60
3 of this Act that a putative holder failed or refused to pay or deliver to the administrator
4 property which is reportable under this Act, the administrator shall issue a determination
5 of the putative holder's liability to pay or deliver and give notice in a record to the putative
6 holder of the determination.

7 **Section 68. That chapter 43-41B be amended with a NEW SECTION:**

8 (a) Subject to subsection (b), the administrator may:

9 _____ (1) exchange information with another state or foreign country relating
10 to property presumed abandoned or relating to the possible existence of property
11 presumed abandoned; and

12 _____ (2) authorize in a record another state or foreign country or a person
13 acting on behalf of the other state or country to examine its records of a putative holder
14 as provided in section 61 of this Act.

15 _____ (b) An exchange or examination under subsection (a) may be done only if the
16 state or foreign country has confidentiality and security requirements substantially
17 equivalent to those in section 75 of this Act or agrees in a record to be bound by this
18 state's confidentiality and security requirements.

19 **Section 69. That chapter 43-41B be amended with a NEW SECTION:**

20 (a) The administrator may join another state or foreign country to examine and
21 seek enforcement of this Act against a putative holder.

22 _____ (b) The administrator may pursue an action on behalf of this state to recover
23 property subject to this Act but delivered to the custody of another state if the
24 administrator believes the property is subject to the custody of the administrator.

25 _____ (c) The administrator may retain an attorney in this state, another state or a
26 foreign country to commence an action to recover property on behalf of the administrator
27 and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee,
28 or a percentage of the amount or value of property recovered in the action.

29 **Section 70. That chapter 43-41B be amended with a NEW SECTION:**

30 (a) An administrator may collect interest from a holder that fails to report, pay, or
31 deliver property within the time prescribed by this Act. Interest must be calculated at an

1 annual rate of one-percent of the sum for each thirty-day period of delinquency or fraction
2 of delinquency period on the property or value of the property from the date the property
3 should have been reported, paid, or delivered to the administrator until the date reported,
4 paid, or delivered.

5 _____ (b) Except as otherwise provided in section 71 or 72 of this Act, the
6 administrator may require a holder that fails to report, pay, or deliver property within the
7 time prescribed by this Act to pay to the administrator, in addition to interest included
8 under subsection (a), a civil penalty of \$200 for each day the duty is not performed, up
9 to a cumulative maximum amount of \$5,000.

10 **Section 71. That chapter 43-41B be amended with a NEW SECTION:**

11 (a) If a holder enters into a contract or other arrangement for the purpose of
12 evading an obligation under this Act or otherwise willfully fails to perform a duty imposed
13 on the holder under this Act, the administrator may require the holder to pay the
14 administrator, in addition to interest as provided in section 65(a) of this Act, a civil penalty
15 of \$1,000 for each day the obligation is evaded or the duty is not performed, up to a
16 cumulative maximum amount of \$25,000, plus 25 percent of the amount or value of
17 property that should have been but was not reported, paid, or delivered as a result of the
18 evasion or failure to perform.

19 _____ (b) If a holder makes a fraudulent report under this Act, the administrator may
20 require the holder to pay to the administrator, in addition to interest under section 65(a)
21 of this Act, a civil penalty of \$1,000 for each day from the date the report was made until
22 corrected, up to a cumulative maximum of \$25,000, plus 25 percent of the amount or
23 value of any property that should have been reported but was not included in the report
24 or was underreported.

25 **Section 72. That chapter 43-41B be amended with a NEW SECTION:**

26 The administrator:

27 _____ (1) may waive, in whole or in part, interest under section 70 of this Act and
28 penalties under section 70(b) or 71 of this Act; and

29 _____ (2) shall waive a penalty under section 70(b) of this Act if the administrator
30 determines that the holder acted in good faith and without negligence.

31 **Section 73. That chapter 43-41B be amended with a NEW SECTION:**

1 (a) Agreements to locate reported property. All agreements to pay compensation
2 to recover or assist in the recovery of property reported under section 24 of this Act are
3 not permitted.

4 (b) This section does not apply to an apparent owner's agreement with an attorney
5 to pursue a claim for recovery of specifically identified property held by the administrator
6 or to contest the administrator's denial of a claim for recovery of the property.

7 **Section 74. That chapter 43-41B be amended with a NEW SECTION:**

8 (a) In this article, "personal information" means:

9 (1) information that identifies or reasonably can be used to identify an
10 individual, such as first and last name in combination with the individual's:

11 (A) social security number or other government-issued number
12 or identifier;

13 (B) date of birth;

14 (C) home or physical address;

15 (D) electronic-mail address or other online contact information
16 or Internet provider address;

17 (E) financial account number or credit or debit card number;

18 (F) biometric data, health or medical data, or insurance
19 information; or

20 (G) passwords or other credentials that permit access to an
21 online or other account;

22 (2) personally identifiable financial or insurance information, including
23 nonpublic personal information defined by applicable federal law; and

24 (3) any combination of data that, if accessed, disclosed, modified, or
25 destroyed without authorization of the owner of the data or if lost or misused,
26 would require notice or reporting under state statute regarding privacy and security and
27 federal privacy and data security law, whether or not the administrator or the
28 administrator's agent is subject to the law.

29 (b) A provision of this article that applies to the administrator or the
30 administrator's records applies to an administrator's agent.

31 **Section 75. That chapter 43-41B be amended with a NEW SECTION:**

32 (a) Except as otherwise provided in this Act, the following are confidential and
33 exempt from public inspection or disclosure:

1 _____ (1) records of the administrator and the administrator's agent related
2 to the administration of this Act;
3 _____ (2) reports and records of a holder in the possession of the administrator
4 or the administrator's agent; and
5 _____ (3) personal information and other information derived or otherwise
6 obtained by or communicated to the administrator or the administrator's agent
7 from an examination under this Act of the records of a person.

8 (b) A record or other information that is confidential under law of this state
9 other than this Act, another state, or the United States continues to be confidential
10 when disclosed or delivered under this Act to the administrator or administrator's agent.

11 **Section 76. That chapter 43-41B be amended with a NEW SECTION:**

12 (a) When reasonably necessary to enforce or implement this Act, the administrator
13 may disclose confidential information concerning property held by the
14 administrator or the administrator's agent only to:

15 _____ (1) an apparent owner or the apparent owner's personal representative,
16 attorney, other legal representative, relative, or agent designated under section
17 73(b) of this Act to have the information;

18 _____ (2) the personal representative, executor, other legal representative,
19 relative of a deceased apparent owner, agent designated under section 73(b) of
20 this Act by the deceased apparent owner, or a person entitled to inherit from the deceased
21 apparent owner;

22 _____ (3) another department or agency of this state or the United States;

23 _____ (4) the person that administers the unclaimed property law of another
24 state, if the other state accords substantially reciprocal privileges to the
25 administrator of this state if the other state is required to maintain the confidentiality and
26 security of information obtained in a manner substantially equivalent to section 75 of this
27 Act;

28 _____ (5) a person subject to an examination as required by section 62(6) of this Act.

29 _____ (b) Except as otherwise provided in section 75(a) of this Act, the administrator
30 shall include on the website or in the database required by section 31(a)(2) of this Act the
31 name of each apparent owner of property held by the administrator. The administrator
32 may include in published notices, printed publications, telecommunications, the Internet,
33 or other media and on the website or in the database additional information concerning
34 the apparent owner's property if the administrator believes the information will assist in

1 identifying and returning property to the owner and does not disclose personal information
2 except the home or physical address of an apparent owner.

3 _____ (c) The administrator and the administrator's agent may not use confidential
4 information provided to them or in their possession except as expressly authorized
5 by this Act or required by law other than this Act.

6 **Section 77. That chapter 43-41B be amended with a NEW SECTION:**

7 Except as otherwise provided in sections 29 and 30 of this Act, a holder is not
8 required under this Act to include confidential information in a notice the holder is required
9 to provide to an apparent owner under this Act.

10 **Section 78. That chapter 43-41B be amended with a NEW SECTION:**

11 (a) If a holder is required to include confidential information in a report to the
12 administrator, the information must be provided by a secure means.

13 _____ (b) If confidential information in a record is provided to and maintained by the
14 administrator or administrator's agent as required by this Act, the administrator or agent
15 shall:

16 _____ (1) implement administrative, technical, and physical safeguards to
17 protect the security, confidentiality, and integrity of the information required by state
18 statute regarding privacy and security and federal privacy and data security law whether
19 or not the administrator or the administrator's agent is subject to the law;

20 _____ (2) protect against reasonably anticipated threats or hazards to the
21 security, confidentiality, or integrity of the information; and

22 _____ (3) protect against unauthorized access to or use of the information
23 which could result in substantial harm or inconvenience to a holder or the holder's
24 customers, including insureds, annuitants, and policy or contract owners and their
25 beneficiaries.

26 **Section 79. That chapter 43-41B be amended with a NEW SECTION:**

27 (a) Except to the extent prohibited by law other than this Act, the administrator or
28 administrator's agent shall notify a holder as soon as practicable of:

29 _____ (1) a suspected loss, misuse or unauthorized access, disclosure,
30 modification, or destruction of confidential information obtained from the holder in the
31 possession of the administrator or an administrator's agent; and

1 (2) any interference with operations in any system hosting or housing
2 confidential information which:

3 (A) compromises the security, confidentiality, or integrity of the
4 information; or

5 (B) creates a substantial risk of identity fraud or theft.

6 (b) Except as necessary to inform an insurer, attorney, investigator, or others
7 as required by law, the administrator and an administrator's agent may not disclose,
8 without the express consent in a record of the holder, an event described in subsection
9 (a) to a person whose confidential information was supplied by the holder.

10 (c) If an event described in subsection (a) occurs, the administrator and the
11 administrator's agent shall:

12 (1) take action necessary for the holder to understand and minimize the
13 effect of the event and determine its scope; and

14 (2) cooperate with the holder with respect to:

15 (A) any notification required by law concerning a data or other
16 security breach; and

17 (B) a regulatory inquiry, litigation, or similar action.

18 **Section 80. That chapter 43-41B be amended with a NEW SECTION:**

19 (a) An initial report filed under this Act for property that was not required to be
20 reported before the effective date of this Act, but that is required to be reported under
21 this Act, must include all items of property that would have been presumed abandoned
22 during the 10-year period preceding the effective date of this Act as if this Act had been
23 in effect during that period.

24 (b) This Act does not relieve a holder of a duty that arose before the effective
25 date of this Act to report, pay, or deliver property. Subject to section 42(b) and 42(c) of
26 this Act, a holder that did not comply with the law governing unclaimed property before
27 the effective date of this Act is subject to applicable provisions for enforcement and
28 penalties in effect before the effective date of this Act.

29 **Section 81. That § 10-1-45 be AMENDED:**

30 **10-1-45.** Upon written request of the administrator pursuant to ~~§ 43-41B-31~~
31 section 60 of this Act, the secretary of revenue may examine the records of any business
32 which is the holder of abandoned property for the purpose of ascertaining such business'
33 compliance with chapter 43-41B.

1 **Section 82. That § 25-7A-56.9 be AMENDED:**

2 **25-7A-56.9.** The department shall enter into agreements with any financial
3 institution conducting business within the state whereby the financial institution shall, on
4 a quarterly basis, provide to the department the name, record address, social security
5 number, or other taxpayer identification number, and other identifying information
6 requested by the department for each obligor who owes past-due child support, and who
7 maintains an account at the financial institution. Every financial institution shall also
8 comply with any lien, levy, or order for withholding of income issued by the department
9 against any account.

10 A financial institution is not liable to any person or entity for release or disclosure
11 of any information required herein, and is not liable for encumbering or surrendering to
12 the department any assets held by the financial institution and owned by the obligor. A
13 financial institution is not liable to any person or entity for any other action taken in good
14 faith by the institution to comply with the requirements of this section. Any information
15 obtained by any Title IV-D agency pursuant to this section is confidential in nature and
16 may be disclosed only for the purpose of, and to the extent necessary in, establishing,
17 modifying, or enforcing a child support obligation.

18 As used in this section, financial institution includes any financial institution as
19 defined in subdivision 10-43-1(4), any institution regulated by chapter 47-31B, and any
20 other depository institution, credit union, benefit association, insurance company, safe
21 deposit company, bond fund, money market mutual fund, and any mutual fund of any
22 kind or character. The term, account, as used in this section includes any demand deposit
23 account, checking account, negotiable withdrawal order account, savings account, time
24 deposit account, money market or any type of mutual fund account, and intangible
25 property as defined in ~~subdivision 43-41B-1(10)~~ section 2(24) of this Act.

26 **Section 83. That § 43-41B-1 be REPEALED:**

27 ~~As used in this chapter, unless the context otherwise requires:~~

28 ~~(1) "Administrator," the state treasurer;~~

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

31 ~~(3) "Attorney general," the chief legal officer of this state;~~

- 1 ~~(4) "Banking organization," any bank, trust company, savings bank, industrial bank,~~
2 ~~land bank, safe deposit company, private banker, or any organization defined by~~
3 ~~other law as a bank or banking organization;~~
- 4 ~~(5) "Business association," a nonpublic corporation, joint stock company, investment~~
5 ~~company, business trust, partnership, cooperative, or association for business~~
6 ~~purposes of two or more individuals, whether or not for profit, including a banking~~
7 ~~organization, financial organization, insurance company, or utility;~~
- 8 ~~(6) "Domicile," the state of incorporation of a corporation or the state of the principal~~
9 ~~place of business of an unincorporated person;~~
- 10 ~~(7) "Financial organization," a savings and loan association, cooperative bank, building~~
11 ~~and loan association, or credit union;~~
- 12 ~~(8) "Holder," a person, wherever organized or domiciled, who is:~~
13 ~~(i) In possession of property belonging to another;~~
14 ~~(ii) A trustee; or~~
15 ~~(iii) Indebted to another on an obligation;~~
- 16 ~~(9) "Insurance company," an association, corporation, fraternal or mutual benefit~~
17 ~~organization, whether or not for profit, which is engaged in providing insurance~~
18 ~~coverage, including accident, burial, casualty, credit life, contract performance,~~
19 ~~dental, fidelity, fire, health, hospitalization, illness, life (including endowments and~~
20 ~~annuities), malpractice, marine, mortgage, surety, and wage protection insurance;~~
- 21 ~~(10) "Intangible property," includes:~~
22 ~~(i) Moneys, checks, drafts, deposits, interest, dividends, unpaid mineral~~
23 ~~proceeds, royalties, vendor checks, income, unpaid commissions, unpaid~~
24 ~~overcharges, and unpaid accounts payable;~~
25 ~~(ii) Credit balances, customer overpayments, gift certificates, security deposits,~~
26 ~~refunds, credit memos, unpaid wages, unused airline tickets, and~~
27 ~~unidentified remittances;~~
28 ~~(iii) Stocks and other intangible ownership interests in business associations;~~
29 ~~(iv) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or~~
30 ~~to make distributions;~~
31 ~~(v) Amounts due and payable under the terms of insurance policies;~~
32 ~~(vi) Amounts distributable from a trust or custodial fund established under a plan~~
33 ~~to provide health, welfare, pension, vacation, severance, retirement, death,~~
34 ~~stock purchase, profit sharing, employee savings, supplemental~~
35 ~~unemployment insurance, or similar benefits; and~~

- 1 ~~(vii) United States savings bonds held or owing in this state by any person, or~~
2 ~~issued or owed in the course of a holder's business, or by a state or other~~
3 ~~government, governmental subdivision, agency, or instrumentality;~~
- 4 ~~(11) "Last known address," a description of the last known location of the apparent~~
5 ~~owner sufficient for the purpose of the delivery of mail;~~
- 6 ~~(12) "Owner," a depositor in the case of a deposit, a beneficiary in case of a trust other~~
7 ~~than a deposit in trust, a creditor, claimant, or payee in the case of other intangible~~
8 ~~property, or any other person having a legal or equitable interest in property~~
9 ~~subject to this chapter or his legal representative;~~
- 10 ~~(13) "Person," an individual, business association, state or other government,~~
11 ~~governmental subdivision or agency, public corporation, public authority, estate,~~
12 ~~trust, two or more persons having a joint or common interest, or any other legal~~
13 ~~or commercial entity;~~
- 14 ~~(14) "Property," includes money, rights to claim refunds or rebates, postal savings~~
15 ~~deposits, bonds, United States savings bonds, notes, certificates, policies of~~
16 ~~insurance, other instruments of value, choses in action, obligations whether~~
17 ~~written or unwritten and anything of value of any nature whatsoever;~~
- 18 ~~(15) "State," any state, district, commonwealth, territory, insular possession, or any~~
19 ~~other area subject to the legislative authority of the United States;~~
- 20 ~~(15A) "Unclaimed Property Division," a division within the Office of the State Treasurer;~~
- 21 ~~(16) "Utility," a person who owns or operates for public use any plant, equipment,~~
22 ~~property, franchise, or license for the transmission of communications or the~~
23 ~~production, storage, transmission, sale, delivery, or furnishing of electricity, water,~~
24 ~~steam, or gas.~~

25 **Section 84. That § 43-41B-2 be REPEALED:**

26 ~~(a) Except as otherwise provided by this chapter, all intangible property, including~~
27 ~~any income or increment derived therefrom, less any lawful charges, that is held, issued,~~
28 ~~or owing in the ordinary course of a holder's business and has remained unclaimed by the~~
29 ~~owner for more than three years after it became payable or distributable is presumed~~
30 ~~abandoned.~~

31 ~~(b) Property is payable or distributable for the purpose of this chapter~~
32 ~~notwithstanding the owner's failure to make demand or to present any instrument or~~
33 ~~document required to receive payment.~~

1 **Section 85. That § 43-41B-3 be REPEALED:**

2 ~~Unless otherwise provided in this chapter or by other statute of this state,~~
3 ~~intangible property is subject to the custody of this state as unclaimed property if the~~
4 ~~conditions raising a presumption of abandonment under §§ 43-41B-2 and 43-41B-5 to~~
5 ~~43-41B-17, inclusive, are satisfied and:~~

6 ~~(1) The last known address, as shown on the records of the holder, of the apparent~~
7 ~~owner is in this state;~~

8 ~~(2) The records of the holder do not reflect the identity of the person entitled to the~~
9 ~~property and it is established that the last known address of the person entitled to~~
10 ~~the property is in this state;~~

11 ~~(3) The records of the holder do not reflect the last known address of the apparent~~
12 ~~owner, and it is established that:~~

13 ~~(i) The last known address of the person entitled to the property is in this state;~~

14 ~~(ii) The holder is a domiciliary or a government or governmental subdivision or~~
15 ~~agency of this state and has not previously paid or delivered the property~~
16 ~~to the state of the last known address of the apparent owner or other person~~
17 ~~entitled to the property; or~~

18 ~~(iii) The holder originating or issuing the intangible property is incorporated,~~
19 ~~organized, created or constructively located in this state;~~

20 ~~(4) The last known address, as shown on the records of the holder, of the apparent~~
21 ~~owner is in a state that does not provide by law for the escheat or custodial taking~~
22 ~~of the property or its escheat or unclaimed property law is not applicable to the~~
23 ~~property and the holder is a domiciliary or a government or governmental~~
24 ~~subdivision or agency of this state;~~

25 ~~(5) The last known address, as shown on the records of the holder, of the apparent~~
26 ~~owner is in a foreign nation and the holder is a domiciliary or a government or~~
27 ~~governmental subdivision or agency of this state; or~~

28 ~~(6) The transaction out of which the property arose occurred in this state, and~~

29 ~~(i)(A) The last known address of the apparent owner or other person entitled to~~
30 ~~the property is unknown; or~~

31 ~~(B) The last known address of the apparent owner or other person entitled~~
32 ~~to the property is in a state that does not provide by law for the~~
33 ~~escheat or custodial taking of the property or its escheat or~~
34 ~~unclaimed property law is not applicable to the property; and~~

1 ~~(ii) The holder is a domiciliary of a state that does not provide by law for the~~
2 ~~escheat or custodial taking of the property or its escheat or unclaimed~~
3 ~~property law is not applicable to the property.~~

4 **Section 86. That § 43-41B-4 be REPEALED:**

5 ~~(a) Any sum payable on a travelers check that has been outstanding for more than~~
6 ~~fifteen years after its issuance is presumed abandoned unless the owner, within fifteen~~
7 ~~years, has communicated in writing with the issuer concerning it or otherwise indicated~~
8 ~~an interest as evidenced by a memorandum or other record on file prepared by an~~
9 ~~employee of the issuer.~~

10 ~~(b) Any sum payable on a money order or similar written instrument, other than a~~
11 ~~third party bank check, that has been outstanding for more than three years after its~~
12 ~~issuance is presumed abandoned unless the owner, within three years, has communicated~~
13 ~~in writing with the issuer concerning it or otherwise indicated an interest as evidenced by~~
14 ~~a memorandum or other record on file prepared by an employee of the issuer.~~

15 ~~(c) A holder may not deduct from the amount of a travelers check or money order~~
16 ~~any charge imposed by reason of the failure to present the instrument for payment unless~~
17 ~~there is a valid and enforceable written contract between the issuer and the owner of the~~
18 ~~instrument pursuant to which the issuer may impose a charge and the issuer regularly~~
19 ~~imposes such charges and does not regularly reverse or otherwise cancel them.~~

20 ~~(d) No sum payable on a travelers check, money order, or similar written~~
21 ~~instrument, other than a third party bank check, as described in subsections (a) and (b),~~
22 ~~may be subjected to the custody of this state as unclaimed property unless:~~

23 ~~(1) The records of the issuer show that the travelers check, money order, or similar~~
24 ~~written instrument was purchased in this state;~~

25 ~~(2) The issuer has its principal place of business in this state and the records of the~~
26 ~~issuer do not show the state in which the travelers check, money order, or similar~~
27 ~~written instrument was purchased; or~~

28 ~~(3) The issuer has its principal place of business in this state, the records of the issuer~~
29 ~~show the state in which the travelers check, money order, or similar written~~
30 ~~instrument was purchased and the laws of the state of purchase do not provide for~~
31 ~~the escheat or custodial taking of the property or its escheat or unclaimed property~~
32 ~~law is not applicable to the property.~~

33 ~~(e) Notwithstanding any other provisions of this chapter, subsection (d) applies to~~
34 ~~sums payable on travelers checks, money orders, and similar written instruments~~

1 ~~presumed abandoned on or after February 1, 1965, except to the extent that those sums~~
2 ~~have been paid over to a state.~~

3 **Section 87. That § 43-41B-5 be REPEALED:**

4 ~~(a) Any sum payable on a check, draft, or similar instrument, except those subject~~
5 ~~to § 43-41B-4, on which a banking or financial organization is directly liable, including a~~
6 ~~cashier's check and a certified check, which has been outstanding for more than three~~
7 ~~years after it was payable or after its issuance if payable on demand, is presumed~~
8 ~~abandoned, unless the owner, within three years, has communicated in writing with the~~
9 ~~banking or financial organization concerning it or otherwise indicated an interest as~~
10 ~~evidenced by a memorandum or other record on file prepared by an employee thereof.~~

11 ~~(b) A holder may not deduct from the amount of any instrument subject to this~~
12 ~~section any charge imposed by reason of the failure to present the instrument for payment~~
13 ~~unless there is a valid and enforceable written contract between the holder and the owner~~
14 ~~of the instrument pursuant to which the holder may impose a charge, and the holder~~
15 ~~regularly imposes such charges and does not regularly reverse or otherwise cancel them.~~

16 **Section 88. That § 43-41B-6 be REPEALED:**

17 ~~(a) Any demand, savings, or matured time deposit with a banking or financial~~
18 ~~organization, including a deposit that is automatically renewable, and any funds paid~~
19 ~~toward the purchase of a share, a mutual investment certificate, or any other interest in~~
20 ~~a banking or financial organization is presumed abandoned unless in the case of a matured~~
21 ~~time deposit, the banking or financial organization has mailed, at least once in three years~~
22 ~~certified mail requesting a return receipt, to the owner and the receipt has been returned~~
23 ~~and signed by the addressee, or unless the owner, within three years has:~~

24 ~~(1) In the case of a deposit, increased or decreased its amount or presented the~~
25 ~~passbook or other similar evidence of the deposit for the crediting of interest;~~

26 ~~(2) Communicated in writing with the banking or financial organization concerning the~~
27 ~~property;~~

28 ~~(3) Otherwise indicated an interest in the property as evidenced by a memorandum or~~
29 ~~other record on file prepared by an employee of the banking or financial~~
30 ~~organization;~~

31 ~~(4) Owned other property to which paragraph (1), (2), or (3) applies and if the banking~~
32 ~~or financial organization communicates in writing with the owner with regard to the~~
33 ~~property that would otherwise be presumed abandoned under this subsection at~~

- 1 ~~the address to which communications regarding the other property regularly are~~
2 ~~sent;~~
- 3 ~~(5) Had another relationship with the banking or financial organization concerning~~
4 ~~which the owner has:~~
- 5 ~~(i) Communicated in writing with the banking or financial organization; or~~
6 ~~(ii) Otherwise indicated an interest as evidenced by a memorandum or other~~
7 ~~record on file prepared by an employee of the banking or financial~~
8 ~~organization and if the banking or financial organization communicates in~~
9 ~~writing with the owner with regard to the property that would otherwise be~~
10 ~~abandoned under this subsection at the address to which communications~~
11 ~~regarding the other relationship regularly are sent; or~~
- 12 ~~(6) Received tax reports or regular statements of the deposit by mail from the banking~~
13 ~~or financial organization regarding the deposit. Receipt of the statement by the~~
14 ~~owner is presumed if the statement is mailed first class by the banking or financial~~
15 ~~organization and not returned.~~
- 16 ~~(b) For purposes of subsection (a) property includes any income, increments,~~
17 ~~interest, or dividends.~~
- 18 ~~(c) A holder may not impose with respect to property described in subsection (a)~~
19 ~~any charge due to dormancy or inactivity or cease payment of interest unless:~~
- 20 ~~(1) There is an enforceable written contract between the holder and the owner of the~~
21 ~~property pursuant to which the holder may impose a charge or cease payment of~~
22 ~~interest;~~
- 23 ~~(2) For property in excess of two dollars, the holder, no more than three months before~~
24 ~~the initial imposition of those charges or cessation of interest, has given written~~
25 ~~notice to the owner of the amount of those charges at the last known address of~~
26 ~~the owner stating that those charges will be imposed or that interest will cease,~~
27 ~~but the notice provided in this section need not be given with respect to charges~~
28 ~~imposed or interest ceased before July 1, 1993; and~~
- 29 ~~(3) The holder regularly imposes such charges or ceases payment of interest and does~~
30 ~~not regularly reverse or otherwise cancel them or retroactively credit interest with~~
31 ~~respect to the property.~~
- 32 ~~(d) Any property described in subsection (a) that is automatically renewable is~~
33 ~~matured for purposes of subsection (a) upon the expiration of its initial time period, but~~
34 ~~in the case of any renewal to which the owner consents at or about the time of renewal~~
35 ~~by communicating in writing with the banking or financial organization or otherwise~~

1 ~~indicating consent as evidenced by a memorandum or other record on file prepared by an~~
2 ~~employee of the organization, the property is matured upon the expiration of the last time~~
3 ~~period for which consent was given. If, at the time provided for delivery in § 43-41B-20,~~
4 ~~a penalty or forfeiture in the payment of interest would result from the delivery of the~~
5 ~~property, the time for delivery is extended until the time when no penalty or forfeiture~~
6 ~~would result.~~

7 **Section 89. That § 43-41B-7 be REPEALED:**

8 ~~(a) Funds held or owing under any life or endowment insurance policy or annuity~~
9 ~~contract that has matured or terminated are presumed abandoned if unclaimed for more~~
10 ~~than three years after the funds became due and payable as established from the records~~
11 ~~of the insurance company holding or owing the funds, but property described in subsection~~
12 ~~(c)(2) is presumed abandoned if unclaimed for more than three years.~~

13 ~~(b) If a person other than the insured or annuitant is entitled to the funds and an~~
14 ~~address of the person is not known to the company or it is not definite and certain from~~
15 ~~the records of the company who is entitled to the funds, it is presumed that the last known~~
16 ~~address of the person entitled to the funds is the same as the last known address of the~~
17 ~~insured or annuitant according to the records of the company.~~

18 ~~(c) For purposes of this chapter, a life or endowment insurance policy or annuity~~
19 ~~contract not matured by actual proof of the death of the insured or annuitant according~~
20 ~~to the records of the company is matured and the proceeds due and payable if:~~

21 ~~(1) The company knows that the insured or annuitant has died; or~~

22 ~~(2)(i) The insured has attained, or would have attained if he were living, the limiting age~~
23 ~~under the mortality table on which the reserve is based;~~

24 ~~(ii) The policy was in force at the time the insured attained, or would have~~
25 ~~attained, the limiting age specified in subparagraph (i); and~~

26 ~~(iii) Neither the insured nor any other person appearing to have an interest in the~~
27 ~~policy within the preceding three years, according to the records of the~~
28 ~~company, has assigned, readjusted, or paid premiums on the policy,~~
29 ~~subjected the policy to a loan, corresponded in writing with the company~~
30 ~~concerning the policy, or otherwise indicated an interest as evidenced by a~~
31 ~~memorandum or other record on file prepared by an employee of the~~
32 ~~company.~~

33 ~~(d) For purposes of this chapter, the application of an automatic premium loan~~
34 ~~provision or other nonforfeiture provision contained in an insurance policy does not~~

1 ~~prevent a policy from being matured or terminated under subsection (a) if the insured has~~
2 ~~died or the insured or the beneficiary of the policy otherwise has become entitled to the~~
3 ~~proceeds thereof before the depletion of the cash surrender value of a policy by the~~
4 ~~application of those provisions.~~

5 ~~(e) If the laws of this state or the terms of the life insurance policy require the~~
6 ~~company to give notice to the insured or owner that an automatic premium loan provision~~
7 ~~or other nonforfeiture provision has been exercised and the notice, given to an insured or~~
8 ~~owner whose last known address according to the records of the company is in this state,~~
9 ~~is undeliverable, the company shall make a reasonable search to ascertain the~~
10 ~~policyholder's correct address to which the notice must be mailed.~~

11 ~~(f) Notwithstanding any other provision of law, if the company learns of the death~~
12 ~~of the insured or annuitant and the beneficiary has not communicated with the insurer~~
13 ~~within four months after the death, the company shall take reasonable steps to pay the~~
14 ~~proceeds to the beneficiary.~~

15 ~~(g) Commencing on July 1, 1994, every change of beneficiary form issued by an~~
16 ~~insurance company under any life or endowment insurance policy or annuity contract to~~
17 ~~an insured or owner who is a resident of this state must request the following information:~~

- 18 ~~(1) The name of each beneficiary, or if a class of beneficiaries is named, the name of~~
19 ~~each current beneficiary in the class;~~
20 ~~(2) The address of each beneficiary; and~~
21 ~~(3) The relationship of each beneficiary to the insured.~~

22 **Section 90. That § 43-41B-8 be REPEALED:**

23 ~~Any deposit, including any interest thereon, made by a subscriber with a utility to~~
24 ~~secure payment for or any sum paid in advance for utility services to be furnished in this~~
25 ~~state, less any lawful deductions, is presumed abandoned if it has remained unclaimed by~~
26 ~~the person appearing on the records of the utility entitled thereto for more than one year~~
27 ~~after the termination of the services for which the deposit or advance payment was made.~~

28 ~~Any sum which a utility has been ordered to refund and which was received for~~
29 ~~utility services rendered in this state, together with any interest thereon, less any lawful~~
30 ~~deductions, is presumed abandoned if it has remained unclaimed by the person appearing~~
31 ~~on the records of the utility entitled thereto for more than one year after the date it~~
32 ~~became payable in accordance to the final determination or order providing for the refund.~~

33 **Section 91. That § 43-41B-9 be REPEALED:**

1 ~~Except to the extent otherwise ordered by the court or administrative agency, any~~
2 ~~sum that a business association has been ordered to refund by a court or administrative~~
3 ~~agency which has remained unclaimed by the owner for more than one year after it~~
4 ~~became payable in accordance with the final determination or order providing for the~~
5 ~~refund, whether or not the final determination or order requires any person entitled to a~~
6 ~~refund to make a claim for it, is presumed abandoned.~~

7 **Section 92. That § 43-41B-10 be REPEALED:**

8 ~~(a) Except as provided in subsections (b) and (c), stock or other intangible~~
9 ~~ownership interest in a business association, the existence of which is evidenced by~~
10 ~~records available to the association, is presumed abandoned and, with respect to the~~
11 ~~interest, the association is the holder, if a dividend, distribution, or other sum payable as~~
12 ~~a result of the interest has remained unclaimed by the owner for three years and the~~
13 ~~owner within three years has not:~~

14 ~~(1) Communicated in writing with the association regarding the interest or a dividend,~~
15 ~~distribution, or other sum payable as a result of the interest; or~~

16 ~~(2) Otherwise communicated with the association regarding the interest or a dividend,~~
17 ~~distribution, or other sum payable as a result of the interest, as evidenced by a~~
18 ~~memorandum or other record on file with the association prepared by an employee~~
19 ~~of the association.~~

20 ~~(b) At the expiration of a three year period following the failure of the owner to~~
21 ~~claim a dividend, distribution, or other sum payable to the owner as a result of the interest,~~
22 ~~the interest is not presumed abandoned unless there have been at least three dividends,~~
23 ~~distributions, or other sums paid during the period, none of which has been claimed by~~
24 ~~the owner. If three dividends, distributions, or other sums are paid during the three year~~
25 ~~period, the period leading to a presumption of abandonment commences on the date~~
26 ~~payment of the first such unclaimed dividend, distribution, or other sum became due and~~
27 ~~payable. If three dividends, distributions, or other sums are not paid during the~~
28 ~~presumptive period, the period continues to run until there have been three dividends,~~
29 ~~distributions, or other sums that have not been claimed by the owner.~~

30 ~~(c) The running of the three year period of abandonment ceases immediately upon~~
31 ~~the occurrence of a communication referred to in subsection (a). If any future dividend,~~
32 ~~distribution, or other sum payable to the owner as a result of the interest is subsequently~~
33 ~~not claimed by the owner, a new period of abandonment commences and relates back to~~
34 ~~the time a subsequent dividend, distribution, or other sum became due and payable.~~

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

4 ~~(e) This chapter does apply to any stock or other intangible ownership interest~~
5 ~~enrolled in a plan that provides for the automatic reinvestment of dividends, distributions,~~
6 ~~or other sums payable as a result of the interest if the records available to the~~
7 ~~administrator of the plan show, with respect to any intangible ownership interest not~~
8 ~~enrolled in the reinvestment plan, that the owner has not within three years communicated~~
9 ~~in any manner described in subsection (a).~~

10 **Section 93. That § 43-41B-11 be REPEALED:**

11 ~~Intangible property distributable in the course of a dissolution of a business~~
12 ~~association which remains unclaimed by the owner for more than one year after the date~~
13 ~~specified for final distribution is presumed abandoned.~~

14 **Section 94. That § 43-41B-13 be REPEALED:**

15 ~~(a) Intangible property and any income or increment derived therefrom held by~~
16 ~~fiduciaries and agents for the benefit of another person is presumed abandoned unless~~
17 ~~the owner, within three years after it has become payable or distributable, has increased~~
18 ~~or decreased the principal, accepted payment of principal or income, communicated~~
19 ~~concerning the property, or otherwise indicated an interest as evidenced by a~~
20 ~~memorandum or other record on file prepared by the fiduciary.~~

21 ~~(b) Funds in an individual retirement account or a retirement plan for self-employed~~
22 ~~individuals or similar account or plan established pursuant to the Internal Revenue laws~~
23 ~~of the United States are not payable or distributable within the meaning of subsection (a)~~
24 ~~unless, under the terms of the account or plan, distribution of all or part of the funds would~~
25 ~~then be mandatory.~~

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

30 ~~(d) For the purposes of this chapter, a person who is deemed to hold property in a~~
31 ~~fiduciary capacity for a business association alone is the holder of the property only insofar~~
32 ~~as the interest of the business association in the property is concerned, and the business~~

1 ~~association is the holder of the property insofar as the interest of any other person in the~~
2 ~~property is concerned.~~

3 **Section 95. That § 43-41B-14 be REPEALED:**

4 ~~Intangible property held for the owner by a court, federal, state, or other~~
5 ~~government, governmental subdivision or agency or entity, public corporation, public~~
6 ~~authority, or public officer of this state which remains unclaimed by the owner for more~~
7 ~~than one year after becoming payable or distributable is presumed abandoned.~~

8 **Section 96. That § 43-41B-15 be REPEALED:**

9 ~~(a) A gift certificate or a credit memo issued in the ordinary course of an issuer's~~
10 ~~business which remains unclaimed by the owner for more than three years after becoming~~
11 ~~payable or distributable is presumed abandoned.~~

12 ~~(b) In the case of a gift certificate, the amount presumed abandoned is the price~~
13 ~~paid by the purchaser for the gift certificate. In the case of a credit memo, the amount~~
14 ~~presumed abandoned is the amount credited to the recipient of the memo.~~

15 **Section 97. That § 43-41B-16 be REPEALED:**

16 ~~Unpaid wages, including wages represented by unrepresented payroll checks, owing~~
17 ~~in the ordinary course of the holder's business which remains unclaimed by the owner for~~
18 ~~more than one year after becoming payable are presumed abandoned.~~

19 **Section 98. That § 43-41B-17 be REPEALED:**

20 ~~Any tangible and intangible property held in a safe deposit box or any other~~
21 ~~safekeeping repository or agency or collateral deposit box in this state in the ordinary~~
22 ~~course of the holder's business and proceeds resulting from the sale of the property~~
23 ~~permitted by other law, which remain unclaimed by the owner for more than three years~~
24 ~~after the lease or rental period on the box or other repository has expired, are presumed~~
25 ~~abandoned. Any United States savings bond included in the contents of a safe deposit box~~
26 ~~or other repository must be reported and recorded in the unclaimed property database,~~
27 ~~independently of the box or repository. The savings bonds must be listed using the owner~~
28 ~~information on the original bond under property type code SC15 United States~~
29 ~~Government Securities. The savings bonds must be claimable by the person listed on the~~
30 ~~bond or by that person's heirs.~~

1 **Section 99. That § 43-41B-18 be REPEALED:**

2 ~~(a) A person holding property tangible or intangible, presumed abandoned and~~
3 ~~subject to custody as unclaimed property under this chapter shall report to the~~
4 ~~administrator concerning the property as provided in this section. The expiration of any~~
5 ~~period of time specified by statute or court order, during which an action or proceeding~~
6 ~~may be commenced or enforced to obtain payment of a claim for money or recovery of~~
7 ~~property, does not prevent the money or property from being presumed abandoned~~
8 ~~property, nor affect any duty to file a report required by this chapter or to pay or deliver~~
9 ~~abandoned property to the state treasurer.~~

10 ~~The holder of unclaimed property shall, before filing the annual report required by~~
11 ~~this section, communicate with the owner and take necessary steps to prevent~~
12 ~~abandonment from being presumed by exercising due diligence to ascertain the~~
13 ~~whereabouts of the owner. This includes the mailing of notice to each person having an~~
14 ~~address if the person is entitled to property of the value of fifty dollars or more presumed~~
15 ~~abandoned under this chapter.~~

16 ~~The mailed notice shall contain:~~

17 ~~(1) A statement that according to the records of the holder, property is being held to~~
18 ~~which the addressee appears to be entitled;~~

19 ~~(2) Information regarding any changes of the name of the holder; and~~

20 ~~(3) A statement that the property will escheat to the state.~~

21 ~~(b) The report must be verified and must include:~~

22 ~~(1) Except with respect to travelers checks and money orders, the name, if known, and~~
23 ~~last known address, if any, of each person appearing from the records of the holder~~
24 ~~to be the owner of property of the value of ten dollars or more presumed~~
25 ~~abandoned under this chapter;~~

26 ~~(2) In the case of unclaimed funds of ten dollars or more held or owing under any life~~
27 ~~or endowment insurance policy or annuity contract, the full name and last known~~
28 ~~address of the insured or annuitant and of the beneficiary according to the records~~
29 ~~of the insurance company holding or owing the funds;~~

30 ~~(3) In the case of the contents of a safe deposit box or other safekeeping repository or~~
31 ~~of other tangible property, a description of the property and the place where it is~~
32 ~~held and may be inspected by the administrator and any amounts owing to the~~
33 ~~holder;~~

1 ~~(4) The nature and identifying number, if any, or description of the property and the~~
2 ~~amount appearing from the records to be due, but items of value under ten dollars~~
3 ~~each may be reported in the aggregate;~~

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

6 ~~(6) Other information the administrator prescribes by rule as necessary for the~~
7 ~~administration of this chapter.~~

8 ~~(c) If the person holding property presumed abandoned and subject to custody as~~
9 ~~unclaimed property is a successor to other persons who previously held the property for~~
10 ~~the apparent owner or the holder has changed his or her name while holding the property,~~
11 ~~the person shall file with the report all known names and addresses of each previous~~
12 ~~holder of the property.~~

13 ~~(d) The report must be filed before November first of each year as of June thirtieth,~~
14 ~~next preceding, but the report of any life insurance company must be filed before May~~
15 ~~first of each year as of December thirty first next preceding. On written request by any~~
16 ~~person required to file a report, the administrator may postpone the reporting date or~~
17 ~~waive any interest fees or penalties.~~

18 ~~(e) The holder in possession of property presumed abandoned and subject to~~
19 ~~custody as unclaimed property under this chapter shall, between the time of the~~
20 ~~commencement and the termination of the applicable dormancy period, send written~~
21 ~~notice to the apparent owner at the owner's last known address informing the owner that~~
22 ~~the holder is in possession of property subject to this chapter if:~~

23 ~~(1) The holder has in its records an address for the apparent owner which the holder's~~
24 ~~records disclose to be accurate;~~

25 ~~(2) The claim of the apparent owner is not barred by the statutes of limitations; and~~

26 ~~(3) The property has a value of fifty dollars or more.~~

27 **Section 100. That § 43-41B-19 be REPEALED:**

28 ~~(a) The administrator shall cause a notice to be published at least once in a~~
29 ~~newspaper of general circulation in the county of this state in which is located the last~~
30 ~~known address of any person to be named in the notice. If no address is listed or the~~
31 ~~address is outside this state, the notice must be published in the county in which the~~
32 ~~holder of the property has its principal place of business within this state.~~

33 ~~(b) The published notice must be entitled "Notice of Names of Persons Appearing~~
34 ~~to be Owners of Unclaimed Property" and contain:~~

1 ~~(1) The names in alphabetical order and the last known city and state of residence, if~~
2 ~~any, of persons listed in the report and entitled to notice within the county as~~
3 ~~specified in subsection (a);~~

4 ~~(2) A statement that information concerning the property and the name and last known~~
5 ~~address of the holder may be obtained by any person possessing an interest in the~~
6 ~~property by addressing an inquiry to the administrator; and~~

7 ~~(3) A statement that if proof of claim is not presented by the owner and the owner's~~
8 ~~right to receive the property must be established to the administrator's satisfaction~~
9 ~~to whom all claims must be directed.~~

10 ~~(c) The administrator is not required to publish in the notice any items of less than~~
11 ~~one hundred twenty five dollars unless the administrator considers their publication to be~~
12 ~~in the public interest.~~

13 ~~(d) This section is not applicable to sums payable on travelers checks, money~~
14 ~~orders, and other written instruments presumed abandoned under § 43-41B-4.~~

15 **Section 101. That § 43-41B-20 be REPEALED:**

16 ~~(a) Except as otherwise provided in subsections (b) and (c) of this section, a person~~
17 ~~who is required to file a report under this chapter shall, at the same time as the final date~~
18 ~~for filing the report as required, pay or deliver to the administrator all abandoned property~~
19 ~~required to be reported.~~

20 ~~(b) If the owner establishes the right to receive the abandoned property to the~~
21 ~~satisfaction of the holder before the property has been delivered or it appears that for~~
22 ~~some other reason the presumption of abandonment is erroneous, the holder need not~~
23 ~~pay or deliver the property to the administrator, and the property will no longer be~~
24 ~~presumed abandoned. In that case, the holder shall file with the administrator a verified~~
25 ~~written explanation of the proof of claim or of the error in the presumption of~~
26 ~~abandonment.~~

27 ~~(c) Property reported under § 43-41B-18 for which the holder is not required to~~
28 ~~report the name of the apparent owner must be delivered to the administrator at the time~~
29 ~~of filing the report.~~

30 ~~(d) The holder of any interest shall deliver a duplicate certificate or other evidence~~
31 ~~of ownership to the administrator, the holder and any transfer agent, registrar or other~~
32 ~~person acting for or on behalf of a holder in executing or delivering the duplicate certificate~~
33 ~~is relieved of all liability of every kind in accordance with the provisions of this chapter to~~
34 ~~every person, including any person acquiring the original certificate or the duplicate of the~~

1 ~~certificate or the duplicate of the certificate issued to the department, for any losses or~~
2 ~~damages resulting to the person by the issuance and delivery to the department of the~~
3 ~~duplicate certificate.~~

4 **Section 102. That § 43-41B-21 be REPEALED:**

5 ~~(a) Upon the payment or delivery of property to the administrator, the state~~
6 ~~assumes custody and responsibility for the safekeeping of the property. A person who~~
7 ~~pays or delivers property to the administrator in good faith is relieved of all liability to the~~
8 ~~extent of the value of the property paid or delivered for any claim then existing or which~~
9 ~~thereafter may arise or be made in respect to the property.~~

10 ~~(b) A holder who has paid money to the administrator pursuant to this chapter may~~
11 ~~make payment to any person appearing to the holder to be entitled to payment and, upon~~
12 ~~filing proof of payment and proof that the payee was entitled thereto, the administrator~~
13 ~~shall promptly reimburse the holder for the payment without imposing any fee or other~~
14 ~~charge. If reimbursement is sought for a payment made on a negotiable instrument,~~
15 ~~including a travelers check or money order, the holder must be reimbursed under this~~
16 ~~subsection upon filing proof that the instrument was duly presented and that payment~~
17 ~~was made to a person who appeared to the holder to be entitled to payment. The holder~~
18 ~~must be reimbursed for payment made under this subsection even if the payment was~~
19 ~~made to a person whose claim was barred under subsection 43-41B-30(a).~~

20 ~~(c) A holder who has delivered property (including a certificate of any interest in a~~
21 ~~business association) other than money to the administrator pursuant to this chapter may~~
22 ~~reclaim the property if still in the possession of the administrator, without paying any fee~~
23 ~~or other charge, upon filing proof that the owner has claimed the property from the holder.~~

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

26 ~~(e) If the holder pays or delivers property to the administrator in good faith and~~
27 ~~thereafter another person claims the property from the holder or another state claims the~~
28 ~~money or property under its laws relating to escheat or abandoned or unclaimed property,~~
29 ~~the administrator, upon written notice of the claim, shall defend the holder against the~~
30 ~~claim and indemnify the holder against any liability on the claim.~~

31 ~~(f) For the purposes of this section, "good faith" means:~~
32 ~~(1) Payment or delivery was made in a reasonable attempt to comply with this chapter;~~
33 ~~(2) The person delivering the property was not a fiduciary then in breach of trust in~~
34 ~~respect to the property and had a reasonable basis for believing, based on the facts~~

1 ~~then known to him, that the property was abandoned for the purposes of this~~
2 ~~chapter; and~~

3 ~~(3) There is no showing that the records pursuant to which the delivery was made did~~
4 ~~not meet reasonable commercial standards of practice in the industry.~~

5 ~~(g) Property removed from a safe deposit box or other safekeeping repository is~~
6 ~~received by the administrator subject to the holder's right under this subsection to be~~
7 ~~reimbursed for the actual cost of the opening and to any valid lien or contract providing~~
8 ~~for the holder to be reimbursed for unpaid rent or storage charges when the charges do~~
9 ~~not exceed the value of the property. The administrator shall reimburse or pay the holder~~
10 ~~out of the proceeds remaining after deducting the administrator's selling cost.~~

11 **Section 103. That § 43-41B-22 be REPEALED:**

12 ~~Whenever property other than money is paid or delivered to the administrator~~
13 ~~under this chapter, the owner is entitled to receive from the administrator any dividends,~~
14 ~~interest, or other increments realized or accruing on the property at or before liquidation~~
15 ~~or conversion thereof into money.~~

16 **Section 104. That § 43-41B-23 be REPEALED:**

17 ~~(a) No earlier than three years after the receipt of abandoned property, the~~
18 ~~administrator shall sell the property to the highest bidder at a public sale or by means of~~
19 ~~an internet auction, depending on which method of sale the administrator determines~~
20 ~~affords the most favorable market for the property. The administrator may decline the~~
21 ~~highest bid and reoffer the property for sale if the administrator determines that the bid~~
22 ~~is insufficient. If the administrator determines that the probable cost of the sale will exceed~~
23 ~~the value of the property, the administrator need not offer the property for sale. Any sale~~
24 ~~held under this section shall be preceded by a publication of notice, at least three weeks~~
25 ~~in advance of sale, in a newspaper of general circulation in the county in which the~~
26 ~~property is to be sold.~~

27 ~~(b) Securities listed on an established stock exchange shall be sold at prices~~
28 ~~prevailing at the time of sale on the exchange. Other securities may be sold over the~~
29 ~~counter at prices prevailing at the time of sale or by any other method the administrator~~
30 ~~considers advisable.~~

31 ~~(c) The state treasurer shall sell all stocks, bonds, and other negotiable instruments~~
32 ~~within one hundred eighty days of confirmed receipt of such instruments, unless the~~
33 ~~property is on an open claim. The state treasurer is not liable for any loss or gain in the~~

1 ~~value that the instrument would have obtained had the instrument been held instead of~~
2 ~~being sold.~~

3 ~~(d) The purchaser of property at any sale conducted by the administrator pursuant~~
4 ~~to this chapter takes the property free of all claims by the owner or previous holder of the~~
5 ~~property and by all persons claiming through or under the owner or previous holder.~~

6 ~~(e) The administrator shall execute all documents necessary to complete the~~
7 ~~transfer of ownership.~~

8 **Section 105. That § 43-41B-23.1 be REPEALED:**

9 ~~All securities, stocks, bonds, or other intangible ownership interests in business~~
10 ~~associations held by the Unclaimed Property Division with any value shall be sold after~~
11 ~~March 10, 2017.~~

12 **Section 106. That § 43-41B-24 be REPEALED:**

13 ~~(a) Except as otherwise provided by this section, the administrator shall promptly~~
14 ~~deposit in the general fund of this state all funds received under this chapter, including~~
15 ~~the proceeds from the sale of abandoned property under § 43-41B-23. The administrator~~
16 ~~shall retain in a separate trust fund an amount not more than fifty thousand dollars from~~
17 ~~which prompt payment of claims duly allowed must be made by him. Before making the~~
18 ~~deposit, the administrator shall record the name and last known address of each person~~
19 ~~appearing from the holders' reports to be entitled to the property and the name and last~~
20 ~~known address of each insured person or annuitant and beneficiary and with respect to~~
21 ~~each policy or contract listed in the report of an insurance company its number, the name~~
22 ~~of the company, and the amount due. The record must be available for public inspection~~
23 ~~at all reasonable business hours.~~

24 ~~(b) The administrator may pay from the unclaimed property trust fund:~~

25 ~~(1) Any costs in connection with the sale of abandoned property;~~

26 ~~(2) Costs of mailing and publication in connection with any abandoned property;~~

27 ~~(3) Reasonable service charges; and~~

28 ~~(4) Costs incurred in examining records of holders of property and in collecting the~~
29 ~~property from those holders.~~

30 **Section 107. That § 43-41B-24.1 be REPEALED:**

1 Money in the unclaimed property trust fund for payment of costs and expenses
2 authorized under ~~§ 43-41B-24~~ is continuously appropriated for those purposes. Any
3 expenditures shall be paid upon warrants drawn by the state auditor pursuant to vouchers
4 authorized by the state treasurer. All funds paid out by the state treasurer under chapter
5 ~~43-41B~~ shall be set forth in an informational budget as described in ~~§ 4-7-7.2~~ and be
6 annually reviewed by the Legislature. Any expenditure other than unclaimed property
7 claims that exceeds the informational budget shall be approved by the Board of Finance
8 pursuant to chapter 4-1.

9 **Section 108. That § 43-41B-25 be REPEALED:**

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

13 (b) ~~The administrator shall consider each claim within one hundred eighty days~~
14 ~~after it is filed and provide notice to the claimant if the claim is denied in whole or in part.~~
15 ~~The notice may be sent by mail to the last address of the claimant stated in the claim for~~
16 ~~the receipt of notices. In the alternative, the notice may be sent electronically to the last~~
17 ~~e-mail address of the claimant or to the e-mail address stated in the claim for the receipt~~
18 ~~of notices.~~

19 ~~If no address for notices is stated in the claim, the notice may be mailed to the last~~
20 ~~address, or e-mailed to the last e-mail address of the claimant, as stated in the claim. No~~
21 ~~notice of denial need be given if the claim fails to state either the last mailing or e-mail~~
22 ~~address to which notices are to be sent or the mailing or e-mail address of the claimant.~~

23 (c) ~~If a claim is allowed, the administrator shall pay over or deliver to the claimant~~
24 ~~the property or the amount the administrator actually received or the net proceeds if the~~
25 ~~property has been sold by the administrator, together with any additional amount required~~
26 ~~by § 43-41B-22.~~

27 ~~If the claim is for property that is presumed abandoned under § 43-41B-10 and~~
28 ~~that was sold by the administrator within one hundred eighty days of confirmed receipt of~~
29 ~~the property, the amount payable for that claim is the net proceeds of sale. When property~~
30 ~~is paid or delivered to the administrator under this chapter, the owner is not entitled to~~
31 ~~receive income or other increments accruing thereafter.~~

32 **Section 109. That § 43-41B-26 be REPEALED:**

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

3 ~~(1) The property was subjected to custody by this state because the records of the~~
4 ~~holder did not reflect the last known address of the apparent owner when the~~
5 ~~property was presumed abandoned under this chapter, and the other state~~
6 ~~establishes that the last known address of the apparent owner or other person~~
7 ~~entitled to the property was in that state and under the laws of that state the~~
8 ~~property escheated to or was subject to a claim of abandonment by that state;~~

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

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

17 ~~(4) The property was subjected to custody by this state under subdivision 43-41B-3(6)~~
18 ~~and under the laws of the state of domicile of the holder the property has escheated~~
19 ~~to or become subject to a claim of abandonment by that state; or~~

20 ~~(5) The property is the sum payable on a travelers check, money order, or other similar~~
21 ~~instrument that was subjected to custody by this state under § 43-41B-4, and the~~
22 ~~instrument was purchased in the other state, and under the laws of that state the~~
23 ~~property escheated to or became subject to a claim of abandonment by that state.~~

24 ~~(b) The claim of another state to recover escheated or abandoned property must~~
25 ~~be presented in a form prescribed by the administrator, who shall decide the claim within~~
26 ~~ninety days after it is presented. The administrator shall allow the claim if he determines~~
27 ~~that the other state is entitled to the abandoned property under subsection (a).~~

28 ~~(c) The administrator shall require a state, before recovering property under this~~
29 ~~section, to agree to indemnify this state and its officers and employees against any liability~~
30 ~~on a claim for the property.~~

31 **Section 110. That § 43-41B-27 be REPEALED:**

32 ~~A person aggrieved by a decision of the administrator or whose claim has not been~~
33 ~~acted upon within ninety days after its filing may bring an action to establish the claim in~~
34 ~~the circuit court, naming the administrator as a defendant. The action must be brought~~

1 ~~within ninety days after the decision of the administrator or within one hundred eighty~~
2 ~~days after the filing of the claim if he has failed to act on it. The action shall be trial de~~
3 ~~novi without a jury.~~

4 **Section 111. That § 43-41B-28 be REPEALED:**

5 ~~(a) The administrator may decline to receive any property reported under this~~
6 ~~chapter which he considers to have a value less than the expense of giving notice and of~~
7 ~~sale. If the administrator elects not to receive custody of the property, the holder shall be~~
8 ~~notified.~~

9 ~~(b) A holder, with the written consent of the administrator and upon conditions and~~
10 ~~terms prescribed by him, may report and deliver property before the property is presumed~~
11 ~~abandoned. Property delivered under this subsection must be held by the administrator~~
12 ~~and is not presumed abandoned until such time as it otherwise would be presumed~~
13 ~~abandoned under this chapter.~~

14 **Section 112. That § 43-41B-29 be REPEALED:**

15 ~~If the administrator determines after investigation that any property delivered~~
16 ~~under this chapter has insubstantial commercial value, the administrator may destroy or~~
17 ~~otherwise dispose of the property at any time. No action or proceeding may be maintained~~
18 ~~against the state or any officer or against the holder for or on account of any action taken~~
19 ~~by the administrator pursuant to this section.~~

20 **Section 113. That § 43-41B-30 be REPEALED:**

21 ~~(a) The expiration, before or after July 1, 1993, of any period of time specified by~~
22 ~~contract, statute, or court order, during which a claim for money or property can be made~~
23 ~~or during which an action or proceeding may be commenced or enforced to obtain payment~~
24 ~~of a claim for money or to recover property, does not prevent the money or property from~~
25 ~~being presumed abandoned or affect any duty to file a report or to pay or deliver~~
26 ~~abandoned property to the administrator as required by this chapter.~~

27 ~~(b) No action or proceeding may be commenced by the administrator with respect~~
28 ~~to any duty of a holder under this chapter more than ten years after the duty arose.~~

29 **Section 114. That § 43-41B-31 be REPEALED:**

1 ~~(a) The administrator may require any person who has not filed a report to file a~~
2 ~~verified report stating whether or not the person is holding any unclaimed property~~
3 ~~reportable or deliverable under this chapter. The administrator may contract with the~~
4 ~~Department of Revenue to conduct such examinations.~~

5 ~~(b) The administrator, at reasonable times and upon reasonable notice, may~~
6 ~~examine the records of any person to determine whether the person has complied with~~
7 ~~the provisions of this chapter. The administrator may conduct the examination even if the~~
8 ~~person believes it is not in possession of any property reportable or deliverable under this~~
9 ~~chapter.~~

10 ~~(c) If a person is treated under § 43-41B-13, as the holder of the property only~~
11 ~~insofar as the interest of the business association in the property is concerned, the~~
12 ~~administrator, pursuant to subsection (b), may examine the records of the person if the~~
13 ~~administrator has given the notice required by subsection (b) to both the person and the~~
14 ~~business association at least sixty days before the examination.~~

15 ~~(d) If an examination of the records of a person results in the disclosure of property~~
16 ~~reportable and deliverable under this chapter, the administrator may assess the cost of~~
17 ~~the examination against the holder at the rate of one hundred dollars a day for each~~
18 ~~examiner, but in no case may the charges exceed the value of the property found to be~~
19 ~~reportable and deliverable.~~

20 **Section 115. That § 43-41B-32 be REPEALED:**

21 ~~(a) Every holder required to file a report under § 43-41B-18, as to any property~~
22 ~~for which it has obtained the last known address of the owner, shall maintain a record of~~
23 ~~the name and last known address of the owner for ten years after the property becomes~~
24 ~~reportable, except to the extent that a shorter time is provided in subsection (b) or by~~
25 ~~rule of the administrator.~~

26 ~~(b) Any holder that sells in this state its travelers checks, money orders, or other~~
27 ~~similar written instruments, other than third party bank checks on which the holder is~~
28 ~~directly liable, or that provides such instruments to others for sale in this state, shall~~
29 ~~maintain a record of those instruments while they remain outstanding, indicating the state~~
30 ~~and date of issue for three years after the date the property is reportable.~~

31 **Section 116. That § 43-41B-33 be REPEALED:**

32 ~~The administrator may bring an action in a court of competent jurisdiction to~~
33 ~~enforce this chapter.~~

1 **Section 117. That § 43-41B-34 be REPEALED:**

2 ~~(a) To avoid conflicts between the administrator's procedures and the procedures~~
3 ~~of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act, the~~
4 ~~administrator, so far as is consistent with the purposes, policies, and provisions of this~~
5 ~~chapter, before adopting, amending, or repealing rules, may advise and consult with~~
6 ~~administrators in other jurisdictions that enact substantially the Uniform Unclaimed~~
7 ~~Property Act and take into consideration the rules of administrators in other jurisdictions~~
8 ~~that enact the Uniform Unclaimed Property Act.~~

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

12 ~~(c) The administrator may enter into agreements with other states to exchange~~
13 ~~information.~~

14 **Section 118. That § 43-41B-35 be REPEALED:**

15 ~~A person who fails to pay or deliver property within the time prescribed by this~~
16 ~~chapter shall pay to the administrator interest at the Category A rate on the property or~~
17 ~~value thereof from the date the property should have been paid or delivered.~~

18 **Section 119. That § 43-41B-36 be REPEALED:**

19 ~~All agreements to pay compensation to recover or assist in the recovery of property~~
20 ~~reported under § 43-41B-18, made within twelve months prior to the reporting and~~
21 ~~remitting of abandoned property accounts and within twenty four months after the date~~
22 ~~payment or delivery is made under § 43-41B-20, are unenforceable. No agreement~~
23 ~~entered into after twenty four months of the required date of delivery of the property by~~
24 ~~the holder to the state treasurer is valid if a person thereby undertakes to locate property~~
25 ~~included in a report for a fee or other compensation exceeding twenty five percent of the~~
26 ~~value of the recoverable property unless the agreement is in writing and signed by the~~
27 ~~owner. Nothing in this section may be construed to prevent an owner from asserting at~~
28 ~~any time that an agreement to locate property is based upon excessive or unjust~~
29 ~~consideration. A violation of this section is a Class 1 misdemeanor.~~

30 **Section 120. That § 43-41B-37 be REPEALED:**

~~This chapter does not relieve a holder of a duty that arose before July 1, 1993, to report, pay, or deliver property. A holder who did not comply with the law in effect before July 1, 1993, is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this subsection, subject to subdivision 43-41B-30(b).~~

~~(b) Except to the extent previously reported to a state, the initial report filed under this chapter for property that was not required to be reported before July 1, 1993, but which is subject to this chapter must include all items of property that would have been presumed abandoned during the ten-year period preceding July 1, 1993, as if this chapter had been in effect during that period.~~

Section 121. That § 43-41B-38 be REPEALED:

~~The administrator may promulgate rules, pursuant to chapter 1-26, to carry out the provisions of this chapter.~~

Section 122. That § 43-41B-39 be REPEALED:

~~Rejected by special referendum election held November 3, 1998~~

Section 123. That § 43-41B-40 be REPEALED:

~~The provisions of this chapter do not apply to open-loop prepaid cards for which the underlying funds do not expire and the records of the depository institution do not disclose the identity of the actual owner. For the purposes of this section, an open-loop prepaid card is an electronic payment device that meets the following conditions:~~

~~(1) Is purchased or loaded, or both, on a prepaid basis for the future purchase or delivery of any goods or services; and~~

~~(2) Can be used to purchase goods and services at multiple unaffiliated merchants or service providers.~~

Section 124. That § 43-41B-41 be REPEALED:

~~Notwithstanding § 43-41B-40, the provisions of this chapter do not apply to any rewards card. For the purposes of §§ 43-41B-40 to 43-41B-42, inclusive, a rewards card is any awards, rewards, rebate, loyalty, incentive, or promotional card for which no money was paid by the cardholder.~~

1 **Section 125. That § 43-41B-42 be REPEALED:**

2 ~~Any unredeemed gift certificate or closed-loop card that meets the requirements~~
3 ~~of § 43-41B-43 or any open-loop prepaid card or rewards card is subject only to any rights~~
4 ~~of a purchaser or owner of the gift certificate or card and is not subject to any claim made~~
5 ~~by any state acting on behalf of a purchaser or owner.~~

6 **Section 126. That § 43-41B-43 be REPEALED:**

7 ~~The provisions of this chapter do not apply to any gift certificate or closed-loop~~
8 ~~prepaid card that has no expiration date and that is not subject to a dormancy, inactivity,~~
9 ~~or service fee. For purposes of this chapter, a closed-loop prepaid card is an electronic~~
10 ~~payment device that meets the following conditions:~~

- 11 ~~(1) Is purchased or loaded, or both, on a prepaid basis in exchange for payment for the~~
12 ~~future purchase or delivery of goods or services; and~~
13 ~~(2) Is redeemable upon presentation to a single merchant or an affiliated group of~~
14 ~~merchants for goods and services.~~

15 **Section 127. That § 43-41B-44 be REPEALED:**

16 ~~(a) Notwithstanding the provisions of §§ 43-41B-3, 43-41B-14, 43-41B-18, 43-~~
17 ~~41B-19, 43-41B-20, 43-41B-21, 43-41B-23, and 43-41B-36, United States savings bonds~~
18 ~~which are unclaimed property and subject to the provisions of chapter 43-41B shall~~
19 ~~escheat to this state three years after becoming unclaimed property and subject to the~~
20 ~~provisions of chapter 43-41B and all property rights and legal title to and ownership of~~
21 ~~such United States savings bonds or proceeds from such bonds, including all rights,~~
22 ~~powers, and privileges of survivorship of any owner, co-owner, or beneficiary, shall vest~~
23 ~~solely in this state.~~

24 ~~(b) Within one hundred eighty days after the three-year period in subsection (a),~~
25 ~~if no claim has been filed in accordance with the provisions of chapter 43-41B for such~~
26 ~~United States savings bonds, the administrator shall commence a civil action in the Sixth~~
27 ~~Judicial Circuit for a determination that such United States savings bonds shall escheat to~~
28 ~~this state. The administrator may postpone the bringing of such action until sufficient~~
29 ~~United States savings bonds have accumulated in the administrator's custody to justify~~
30 ~~the expense of the proceedings.~~

1 ~~(c) The administrator shall make service by publication of the proceeding in Hughes~~
2 ~~County in accordance with § 15-9-7. The notice shall name any defendant to be served~~
3 ~~and notify the defendant:~~

4 ~~(1) The defendant has been sued in a named court;~~

5 ~~(2) The defendant shall answer the petition or other pleading or otherwise defend, on~~
6 ~~or before a specified date, not less than forty one days after the date the notice is~~
7 ~~first published; and~~

8 ~~(3) If the defendant does not answer or otherwise defend, the petition or other pleading~~
9 ~~will be taken as true and judgment, the nature of which will be stated, will be~~
10 ~~rendered accordingly.~~

11 ~~In addition, before service by publication under this section can be made, the~~
12 ~~administrator or the administrator's attorney shall file an affidavit or a declaration~~
13 ~~stating all of the following facts that apply:~~

14 ~~(i) The residences of all named defendants sought to be served, if known, and~~
15 ~~the names of all defendants whose residences are unknown after reasonable~~
16 ~~effort to ascertain them and the specific efforts made to ascertain their~~
17 ~~residences;~~

18 ~~(ii) The affiant or declarant has made a reasonable but unsuccessful effort to~~
19 ~~ascertain the names and residences of any defendants sought to be served~~
20 ~~as unknown parties and the specific efforts made to ascertain the names~~
21 ~~and residences;~~

22 ~~(iii) The party seeking service by publication is unable to obtain service of~~
23 ~~summons on the defendants in this state; and~~

24 ~~(iv) The case is one in which the party with due diligence is unable to serve~~
25 ~~summons on the defendant in this state and:~~

26 ~~(A) The case relates to or involves real or personal property in this state,~~
27 ~~if any defendant has or claims a lien or interest, vested or~~
28 ~~contingent, in the property; or~~

29 ~~(B) In which the relief demanded consists wholly or partly in excluding the~~
30 ~~defendant from any interest in the property.~~

31 ~~(d) If no person files a claim or appears at the hearing to substantiate a claim, or~~
32 ~~where the court determines that a claimant is not entitled to the property claimed by such~~
33 ~~claimant, then the court, if satisfied by evidence that the administrator has substantially~~
34 ~~complied with the laws of this state, shall enter a judgment that the subject United States~~
35 ~~savings bonds have escheated to this state, and all property rights and legal title to and~~

1 ~~ownership of such United States savings bonds or proceeds from such bonds, including all~~
2 ~~rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, have~~
3 ~~vested solely to this state.~~

4 ~~(e) The administrator shall redeem such United States savings bonds escheated to~~
5 ~~the state and the proceeds from the redemption of United States savings bonds shall be~~
6 ~~deposited into an account in the state treasury in accordance with the provisions of § 43-~~
7 ~~41B-24.~~

8 ~~(f) Any person making a claim for the United States savings bonds escheated to~~
9 ~~the state under this section, or for the proceeds from such bonds, may file a claim in~~
10 ~~accordance with the provisions of chapter 43-41B. Upon providing sufficient proof of the~~
11 ~~validity of the person's claim, the administrator may pay the claim in accordance with the~~
12 ~~provisions of chapter 43-41B.~~