

UNIFORM UNCLAIMED PROPERTY ACT

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill modifies the Unclaimed Property Act.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ repeals and reenacts the Revised Uniform Unclaimed Property Act;
- ▶ amends and enacts provisions addressing the standards for determining when property is abandoned or unclaimed;
- ▶ amends and enacts provisions addressing the procedures for reporting and submitting abandoned or unclaimed property;
- ▶ amends and enacts provisions addressing the disposition of abandoned or unclaimed property in the administrator's custody;
- ▶ amends and enacts provisions addressing procedures and requirements for claiming ownership of abandoned or unclaimed property;
- ▶ amends and enacts provisions addressing the duties of a holder of abandoned or unclaimed property;
- ▶ amends and enacts provisions addressing the enforcement of the responsibilities and requirements for abandoned or unclaimed property;
- ▶ enacts provisions addressing the confidentiality and security of abandoned or unclaimed property reports and information; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **31A-4-110**, as last amended by Laws of Utah 1995, Chapter 198

36 **31A-22-1903**, as enacted by Laws of Utah 2015, Chapter 259

37 **57-16-14**, as enacted by Laws of Utah 2001, Chapter 256

38 **78B-6-816**, as last amended by Laws of Utah 2013, Chapter 206

39 ENACTS:

40 **67-4a-104**, Utah Code Annotated 1953

41 **67-4a-304**, Utah Code Annotated 1953

42 **67-4a-305**, Utah Code Annotated 1953

43 **67-4a-306**, Utah Code Annotated 1953

44 **67-4a-307**, Utah Code Annotated 1953

45 **67-4a-503**, Utah Code Annotated 1953

46 **67-4a-504**, Utah Code Annotated 1953

47 **67-4a-603**, Utah Code Annotated 1953

48 **67-4a-604**, Utah Code Annotated 1953

49 **67-4a-605**, Utah Code Annotated 1953

50 **67-4a-606**, Utah Code Annotated 1953

51 **67-4a-607**, Utah Code Annotated 1953

52 **67-4a-608**, Utah Code Annotated 1953

53 **67-4a-609**, Utah Code Annotated 1953

54 **67-4a-610**, Utah Code Annotated 1953

55 **67-4a-803**, Utah Code Annotated 1953

56 **67-4a-804**, Utah Code Annotated 1953

57 **67-4a-903**, Utah Code Annotated 1953

58 **67-4a-904**, Utah Code Annotated 1953
59 **67-4a-905**, Utah Code Annotated 1953
60 **67-4a-906**, Utah Code Annotated 1953
61 **67-4a-1001**, Utah Code Annotated 1953
62 **67-4a-1002**, Utah Code Annotated 1953
63 **67-4a-1003**, Utah Code Annotated 1953
64 **67-4a-1004**, Utah Code Annotated 1953
65 **67-4a-1005**, Utah Code Annotated 1953
66 **67-4a-1006**, Utah Code Annotated 1953
67 **67-4a-1007**, Utah Code Annotated 1953
68 **67-4a-1008**, Utah Code Annotated 1953
69 **67-4a-1009**, Utah Code Annotated 1953
70 **67-4a-1010**, Utah Code Annotated 1953
71 **67-4a-1011**, Utah Code Annotated 1953
72 **67-4a-1101**, Utah Code Annotated 1953
73 **67-4a-1102**, Utah Code Annotated 1953
74 **67-4a-1103**, Utah Code Annotated 1953
75 **67-4a-1104**, Utah Code Annotated 1953
76 **67-4a-1201**, Utah Code Annotated 1953
77 **67-4a-1202**, Utah Code Annotated 1953
78 **67-4a-1203**, Utah Code Annotated 1953
79 **67-4a-1204**, Utah Code Annotated 1953
80 **67-4a-1205**, Utah Code Annotated 1953
81 **67-4a-1206**, Utah Code Annotated 1953
82 **67-4a-1301**, Utah Code Annotated 1953
83 **67-4a-1302**, Utah Code Annotated 1953
84 **67-4a-1303**, Utah Code Annotated 1953
85 **67-4a-1401**, Utah Code Annotated 1953

86 **67-4a-1402**, Utah Code Annotated 1953

87 **67-4a-1403**, Utah Code Annotated 1953

88 **67-4a-1404**, Utah Code Annotated 1953

89 **67-4a-1405**, Utah Code Annotated 1953

90 **67-4a-1406**, Utah Code Annotated 1953

91 **67-4a-1407**, Utah Code Annotated 1953

92 **67-4a-1408**, Utah Code Annotated 1953

93 **67-4a-1501**, Utah Code Annotated 1953

94 **67-4a-1502**, Utah Code Annotated 1953

95 **67-4a-1503**, Utah Code Annotated 1953

96 **67-4a-1504**, Utah Code Annotated 1953

97 REPEALS AND REENACTS:

98 **67-4a-101**, as enacted by Laws of Utah 1995, Chapter 198

99 **67-4a-102**, as last amended by Laws of Utah 2010, Chapter 218

100 **67-4a-103**, as enacted by Laws of Utah 1995, Chapter 198

101 **67-4a-201**, as last amended by Laws of Utah 2007, Chapter 18

102 **67-4a-202**, as enacted by Laws of Utah 1995, Chapter 198

103 **67-4a-203**, as last amended by Laws of Utah 2007, Chapter 18

104 **67-4a-204**, as last amended by Laws of Utah 2007, Chapter 18

105 **67-4a-205**, as last amended by Laws of Utah 2007, Chapter 18

106 **67-4a-206**, as enacted by Laws of Utah 1995, Chapter 198

107 **67-4a-207**, as enacted by Laws of Utah 1995, Chapter 198

108 **67-4a-208**, as last amended by Laws of Utah 2007, Chapter 18

109 **67-4a-209**, as last amended by Laws of Utah 2007, Chapter 18

110 **67-4a-301**, as last amended by Laws of Utah 2007, Chapter 18

111 **67-4a-302**, as last amended by Laws of Utah 2007, Chapter 18

112 **67-4a-303**, as enacted by Laws of Utah 1995, Chapter 198

113 **67-4a-401**, as enacted by Laws of Utah 1995, Chapter 198

114 [67-4a-402](#), as last amended by Laws of Utah 2009, Chapter 388
115 [67-4a-403](#), as last amended by Laws of Utah 2009, Chapter 388
116 [67-4a-404](#), as enacted by Laws of Utah 1995, Chapter 198
117 [67-4a-405](#), as last amended by Laws of Utah 2008, Chapter 339
118 [67-4a-501](#), as enacted by Laws of Utah 1995, Chapter 198
119 [67-4a-502](#), as enacted by Laws of Utah 1995, Chapter 198
120 [67-4a-601](#), as last amended by Laws of Utah 2007, Chapter 18
121 [67-4a-602](#), as enacted by Laws of Utah 1995, Chapter 198
122 [67-4a-701](#), as last amended by Laws of Utah 2007, Chapter 18
123 [67-4a-702](#), as enacted by Laws of Utah 1995, Chapter 198
124 [67-4a-703](#), as last amended by Laws of Utah 2008, Chapter 382
125 [67-4a-704](#), as enacted by Laws of Utah 1995, Chapter 198
126 [67-4a-705](#), as enacted by Laws of Utah 1995, Chapter 198
127 [67-4a-801](#), as enacted by Laws of Utah 1995, Chapter 198
128 [67-4a-802](#), as enacted by Laws of Utah 1995, Chapter 198
129 [67-4a-901](#), as enacted by Laws of Utah 1995, Chapter 198
130 [67-4a-902](#), as enacted by Laws of Utah 1995, Chapter 198

131 REPEALS:

132 [67-4a-210](#), as last amended by Laws of Utah 2005, Chapter 156
133 [67-4a-211](#), as last amended by Laws of Utah 2009, Chapter 343
134 [67-4a-212](#), as enacted by Laws of Utah 1995, Chapter 198
135 [67-4a-213](#), as enacted by Laws of Utah 1995, Chapter 198
136 [67-4a-214](#), as last amended by Laws of Utah 2007, Chapter 18

137

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

139 Section 1. Section **31A-4-110** is amended to read:

140 **31A-4-110. Duty of insurers to report abandoned property.**

141 All insurers doing business in Utah shall report under Section [~~67-4a-301~~] [67-4a-401](#)

any property presumed abandoned under Title 67, Chapter 4a, Part 2, [~~Standards for~~
~~Determining When Property Is Abandoned or Unclaimed~~] Presumption of Abandonment.

Section 2. Section **31A-22-1903** is amended to read:

31A-22-1903. Insurer conduct.

(1) An insurer shall perform a comparison of its insureds' in-force policies, contracts, and retained asset accounts against a death master file, on at least a semi-annual basis, by using the full death master file once and thereafter using the death master file update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a death master file match:

(a) The insurer shall within 90 days of a death master file match:

(i) complete a good faith effort, that the insurer documents, to confirm the death of the insured or retained asset account holder against other available records and information; and

(ii) determine whether benefits are due in accordance with the applicable policy or contract, and if benefits are due in accordance with the applicable policy or contract:

(A) use good faith efforts, that the insurer documents, to locate the beneficiary or beneficiaries; and

(B) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim including the need to provide an official death certificate, if applicable under the policy or contract.

(b) With respect to group life insurance, an insurer shall confirm the possible death of an insured when the insurer maintains at least the following information of those covered under a policy or certificate:

(i) social security number, or name and date of birth;

(ii) beneficiary designation information;

(iii) coverage eligibility;

(iv) benefit amount; and

(v) premium payment status.

(c) An insurer shall implement procedures to account for:

(i) initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;

(ii) compound last names, hyphens, and blank spaces or apostrophes in last names; and

(iii) transposition of the "month" and "date" portions of the date of birth.

(d) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(2) (a) An insurer that has not engaged in asymmetric conduct before July 1, 2015, is not required to comply with the requirements of this section with respect to a policy, annuity, or retained asset account issued or delivered before July 1, 2015.

(b) Notwithstanding Subsection (2)(a), an insurer, regardless of whether it has engaged in asymmetric conduct, shall comply with the requirements of this section for a policy, annuity, or retained asset account issued on or after July 1, 2015.

(3) An insurer or the insurer's service provider may not charge a beneficiary or other authorized representative for fees or costs associated with a death master file search or verification of a death master file match conducted pursuant to this section.

(4) The benefits from a policy, contract, or retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners and in the event said beneficiaries or owners can not be found, shall be transferred to the state as unclaimed property pursuant to ~~[Section 67-4a-205]~~ Subsection 67-4a-201(7). Interest payable under Section 31A-22-428 may not be payable as unclaimed property under ~~[Section 67-4a-205]~~ Subsection 67-4a-201(7).

(5) An insurer shall notify the administrator upon the expiration of the statutory holding period under ~~[Section 67-4a-205]~~ Subsection 67-4a-201(7) that:

(a) a policy, contract beneficiary, or retained asset account holder has not submitted a claim with the insurer; and

(b) the insurer has complied with Subsection (1) and has been unable, after good faith

efforts documented by the insurer, to contact the retained asset account holder, beneficiary, or beneficiaries.

(6) Upon such notice, an insurer shall immediately submit the unclaimed policy or contract benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the administrator.

Section 3. Section **57-16-14** is amended to read:

57-16-14. Abandoned premises -- Retaking by owner -- Liability of resident or occupant -- Personal property of resident or occupant left on mobile home space.

(1) In the event of abandonment under Section **57-16-13**, the park may retake the mobile home space and attempt to relet the space at a fair rental value. The resident or occupant who abandoned the premises is liable:

(a) for the entire rent, service charges, and fees that would otherwise be due until the premise is relet or for a period not to exceed 90 days, whichever comes first; and

(b) any costs incurred by the park necessary to relet the mobile home space at fair market value, including the costs of:

(i) moving the mobile home from the mobile home space;

(ii) storing the mobile home; and

(iii) restoring the mobile home space to a reasonable condition, including the cost of replacing or repairing landscaping that was damaged by the resident or occupant.

(2) (a) If the resident or occupant has abandoned the mobile home space, the mobile home, or both, and has left personal property, including the mobile home, on the mobile home space, the park is entitled to remove the property from the mobile home space, store it for the resident or occupant, and recover actual moving and storage costs from the resident, the occupant, or both. With respect to the mobile home, however, the park may elect to contact the lienholder under Section **57-16-9**, or to store the mobile home on the mobile home space, while attempting to notify the resident or occupant under Subsection (2)(b)(i).

(b) (i) The park shall make reasonable efforts to notify the resident or occupant of the location of the personal property, and that the personal property will be sold at the expiration of

30 days if not redeemed and removed by the resident or occupant. Reasonable efforts require that the park send written notice by regular mail to the resident or occupant at the ~~[last-known]~~ last known address within the park if the park is unaware of any subsequent address. To redeem the personal property, the resident or occupant is required to pay the reasonable storage and moving charges.

(ii) If the personal property has been in storage for over 30 days, notice has been given as required by Subsection (2)(b)(i), and the resident or occupant has made no reasonable effort to recover the personal property, the park may:

(A) sell the personal property and apply the proceeds toward any amount the resident or occupant owes; or

(B) donate the personal property to charity or dispose of the property.

(c) Any excess money from the sale of the personal property, including the mobile home, shall be handled as specified in Title 67, Chapter 4a, Part 2, ~~[Standards for Determining When Property Is Abandoned or Unclaimed]~~ Presumption of Abandonment.

(d) Nothing contained in this chapter shall be in derogation of or alter the owner's rights under Title 38, Chapter 3, Lessors' Liens.

Section 4. Section **67-4a-101** is repealed and reenacted to read:

CHAPTER 4a. REVISED UNIFORM UNCLAIMED PROPERTY ACT

Part 1. General Provisions

67-4a-101. Title.

This chapter is known as the "Revised Uniform Unclaimed Property Act."

Section 5. Section **67-4a-102** is repealed and reenacted to read:

67-4a-102. Definitions.

As used in this chapter:

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

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

(b) "Adminstrator's agent" includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.

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

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

(b) "Bank draft" includes:

(i) a cashier's check; and

(ii) a certified check.

(c) "Bank draft" does not include:

(i) a traveler's check; or

(ii) a money order.

(5) "Banking organization" means:

(a) a bank;

(b) an industrial bank;

(c) a trust company;

(d) a savings bank; or

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

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

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

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

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

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

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

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

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

(9) "Confidential information" means records, reports, and information that is confidential under Section [67-4a-1402](#).

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

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

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

(ii) a deposit that is automatically renewable.

(11) "Domicile" means:

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

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

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

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

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

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

(14) "Financial organization" means:

(a) a savings and loan association; or

(b) a credit union.

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

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

- 310 (i) game-play currency, including a virtual wallet, even if denominated in United States
311 currency; and
- 312 (ii) the following, if for use or redemption only within the game or platform or another
313 electronic game or electronic-game platform:
- 314 (A) points sometimes referred to as gems, tokens, gold, and similar names; and
315 (B) digital codes.
- 316 (c) "Game-related digital content" does not include an item that the issuer:
317 (i) permits to be redeemed for use outside a game or platform for:
318 (A) money; or
319 (B) goods or services that have more than minimal value; or
320 (ii) otherwise monetizes for use outside a game or platform.
- 321 (16) "Gift card" means a payment device such as a plastic card that:
322 (a) is usable at:
323 (i) a single merchant;
324 (ii) an affiliated group of merchants; or
325 (iii) multiple, unaffiliated merchants;
326 (b) contains a means for the electronic storage of information including:
327 (i) a microprocessor chip;
328 (ii) a magnetic stripe; or
329 (iii) a bar code;
- 330 (c) is prefunded before it is used, whether or not money may be added to the payment
331 device after it is used; and
- 332 (d) is redeemable for goods or services.
- 333 (17) "Holder" means a person obligated to hold for the account of, or to deliver or pay
334 to, the owner property subject to this chapter.
- 335 (18) "Insurance company" means an association, corporation, or fraternal or mutual
336 benefit organization, whether or not for profit, engaged in the business of providing life
337 endowments, annuities, or insurance, including:

- 338 (a) accident insurance;
339 (b) burial insurance;
340 (c) casualty insurance;
341 (d) credit life insurance;
342 (e) contract performance insurance;
343 (f) dental insurance;
344 (g) disability insurance;
345 (h) fidelity insurance;
346 (i) fire insurance;
347 (j) health insurance;
348 (k) hospitalization insurance;
349 (l) illness insurance;
350 (m) life insurance, including endowments and annuities;
351 (n) malpractice insurance;
352 (o) marine insurance;
353 (p) mortgage insurance;
354 (q) surety insurance;
355 (r) wage protection insurance; and
356 (s) worker compensation insurance.
357 (19) "Last known address" means a description of the location of the apparent owner
358 sufficient for the purpose of the delivery of mail.
359 (20) (a) "Loyalty card" means a record given without direct monetary consideration
360 under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be
361 used or redeemed only to obtain goods or services or a discount on goods or services.
362 (b) "Loyalty card" does not include a record that may be redeemed for money or
363 otherwise monetized by the issuer.
364 (21) (a) "Mineral" means any substance that is ordinarily and naturally considered a
365 mineral, regardless of the depth at which the substance is found.

(b) "Mineral" includes:

(i) building stone;

(ii) cement material;

(iii) chemical raw material;

(iv) coal;

(v) colloidal and other clay;

(vi) fissionable and nonfissionable ore;

(vii) gas;

(viii) gemstone;

(ix) gravel;

(x) lignite;

(xi) oil;

(xii) oil shale;

(xiii) other gaseous liquid or solid hydrocarbon;

(xiv) road material;

(xv) sand;

(xvi) steam and other geothermal resources;

(xvii) sulphur; and

(xviii) uranium.

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

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

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

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

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

(ii) for the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, or production payment; and

(iii) under an agreement or option, including a joint-operating agreement, unit

394 agreement, pooling agreement, and farm-out agreement.

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

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

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

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

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

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

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

409 (b) "Owner" includes:

410 (i) a depositor, for a deposit;

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

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

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

415 (27) "Person" means:

416 (a) an individual;

417 (b) an estate;

418 (c) a business association;

419 (d) a public corporation;

420 (e) a government entity;

421 (f) an agency;

422 (g) a trust;

423 (h) an instrumentality; or

424 (i) any other legal or commercial entity.

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

428 (b) "Property" includes:

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

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

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

432 (B) a credit balance, customer's overpayment, security deposit, refund, credit
433 memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a
434 refund, mineral proceeds, or unidentified remittance; and

435 (C) a security except for:

436 (I) a worthless security; or

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

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

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

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

443 (vi) an amount distributable from a trust or custodial fund established under a plan to
444 provide health, welfare, pension, vacation, severance, retirement, death, stock purchase,
445 profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit;
446 and

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

(c) "Property" does not include:

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

(ii) game-related digital content;

(iii) a loyalty card;

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

(v) a gift card.

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

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

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

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

(31) "Security" means:

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

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

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

(ii) payable to the order of the person;

(iii) specifically endorsed to the person; or

(iv) an equity interest in a business association not included in this Subsection (31).

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

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

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

(33) "State" means a state of the United States, the District of Columbia, the

Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

(a) the transmission of communications or information;

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

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

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

(b) "Virtual currency" does not include:

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

(ii) game-related digital content;

(iii) a loyalty card;

(iv) membership rewards; or

(v) a gift card.

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

Section 6. Section **67-4a-103** is repealed and reenacted to read:

67-4a-103. Inapplicability to foreign transaction.

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

Section 7. Section **67-4a-104** is enacted to read:

67-4a-104. Rulemaking.

(1) The administrator may adopt rules to implement and administer this chapter.

(2) The administrator shall follow the notice, hearing, and publication requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 8. Section **67-4a-201** is repealed and reenacted to read:

Part 2. Presumption of Abandonment

67-4a-201. When property presumed abandoned.

Subject to Section 67-4a-208, the following property is presumed abandoned if the property is unclaimed by the apparent owner during the period specified below:

(1) a traveler's check, 15 years after issuance;

(2) a money order, seven years after issuance;

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

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

(5) a demand, savings, or time deposit, including a deposit that is automatically renewable, three years after the earlier of maturity or the date of the last indication of interest in the property by the apparent owner, except a deposit that is automatically renewable is considered matured on the deposit's initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;

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

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

(a) with respect to an amount owed on a life or endowment insurance policy, the earlier of:

(i) three years after the policy insurer validates knowledge of the death of the insured;

534 or

535 (ii) three years after the insured has attained, or would have attained if living, the
536 limiting age under the mortality table on which the reserve for the policy is based; and

537 (b) with respect to an amount owed on an annuity contract, three years after the date
538 the annuity contract insurer validates knowledge of the death of the annuitant;

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

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

543 (10) property held by a government or governmental subdivision, agency, or
544 instrumentality, including municipal bond interest and unredeemed principal under the
545 administration of a paying agent or indenture trustee, one year after the property becomes
546 distributable;

547 (11) wages, commissions, bonuses, or reimbursements to which an employee is
548 entitled, or other compensation for personal services, one year after the amount becomes
549 payable;

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

552 (13) property not specified in this section or Sections 67-4a-202 through 67-4a-206, the
553 earlier of three years after the owner first has a right to demand the property or the obligation to
554 pay or distribute the property arises.

555 Section 9. Section 67-4a-202 is repealed and reenacted to read:

556 **67-4a-202. When tax-deferred retirement account presumed abandoned.**

557 (1) Subject to Section 67-4a-208, property held in a pension account or retirement
558 account that qualifies for tax deferral under the income tax laws of the United States is
559 presumed abandoned if the property is unclaimed by the apparent owner three years after:

560 (a) the later of the following dates:

561 (i) except as in Subsection (1)(a)(ii), the date a communication sent by the holder by

first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or

(ii) if a communication under Subsection (1)(a)(i) is re-sent within 30 days after the date the first communication is returned undelivered, the date the second communication was returned undelivered by the United States Postal Service; or

(b) the earlier of the following dates:

(i) the date the apparent owner becomes 70.5 years of age, if determinable by the holder; or

(ii) if the Internal Revenue Code, Sec. 1 et seq., requires distribution to avoid a tax penalty, two years after the date the holder:

(A) receives confirmation of the death of the apparent owner in the ordinary course of the holder's business; or

(B) confirms the death of the apparent owner under Subsection (2).

(2) If a holder in the ordinary course of the holder's business receives notice or an indication of the death of an apparent owner and Subsection (1)(b) applies, the holder shall attempt not later than 90 days after receipt of the notice or indication to confirm whether the apparent owner is deceased.

(3) (a) Subject to Subsection (3)(b), if the holder does not send communications to the apparent owner of an account described in Subsection (1) by first-class United States mail on at least an annual basis, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic mail communication not later than two years after the apparent owner's last indication of interest in the property.

(b) The holder shall promptly attempt to contact the apparent owner by first-class United States mail if:

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

(ii) the holder receives notification that the electronic mail communication was not

received; or

(iii) the apparent owner does not respond to the electronic mail communication within 30 days after the communication was sent.

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

(a) except as in Subsection (4)(b), the date a communication to contact the apparent owner sent by first-class United States mail is returned to the holder undelivered;

(b) if the communication under Subsection (4)(a) is re-sent within 30 days after the date the first communication is returned undelivered, the date the second communication was returned undelivered; or

(c) the date established by Subsection (1)(b).

Section 10. Section 67-4a-203 is repealed and reenacted to read:

67-4a-203. When other tax-deferred account presumed abandoned.

Subject to Section 67-4a-208 and except for property described in Section 67-4a-202 and property held in a plan described in Section 529A, Internal Revenue Code, property held in an account or plan, including a health savings account, that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if the property is unclaimed by the apparent owner three years after the earlier of:

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

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

Section 11. Section 67-4a-204 is repealed and reenacted to read:

67-4a-204. When custodial account for minor presumed abandoned.

(1) Subject to Section 67-4a-208, property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act is presumed abandoned if the property is unclaimed by or on behalf of the minor on whose behalf the account was opened

three years after the later of:

(a) except as in Subsection (1)(b), the date a communication sent by the holder by first-class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States Postal Service;

(b) if communication is re-sent within 30 days after the date the first communication under Subsection (1)(a) is returned undelivered, the date the second communication was returned undelivered; or

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

(2) (a) Subject to Subsection (2)(b), if the holder does not send communications to the custodian of the minor on whose behalf an account described in Subsection (1) was opened by first-class United States mail on at least an annual basis, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic mail communication not later than two years after the custodian's last indication of interest in the property.

(b) The holder shall promptly attempt to contact the custodian by first-class United States mail if:

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

(ii) the holder receives notification that the electronic mail communication was not received; or

(iii) the custodian does not respond to the electronic mail communication within 30 days after the communication was sent.

(3) If first-class United States mail sent under Subsection (2) is returned undelivered to the holder by the United States Postal Service, the property is presumed abandoned three years after the later of:

(a) the date a second consecutive communication to contact the custodian by first-class

United States mail is returned to the holder undelivered by the United States Postal Service; or

(b) the date established by Subsection (1)(c).

(4) When the property in the account described in Subsection (1) is transferred to the minor on whose behalf an account was opened or to the minor's estate, the property in the account is no longer subject to this section.

Section 12. Section 67-4a-205 is repealed and reenacted to read:

67-4a-205. When contents of safe-deposit box presumed abandoned.

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

(1) expiration of the lease or rental period for the box; or

(2) earliest date when the lessor of the box is authorized by law of this state other than this chapter to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

Section 13. Section 67-4a-206 is repealed and reenacted to read:

67-4a-206. When security presumed abandoned.

(1) Subject to Section 67-4a-208, a security is presumed abandoned three years after:

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

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

(2) (a) Except as provided in Subsection (2)(b), if the holder does not send communications to the apparent owner of a security by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the security.

(b) The holder shall promptly attempt to contact the apparent owner by first-class United States mail if:

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

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

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

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

Section 14. Section **67-4a-207** is repealed and reenacted to read:

67-4a-207. When related property presumed abandoned.

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

Section 15. Section **67-4a-208** is repealed and reenacted to read:

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

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

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

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

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

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

(b) an oral communication by the apparent owner to the holder or agent of the holder

concerning the property or the account in which the property is held, if the holder or the holder's agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

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

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

(e) a deposit into or withdrawal from an account at a banking organization or financial organization, except for an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest; and

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

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

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

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

Section 16. Section **67-4a-209** is repealed and reenacted to read:

67-4a-209. Deposit account for proceeds of insurance policy or annuity contract.

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

Section 17. Section **67-4a-301** is repealed and reenacted to read:

Part 3. Rules for Taking Custody of Property Presumed Abandoned

67-4a-301. Address of apparent owner to establish priority.

In this part, the following rules apply:

(1) the last known address of an apparent owner is any description, code, or other indication of the location of the apparent owner that identifies the state, even if the description, code, or indication of location is not sufficient to direct the delivery of first-class United States mail to the apparent owner;

(2) if the United States postal zip code associated with the apparent owner is for a post office located in this state, this state is considered to be the state of the last known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in another state;

(3) if the address under Subsection (2) is in another state, the other state is considered to be the state of the last-known address of the apparent owner; and

(4) the address of the apparent owner of a life or endowment insurance policy or annuity contract or the policy's or contract's proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under Section **67-4a-302**.

Section 18. Section **67-4a-302** is repealed and reenacted to read:

67-4a-302. Address of apparent owner in this state.

The administrator may take custody of property that is presumed abandoned, whether

located in this state, another state, or a foreign country if:

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

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

Section 19. Section **67-4a-303** is repealed and reenacted to read:

67-4a-303. If records show multiple addresses of apparent owner.

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

(2) If it appears from records of the holder that the most recently recorded address of the apparent owner under Subsection (1) is a temporary address and this state is the state of the next most recently recorded address that is not a temporary address, this state may take custody of the property presumed abandoned.

Section 20. Section **67-4a-304** is enacted to read:

67-4a-304. Holder domiciled in this state.

(1) Except as in Subsection (2) or Section **67-4a-302** or **67-4a-303**, the administrator may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state or is this state or a governmental subdivision, agency, or instrumentality of this state, and:

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

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

(2) Property is not subject to custody of the administrator under Subsection (1) if the property is specifically exempt from custodial taking under the law of this state or the state or

foreign country of the last known address of the apparent owner.

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

Section 21. Section **67-4a-305** is enacted to read:

67-4a-305. Custody if transaction took place in this state.

Except as in Section 67-4a-302, 67-4a-303, or 67-4a-304, the administrator may take custody of property presumed abandoned whether located in this state or another state if:

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

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

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

Section 22. Section **67-4a-306** is enacted to read:

67-4a-306. Traveler's check, money order, or similar instrument.

The administrator may take custody of sums payable on a traveler's check, money order, or similar instrument presumed abandoned to the extent permissible under 12 U.S.C. Secs. 2501 through 2503.

Section 23. Section **67-4a-307** is enacted to read:

67-4a-307. Burden of proof to establish administrator's right to custody.

Subject to Part 4, Report by Holder, if the administrator asserts a right to custody of unclaimed property and there is a dispute concerning such property, the administrator has the initial burden to prove:

(1) the existence and amount of the property;

(2) the property is presumed abandoned; and

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

Section 24. Section **67-4a-401** is repealed and reenacted to read:

Part 4. Report by Holder

67-4a-401. Report required by holder.

(1) (a) A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property.

(b) A holder shall report via the Internet in a format approved by the administrator, unless the administrator gives a holder specific permission to file a paper report.

(2) A holder may contract with a third party to make the report required under Subsection (1).

(3) Whether or not a holder contracts with a third party under Subsection (2), the holder is responsible:

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

(b) for paying or delivering to the administrator property described in the report.

Section 25. Section **67-4a-402** is repealed and reenacted to read:

67-4a-402. Content of report.

(1) The report required under Section **67-4a-401** shall:

(a) be signed by or on behalf of the holder and verified as to the report's completeness and accuracy;

(b) if filed electronically, be in a secure format approved by the administrator that protects confidential information of the apparent owner;

(c) describe the property;

(d) except for a traveler's check, money order, or similar instrument, contain the name, if known, last known address, if known, and social security number or taxpayer identification number, if known or readily ascertainable, of the apparent owner of property with a value of \$50 or more;

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

(f) for property held in or removed from a safe-deposit box, indicate the location of the property, where the property may be inspected by the administrator, and any amounts owed to the holder under Section 67-4a-606;

(g) contain the commencement date for determining abandonment under Part 2, Presumption of Abandonment;

(h) state that the holder has complied with the notice requirements of Section 67-4a-501;

(i) identify property that is a nonfreely transferable security and explain why the property is a nonfreely transferable security; and

(j) contain other information the administrator prescribes by rules.

(2) (a) A report under Section 67-4a-401 may include in the aggregate items valued under \$50 each.

(b) If the report includes items in the aggregate valued under \$50 each, the administrator may not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.

(3) A report under Section 67-4a-401 may include personal information as defined in Subsection 67-4a-1401(1) about the apparent owner or the apparent owner's property.

(4) If a holder has changed the holder's name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder shall include in the report under Section 67-4a-401:

(a) the holder's former name or the name of the previous holder, if any; and

(b) the known name and address of each previous holder of the property.

Section 26. Section 67-4a-403 is repealed and reenacted to read:

67-4a-403. When report to be filed.

(1) Subject to Subsection (2), the report under Section 67-4a-401 shall be filed before November 1 of each year and cover the 12 months preceding July 1 of that year.

(2) (a) Before the date for filing the report under Section 67-4a-401, the holder of property presumed abandoned may request the administrator to extend the time for filing.

(b) The administrator may grant an extension.

(c) If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due.

(d) The payment or partial payment terminates accrual of interest on the amount paid.

Section 27. Section 67-4a-404 is repealed and reenacted to read:

67-4a-404. Retention of records by holder.

(1) A holder required to file a report under Section 67-4a-401 shall retain records for five years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the administrator.

(2) The holder may satisfy the requirement to retain records under this section through an agent.

(3) The records shall contain:

(a) the information required to be included in the report;

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

(c) the amount or value of the property;

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

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

Section 28. Section 67-4a-405 is repealed and reenacted to read:

67-4a-405. Property reportable and payable or deliverable absent owner demand.

Property is reportable and payable or deliverable under this chapter even if the owner fails to make demand or present an instrument or document otherwise required to obtain

898 payment.

899 Section 29. Section **67-4a-501** is repealed and reenacted to read:

900 **Part 5. Notice to Apparent Owner of Property Presumed Abandoned**

901 **67-4a-501. Notice to apparent owner by holder.**

902 (1) Subject to Subsections (2) and (3), the holder of property presumed abandoned
903 shall send to the apparent owner notice by first-class United States mail that complies with
904 Section **67-4a-502** in a format acceptable to the administrator not more than 180 days nor less
905 than 60 days before filing the report under Section **67-4a-401** if:

906 (a) the holder has in the holder's records an address for the apparent owner that the
907 holder's records do not disclose to be invalid and is sufficient to direct the delivery of first-class
908 United States mail to the apparent owner; and

909 (b) the value of the property is \$50 or more.

910 (2) If an apparent owner has consented to receive electronic mail delivery from the
911 holder, the holder shall send the notice described in Subsection (1) both by first-class United
912 States mail to the apparent owner's last-known mailing address and by electronic mail, unless
913 the holder believes that the apparent owner's electronic mail address is invalid.

914 Section 30. Section **67-4a-502** is repealed and reenacted to read:

915 **67-4a-502. Contents of notice by holder.**

916 (1) Notice under Section **67-4a-501** shall contain a heading that reads substantially as
917 follows:

918 "Notice. The State of Utah requires us to notify you that your property may be
919 transferred to the custody of the state's unclaimed property administrator if you do not contact
920 us before (insert date that is 30 days after the date of this notice)."

921 (2) The notice under Section **67-4a-501** shall:

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

924 (b) state that the property will be turned over to the administrator;

925 (c) state that after the property is turned over to the administrator an apparent owner

that seeks return of the property may file a claim with the administrator;

(d) state that property that is not legal tender of the United States may be sold by the administrator;

(e) provide instructions that the apparent owner shall follow to prevent the holder from reporting and paying or delivering the property to the administrator; and

(f) include the name, address, and electronic mail address or telephone number to contact the holder.

(3) The holder may supplement the required information by listing a website where apparent owners may obtain more information about how to prevent the holder from reporting and paying or delivering the property to the state treasurer.

Section 31. Section **67-4a-503** is enacted to read:

67-4a-503. Notice by administrator.

(1) The administrator shall give notice to an apparent owner that property presumed abandoned and that appears to be owned by the apparent owner is held by the administrator under this chapter.

(2) In providing notice under Subsection (1), the administrator shall:

(a) except as otherwise provided in Subsection (2)(b), send written notice by first-class United States mail to each apparent owner of property valued at \$50 or more held by the administrator, unless the administrator determines that a mailing by first-class United States mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner had consented to receiving electronic mail from the holder, send notice by electronic mail if the electronic mail address of the apparent owner is known to the administrator instead of by first-class United States mail; or

(b) send the notice to the apparent owner's electronic mail address if the administrator does not have a valid United States mail address for an apparent owner, but has an electronic mail address that the administrator does not know to be invalid.

(3) In addition to the notice under Subsection (2), the administrator shall publish every 12 months in at least one English language newspaper of general circulation in this state notice

954 of property held by the administrator, which shall include:

955 (a) the total value of property received by the administrator during the preceding
956 12-month period, taken from the reports under Section [67-4a-401](#);

957 (b) the total value of claims paid by the administrator during the preceding 12-month
958 period;

959 (c) the Internet web address of the unclaimed property website maintained by the
960 administrator;

961 (d) a telephone number and electronic mail address to contact the administrator to
962 inquire about or claim property; and

963 (e) a statement that a person may access the Internet by a computer to search for
964 unclaimed property, and a computer may be available as a service to the public at a local public
965 library.

966 (4) (a) The administrator shall maintain a website accessible by the public and
967 electronically searchable that contains the names reported to the administrator of apparent
968 owners for whom property is being held by the administrator.

969 (b) The administrator is not required to list property on the website if:

970 (i) no owner name was reported;

971 (ii) a claim has been initiated or is pending for the property;

972 (iii) the Office of the State Treasurer has made direct contact with the apparent owner
973 of the property; or

974 (iv) the administrator reasonably believes exclusion of the property is in the best
975 interests of both the state and the owner of the property.

976 (5) The website or database maintained under Subsection (4) shall include instructions
977 for filing with the administrator a claim to property and a printable claim form with
978 instructions.

979 (6) (a) At least annually, the administrator shall notify the State Tax Commission of the
980 names of all persons appearing to be owners of abandoned property under this chapter.

981 (b) The administrator shall also provide to the State Tax Commission the social

982 security numbers of the persons, if available.

983 (c) The State Tax Commission shall:

984 (i) notify the administrator if any person under Subsection (6)(a) has filed a Utah
985 income tax return in that year; and

986 (ii) provide the administrator with the person's address that appears on the tax return.

987 (d) In order to facilitate the return of property under this Subsection (6), the
988 administrator and the State Tax Commission may enter into an interagency agreement
989 concerning protection of confidential information, data match rules, and other issues.

990 (7) (a) If the value of the property that is owed the person is \$2,000 or less:

991 (i) the person is not required to file a claim under Section 67-4a-903; and

992 (ii) the administrator shall deliver the property or pay the amount owing to the person
993 in the manner provided under Section 67-4a-905.

994 (b) If the value of the property that is owed the person is greater than \$2,000, the
995 administrator shall send written notice to the person informing the person that the person:

996 (i) is the owner of abandoned property held by the state; and

997 (ii) may file a claim with the administrator for return of the property.

998 (8) The administrator may use publicly and commercially available databases to find
999 and update or add information for apparent owners of property held by the administrator.

1000 (9) In addition to giving notice under Subsection (2), publishing the information under
1001 Subsection (3), and maintaining the website or database under Subsection (4), the administrator
1002 may use other printed publication, telecommunication, the Internet, or other media to inform
1003 the public of the existence of unclaimed property held by the administrator.

1004 Section 32. Section **67-4a-504** is enacted to read:

1005 **67-4a-504. Cooperation among state officers and agencies to locate apparent**
1006 **owner.**

1007 (1) Unless prohibited by law of this state other than this chapter, on request of the
1008 administrator, each officer, agency, board, commission, division, and department of this state,
1009 any body politic and corporate created by this state for a public purpose, and each political

subdivision of this state shall:

(a) make books and records available to the administrator; and

(b) cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator under this chapter.

(2) At the administrator's discretion, the administrator may also enter into data sharing agreements to enable other governmental agencies to provide an additional notice to apparent owners of property held by the administrator.

Section 33. Section **67-4a-601** is repealed and reenacted to read:

Part 6. Taking Custody of Property by Administrator

67-4a-601. Definition of good faith.

In this chapter, payment or delivery of property is made in good faith if a holder:

(1) had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator under this chapter; or

(2) made payment or delivery:

(a) in response to a demand by the administrator or administrator's agent; or

(b) under a guidance or ruling issued by the administrator that the holder reasonably believed required or permitted the property to be paid or delivered.

Section 34. Section **67-4a-602** is repealed and reenacted to read:

67-4a-602. Dormancy charge.

(1) A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:

(a) a valid contract between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and

(b) the holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge.

(2) The amount of the deduction under Subsection (1) is limited to an amount that is not unconscionable considering all relevant factors, including:

1038 (a) the marginal transactional costs incurred by the holder in maintaining the apparent
1039 owner's property; and

1040 (b) any services received by the apparent owner.

1041 Section 35. Section **67-4a-603** is enacted to read:

1042 **67-4a-603. Payment or delivery of property to administrator.**

1043 (1) (a) Except as otherwise provided in this section, on filing a report under Section
1044 67-4a-401 the holder shall pay or deliver to the administrator the property described in the
1045 report.

1046 (b) If property in a report under Section 67-4a-401 is an automatically renewable
1047 deposit and a penalty or forfeiture in the payment of interest would result from paying the
1048 deposit to the administrator at the time of the report, the date for payment of the property to the
1049 administrator is extended until a penalty or forfeiture no longer would result from payment, if
1050 the holder informs the administrator of the extended date.

1051 (2) Tangible property in a safe-deposit box may not be delivered to the administrator
1052 until 120 days after filing the report under Section 67-4a-401.

1053 (3) If property reported to the administrator under Section 67-4a-401 is a security, the
1054 administrator may:

1055 (a) make an endorsement, instruction, or entitlement order on behalf of the apparent
1056 owner to invoke the duty of the issuer, the transfer agent, or the securities intermediary to
1057 transfer the security; or

1058 (b) dispose of the security under Section 67-4a-702.

1059 (4) (a) If the holder of property reported to the administrator under Section 67-4a-401
1060 is the issuer of a certificated security, the administrator may obtain a replacement certificate in
1061 physical or book-entry form under Section 70A-8-405.

1062 (b) An indemnity bond is not required under Subsection (4)(a).

1063 (5) The administrator shall establish procedures for the registration, issuance, method
1064 of delivery, transfer, and maintenance of securities delivered to the administrator by a holder.

1065 (6) An issuer, holder, and transfer agent or other person acting in good faith under this

section under instructions of and on behalf of the issuer or holder is not liable to the apparent owner for, and shall be indemnified by the state against, a claim arising with respect to property after the property has been delivered to the administrator.

(7) (a) A holder is not required to deliver to the administrator a security identified by the holder as a nonfreely transferable security in a report filed under Section 67-4a-401.

(b) If the administrator or holder determines that a security is no longer a nonfreely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this chapter.

(c) The holder shall make a determination annually whether a security identified in a report filed under Section 67-4a-401 as a nonfreely transferable security is no longer a nonfreely transferable security.

Section 36. Section **67-4a-604** is enacted to read:

67-4a-604. Effect of payment or delivery of property to administrator.

(1) On payment or delivery of property to the administrator under this chapter, the administrator as agent for the state assumes custody and responsibility for safekeeping the property.

(2) A holder that pays or delivers property to the administrator in good faith and substantially complies with Sections 67-4a-501 and 67-4a-502 is relieved of all liability that thereafter may arise or be made in respect to the property to the extent of the value of the property so paid or delivered.

(3) (a) In the event legal proceedings are instituted by any other state or states in any state or federal court with respect to unclaimed funds or abandoned property previously paid or delivered to the administrator, the holder shall give written notification to the administrator and the attorney general of this state of the proceedings within 10 days after service of process, or in the alternative at least 10 days before the return date or date on which an answer or similar pleading is due or any extension thereof secured by the holder.

(b) The attorney general may take such action as considered necessary or expedient to protect the interests of the state of Utah.

(c) The attorney general, by written notice before the return date or date on which an answer or similar pleading is due or any extension thereof secured by the holder, but in any event in reasonably sufficient time for the holder to comply with the directions received, shall either direct the holder:

(i) to actively defend in the proceedings; or

(ii) that no defense need be entered in the proceedings.

(d) (i) If a direction is received from the attorney general that the holder need not make a defense under Subsection (3)(c)(ii), the holder is not precluded from entering a defense in the holder's own name.

(ii) If a defense is made by the holder on the holder's own initiative, the holder is not entitled to reimbursement for legal fees, costs, and other expenses as provided in this section for defenses made pursuant to the directions of the attorney general.

(e) If, after the holder has actively defended in the proceedings pursuant to a direction of the attorney general or has been notified in writing by the attorney general that no defense need be made with respect to the funds, a judgment is entered against the holder for any amount paid to the administrator under this chapter, the administrator shall, upon being furnished with proof of payment in satisfaction of the judgment, reimburse the holder the amount paid.

(f) The administrator shall also reimburse the holder for any legal fees, costs, and other directly related expenses incurred in legal proceedings undertaken pursuant to the direction of the attorney general.

Section 37. Section **67-4a-605** is enacted to read:

67-4a-605. Recovery of property by holder from administrator.

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

(a) paid the money in error; or

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

1122 (2) (a) If a claim for reimbursement under Subsection (1) is made for a payment made
1123 on a negotiable instrument, including a traveler's check, money order, or similar instrument, the
1124 holder shall submit proof that the instrument was presented and payment was made to a person
1125 the holder reasonably believed entitled to payment.

1126 (b) The holder may claim reimbursement even if the payment was made to a person
1127 whose claim was made after expiration of a period of limitation on the owner's right to receive
1128 or recover property, whether specified by contract, statute, or court order.

1129 (3) If a holder is reimbursed by the administrator under Subsection (1)(b), the holder
1130 may also recover from the administrator income or gain under Section [67-4a-607](#) that would
1131 have been paid to the owner if the money had been claimed from the administrator by the
1132 owner to the extent the income or gain was paid by the holder to the owner.

1133 (4) (a) A holder that under this chapter delivers property other than money to the
1134 administrator may file a claim for return of the property from the administrator if:

1135 (i) the holder delivered the property in error; or

1136 (ii) the apparent owner has claimed the property from the holder.

1137 (b) If a claim for return of property under Subsection (4)(a) is made, the holder shall
1138 include with the claim evidence sufficient to establish that the apparent owner has claimed the
1139 property from the holder or that the property was delivered by the holder to the administrator in
1140 error.

1141 (5) The administrator may determine that an affidavit submitted by a holder is evidence
1142 sufficient to establish that the holder is entitled to reimbursement or to recover property under
1143 this section.

1144 (6) A holder is not required to pay a fee or other charge for reimbursement or return of
1145 property under this section.

1146 (7) (a) Not later than 90 days after a claim is filed under Subsection (1) or (4), the
1147 administrator shall allow or deny the claim and give the claimant notice of the decision in a
1148 record.

1149 (b) If the administrator does not take action on a claim during the 90-day period, the

claim is considered denied.

(8) The claimant may initiate a proceeding under Section [63G-4-301](#), for review of the administrator's decision or the considered denial under Subsection (7)(b) not later than:

(a) 30 days following receipt of the notice of the administrator's decision; or

(b) 120 days following the filing of a claim under Subsection (1) or (4) in the case of a considered denial under Subsection (7)(b).

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

Section 38. Section **67-4a-606** is enacted to read:

67-4a-606. Property removed from safe-deposit box.

(1) Property removed from a safe-deposit box and delivered to the administrator under this chapter is subject to:

(a) the holder's right to reimbursement for the cost of opening the box; and

(b) a lien or contract providing reimbursement to the holder for unpaid rent charges for the box.

(2) The administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the administrator in selling the property.

Section 39. Section **67-4a-607** is enacted to read:

67-4a-607. Crediting income or gain to owner's account.

(1) If property other than money is delivered to the administrator, the owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold.

(2) Interest on money, including interest on interest bearing property, is not payable to an owner for periods where the property is in the possession of the state.

Section 40. Section **67-4a-608** is enacted to read:

67-4a-608. Administrator's options as to custody.

(1) The administrator may decline to take custody of property reported under Section

1178 67-4a-401 if the administrator determines that:

1179 (a) the property has a value less than the estimated expenses of notice and sale of the
1180 property; or

1181 (b) taking custody of the property would be unlawful.

1182 (2) A holder may pay or deliver property to the administrator before the property is
1183 presumed abandoned under this chapter if the holder:

1184 (a) sends the apparent owner of the property notice required by Section 67-4a-501 and
1185 provides the administrator evidence of the holder's compliance with this Subsection (2);

1186 (b) includes with the payment or delivery a report regarding the property conforming to
1187 Section 67-4a-402; and

1188 (c) first obtains the administrator's consent in a record to accept payment or delivery.

1189 (3) (a) A holder's request for the administrator's consent under Subsection (2)(c) shall
1190 be in a record.

1191 (b) If the administrator fails to respond to the request not later than 30 days after
1192 receipt of the request, the administrator is considered to consent to the payment or delivery of
1193 the property and the payment or delivery is considered to have been made in good faith.

1194 (4) On payment or delivery of property under Subsection (2), the property is presumed
1195 abandoned.

1196 Section 41. Section **67-4a-609** is enacted to read:

1197 **67-4a-609. Disposition of property having no substantial value -- Immunity from**
1198 **liability.**

1199 (1) If the administrator takes custody of property delivered under this chapter and later
1200 determines that the property has no substantial commercial value or that the cost of disposing
1201 of the property will exceed the value of the property, the administrator may return the property
1202 to the holder or destroy or otherwise dispose of the property.

1203 (2) An action or proceeding may not be commenced against the state, an agency of the
1204 state, the administrator, another officer, employee, or agent of the state, or a holder for or
1205 because of an act of the administrator under this section, except for intentional misconduct or

1206 malfeasance.

1207 Section 42. Section **67-4a-610** is enacted to read:

1208 **67-4a-610. Periods of limitation and repose.**

1209 (1) Expiration, before, on, or after the effective date of this chapter, of a period of
1210 limitation on an owner's right to receive or recover property, whether specified by contract,
1211 statute, or court order, does not prevent the property from being presumed abandoned or affect
1212 the duty of a holder under this chapter to file a report or pay or deliver property to the
1213 administrator.

1214 (2) An action or proceeding may not be maintained by the administrator to enforce this
1215 chapter in regard to the reporting, delivery, or payment of property more than five years after
1216 the holder:

1217 (a) (i) filed a nonfraudulent report under Section [67-4a-401](#) with the administrator; and

1218 (ii) specifically identified the property in the report filed with the administrator under
1219 Subsection (2)(a); or

1220 (b) gave express notice to the administrator of a dispute regarding the property.

1221 (3) (a) In the absence of a report or other express notice under Subsection (2), the
1222 period of limitation is tolled.

1223 (b) The period of limitation is also tolled by the filing of a report that is fraudulent.

1224 (4) The administrator may not commence an action, proceeding, or examination
1225 regarding the duty of a holder under this chapter on a day that is more than 10 years after the
1226 day on which the duty arises.

1227 Section 43. Section [67-4a-701](#) is repealed and reenacted to read:

1228 **Part 7. Sale of Property by Administrator**

1229 **67-4a-701. Public sale of property.**

1230 (1) Subject to Section [67-4a-702](#), not earlier than three years after receipt of property
1231 presumed abandoned, the administrator may sell the property.

1232 (2) Before selling property under Subsection (1), the administrator shall give notice to
1233 the public of:

- 1234 (a) the date of the sale; and
1235 (b) a reasonable description of the property.
1236 (3) A sale under Subsection (1) shall be to the highest bidder:
1237 (a) at a public sale at a location in this state that the administrator determines to be the
1238 most favorable market for the property;
1239 (b) on the Internet; or
1240 (c) on another forum the administrator determines likely to yield the highest net
1241 proceeds of sale.
1242 (4) The administrator may decline the highest bid at a sale under this section and
1243 reoffer the property for sale if the administrator determines the highest bid is insufficient.
1244 (5) If a sale held under this section is to be conducted other than on the Internet, the
1245 administrator shall cause to be published at least one notice of the sale, at least two weeks but
1246 not more than five weeks before the sale, in a newspaper of general circulation in the county in
1247 which the property is to be sold.
1248 (6) (a) Property eligible for sale will not be sold if a claim has been filed with the
1249 administrator by an apparent owner, heir, or agent.
1250 (b) Upon approval of a claim, the owner, heir, or agent may request the administrator
1251 to dispose of the property by sale and remit the net proceeds to the owner, heir, or agent.
1252 (c) Upon disapproval of the claim, the administrator may dispose of the property by
1253 sale.
1254 Section 44. Section **67-4a-702** is repealed and reenacted to read:
1255 **67-4a-702. Disposal of securities.**
1256 (1) The administrator may not sell or otherwise liquidate a security until three years
1257 after the administrator receives the security and gives the apparent owner notice under Section
1258 67-4a-503 that the administrator holds the security.
1259 (2) The administrator may not sell a security listed on an established stock exchange
1260 for less than the price prevailing on the exchange at the time of sale.
1261 (3) The administrator may sell a security not listed on an established exchange by any

commercially reasonable method.

Section 45. Section **67-4a-703** is repealed and reenacted to read:

67-4a-703. Recovery of securities or value by owner.

(1) The administrator may not be held liable for any loss or gain in the value that the financial instrument would have obtained had the financial instrument been held instead of being sold.

(2) Upon approval of a claim, the owner, heir, or agent may request the administrator to dispose of the securities by sale and remit the net proceeds to the owner, heir, or agent.

(3) Upon disapproval of the claim, the administrator may dispose of the securities by sale.

Section 46. Section **67-4a-704** is repealed and reenacted to read:

67-4a-704. Purchaser owns property after sale.

(1) A purchaser of property at a sale conducted by the administrator under this chapter takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or holder.

(2) The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser.

Section 47. Section **67-4a-705** is repealed and reenacted to read:

67-4a-705. Military medal or decoration.

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

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

(a) a military veterans organization qualified under 26 U.S.C. Sec. 501(c)(19);

(b) the agency that awarded the medal or decoration; or

(c) a governmental entity.

(3) On delivery under Subsection (2), the administrator is not responsible for

1290 safekeeping the medal or decoration.

1291 Section 48. Section **67-4a-801** is repealed and reenacted to read:

1292 **Part 8. Administration of Property**

1293 **67-4a-801. Deposit of funds by administrator.**

1294 (1) (a) There is created a private-purpose trust fund entitled the "Unclaimed Property
1295 Trust Fund."

1296 (b) Except as otherwise provided in this section, the administrator shall deposit all
1297 funds received under this chapter, including proceeds from the sale of property under Part 7,
1298 Sale of Property by Administrator, in the fund.

1299 (c) The fund shall earn interest.

1300 (2) The administrator shall:

1301 (a) pay any legitimate claims or deductions authorized by this chapter from the fund;

1302 (b) before the end of the fiscal year, estimate the amount of money from the fund that
1303 will ultimately be needed to be paid to claimants; and

1304 (c) at the end of the fiscal year, transfer any amount in excess of that amount to the
1305 Uniform School Fund, except that unclaimed restitution for crime victims shall be transferred
1306 to the Crime Victim Reparations Fund.

1307 (3) Before making any transfer to the Uniform School Fund, the administrator may
1308 deduct from the fund:

1309 (a) amounts appropriated by the Legislature for administration of this chapter;

1310 (b) any costs incurred in connection with the sale of abandoned property;

1311 (c) costs of mailing and publication in connection with any abandoned property;

1312 (d) reasonable service charges; and

1313 (e) costs incurred in examining records of holders of property and in collecting the
1314 property from those holders.

1315 Section 49. Section **67-4a-802** is repealed and reenacted to read:

1316 **67-4a-802. Administrator to retain records of property.**

1317 The administrator shall:

(1) record and retain the name and last known address of each person shown on a report filed under Section 67-4a-401 to be the apparent owner of property delivered to the administrator;

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

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

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

Section 50. Section **67-4a-803** is enacted to read:

67-4a-803. Expenses and service charges of administrator.

Before making a deposit of funds received under this chapter to the Uniform School Fund or the Crime Victim Reparations Fund, the administrator may deduct:

(1) expenses of disposition of property delivered to the administrator under this chapter;

(2) costs of mailing and publication in connection with property delivered to the administrator under this chapter;

(3) reasonable service charges; and

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

Section 51. Section **67-4a-804** is enacted to read:

67-4a-804. Administrator holds property as custodian for owner.

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

Section 52. Section **67-4a-901** is repealed and reenacted to read:

Part 9. Claim to Recover Property from Administrator

67-4a-901. Claim of another state to recover property.

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

(a) report and pay or deliver the property to the other state; or
(b) return the property to the holder so that the holder may pay or deliver the property to the other state.

(2) The administrator is not required to enter into an agreement to transfer property to the other state under Subsection (1).

Section 53. Section **67-4a-902** is repealed and reenacted to read:

67-4a-902. When property subject to recovery by another state.

(1) Property held under this chapter by the administrator is subject to the right of another state to take custody of the property if:

(a) (i) the property was paid or delivered to the administrator because the records of the holder did not reflect a last known address in the other state of the apparent owner; and

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

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

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

(c) the property was subject to the custody of the administrator of this state under Section **67-4a-305** and, under the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or

(d) the property:

(i) is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered to the administrator under Section **67-4a-306**; and

(ii) under the law of the other state, has become subject to a claim by the other state of abandonment.

(2) A claim by another state to recover property under this section shall be presented in a form prescribed by the administrator, unless the administrator waives presentation of the form.

(3) (a) The administrator shall decide a claim under this section not later than 90 days after it is presented.

(b) If the administrator determines that the other state is entitled under Subsection (1) to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.

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

Section 54. Section **67-4a-903** is enacted to read:

67-4a-903. Claim for property by person claiming to be owner.

(1) (a) A person claiming to be the owner of property held under this chapter by the administrator may file a claim for the property on a form prescribed by the administrator.

(b) The claimant shall verify the claim as to its completeness and accuracy.

(2) If the owner claiming the unclaimed property is a creditor the following apply:

(a) (i) the exclusive remedy for satisfying a creditor's judgement is payment of a claim under the act; and

(ii) a writ of attachment, garnishment, or execution is prohibited on unclaimed property;

(b) a creditor may only receive the value of the creditor's judgment or the amount held by the administrator, whichever is less; and

(c) the administrator may waive the requirement in Subsection (1) and may pay or deliver property directly to a person if:

(i) the person receiving the property or payment is shown to be the apparent owner included on a report filed under Section [67-4a-401](#);

(ii) the administrator reasonably believes the person is entitled to receive the property

1402 or payment; and

1403 (iii) the property has a value of less than \$500.

1404 Section 55. Section **67-4a-904** is enacted to read:

1405 **67-4a-904. When administrator shall honor claim for property.**

1406 (1) The administrator shall pay or deliver property to a claimant under Subsection
1407 67-4a-903(1) if the administrator receives evidence sufficient to establish to the satisfaction of
1408 the administrator that the claimant is the owner of the property.

1409 (2) Not later than 90 days after a claim is filed under Subsection 67-4a-903(1), the
1410 administrator shall allow or deny the claim and give the claimant notice in a record of the
1411 decision.

1412 (3) If the claim is denied under Subsection (2):

1413 (a) the administrator shall inform the claimant of the reason for the denial and specify
1414 what additional evidence, if any, is required for the claim to be allowed;

1415 (b) the claimant may file an amended claim with the administrator or commence an
1416 action under Subsection 67-4a-906; and

1417 (c) the administrator shall consider an amended claim filed under Subsection (3)(b) as
1418 an initial claim.

1419 (4) If the administrator does not take action on a claim during the 90-day period
1420 following the filing of a claim under Subsection 67-4a-903(1), the claim is considered denied.

1421 Section 56. Section **67-4a-905** is enacted to read:

1422 **67-4a-905. Allowance of claim for property.**

1423 (1) (a) The administrator shall pay or deliver to the owner the property or pay to the
1424 owner the net proceeds of a sale of the property together with income or gain to which the
1425 owner is entitled under Section 67-4a-607.

1426 (b) On request of the owner, the administrator may sell or liquidate a security and pay
1427 the net proceeds to the owner.

1428 (2) Property held under this chapter by the administrator is subject to a claim for the
1429 payment of an enforceable debt the owner owes in this state for:

(a) child support arrearages, including child support collection costs and child support arrearages that are combined with maintenance;

(b) a civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or a final court judgment; or

(c) state taxes, penalties, and interest that have been determined to be delinquent or as to which notice has been recorded with the State Tax Commission.

(3) (a) Before delivery or payment to an owner under Subsection (1) of property or payment to the owner of net proceeds of a sale of the property, the administrator first shall apply the property or net proceeds to a debt under Subsection (2) the administrator determines is owed by the owner.

(b) The administrator shall pay the amount to the appropriate state agency and notify the owner of the payment.

(4) (a) The administrator may make periodic inquiries of state agencies in the absence of a claim filed under Section 67-4a-903 to determine whether an apparent owner included in the unclaimed property records of this state has enforceable debts described in Subsection (2).

(b) The administrator first shall apply the property or net proceeds of a sale of property held by the administrator to a debt under Subsection (2) of an apparent owner that appears in the records of the administrator and deliver the amount to the appropriate state agency.

(c) The administrator shall notify the apparent owner of the payment.

Section 57. Section **67-4a-906** is enacted to read:

67-4a-906. Action by person whose claim is denied.

Not later than one year after filing a claim under Subsection 67-4a-903(1), the claimant may commence an action against the administrator in the district court to establish a claim that has been denied or considered denied under Subsection 67-4a-904(2).

Section 58. Section **67-4a-1001** is enacted to read:

Part 10. Verified Report of Property and Examination of Records

67-4a-1001. Verified report of property.

(1) If a person does not file a report required by Section 67-4a-401 or the administrator

1458 believes that a person may have filed an inaccurate, incomplete, or false report, the
1459 administrator may require the person to file a verified report in a form prescribed by the
1460 administrator.

1461 (2) The verified report under Subsection (1) shall:

1462 (a) state whether the person is holding property reportable under this chapter;

1463 (b) describe property not previously reported or about which the administrator has
1464 inquired;

1465 (c) specifically identify property described under Subsection (2)(b) about which there is
1466 a dispute whether it is reportable under this chapter; and

1467 (d) state the amount or value of the property.

1468 Section 59. Section **67-4a-1002** is enacted to read:

1469 **67-4a-1002. Examination of records to determine compliance.**

1470 The administrator, at reasonable times and on reasonable notice, may:

1471 (1) examine the records of a person, including examination of appropriate records in
1472 the possession of an agent of the person under examination, if the records are reasonably
1473 necessary to determine whether the person has complied with this chapter;

1474 (2) issue an administrative subpoena requiring the person or agent of the person to
1475 make records available for examination; and

1476 (3) bring an action seeking judicial enforcement of the subpoena.

1477 Section 60. Section **67-4a-1003** is enacted to read:

1478 **67-4a-1003. Rules for conducting examination.**

1479 (1) (a) The administrator may adopt rules governing procedures and standards for an
1480 examination under Section [67-4a-1002](#).

1481 (b) The rules may reference any standards concerning unclaimed property
1482 examinations promulgated by the National Association of Unclaimed Property Administrators.

1483 (2) An examination under Section [67-4a-1002](#) shall be performed under rules adopted
1484 under Subsection (1).

1485 (3) If a person subject to examination under Section [67-4a-1002](#) has filed the reports

1486 required under Section 67-4a-401 and Section 67-4a-1001 and has retained the records required
1487 by Section 67-4a-404, the following rules apply:

1488 (a) the examination shall include a review of the person's records;

1489 (b) the examination may not be based on an estimate unless the person expressly
1490 consents in a record to the use of an estimate; and

1491 (c) the person conducting the examination shall consider the evidence presented in
1492 good faith by the person in preparing the findings of the examination under Section
1493 67-4a-1007.

1494 Section 61. Section **67-4a-1004** is enacted to read:

1495 **67-4a-1004. Records obtained in examination.**

1496 Records obtained and records, including work papers, compiled by the administrator in
1497 the course of conducting an examination under Section 67-4a-1002:

1498 (1) are subject to the confidentiality and security provisions of Part 14, Confidentiality
1499 and Security of Information, and are not public records;

1500 (2) may be used by the administrator in an action to collect property or otherwise
1501 enforce this chapter;

1502 (3) may be used in a joint examination conducted with another state, the United States,
1503 a foreign country or subordinate unit of a foreign country, or any other governmental entity if
1504 the governmental entity conducting the examination is legally bound to maintain the
1505 confidentiality and security of information obtained from a person subject to examination in a
1506 manner substantially equivalent to Part 14, Confidentiality and Security of Information;

1507 (4) shall be disclosed, on request, to the person that administers the unclaimed property
1508 law of another state for that state's use in circumstances equivalent to circumstances described
1509 in this part, if the other state is required to maintain the confidentiality and security of
1510 information obtained in a manner substantially equivalent to Part 14, Confidentiality and
1511 Security of Information;

1512 (5) shall be produced by the administrator under an administrative or judicial subpoena
1513 or administrative or court order; and

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

Section 62. Section **67-4a-1005** is enacted to read:

67-4a-1005. Evidence of unpaid debt or undischarged obligation.

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

(2) A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in Subsection (1) or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.

(3) A putative holder may overcome prima facie evidence under Subsection (1) by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:

(a) issued as an unaccepted offer in settlement of an unliquidated amount;

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

(c) issued to a party affiliated with the issuer;

(d) paid, satisfied, or discharged;

(e) issued in error;

(f) issued without consideration;

(g) issued but there was a failure of consideration;

(h) voided within a reasonable time after issuance for a valid business reason set forth in a contemporaneous record; or

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

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

Section 63. Section **67-4a-1006** is enacted to read:

67-4a-1006. Failure of person examined to retain records.

(1) If a person subject to examination under Section [67-4a-1002](#) does not retain the records required by Section [67-4a-404](#), the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under Subsection [67-4a-1003](#)(1) and in accordance with Subsection [67-4a-1003](#)(2).

(2) A payment made based on estimation under this section is a penalty for failure to maintain the records required by Section [67-4a-404](#) and does not relieve a person from an obligation to report and deliver property to a state in which the holder is domiciled.

Section 64. Section **67-4a-1007** is enacted to read:

67-4a-1007. Report to person whose records were examined.

At the conclusion of an examination under Section [67-4a-1002](#), unless waived in writing by the person being examined, the administrator shall provide to the person whose records were examined a report that specifies:

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

Section 65. Section **67-4a-1008** is enacted to read:

67-4a-1008. Informal conference.

(1) If a person subject to examination under Section [67-4a-1002](#) believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may request an informal conference with the administrator.

(2) (a) If a person in a record requests an informal conference with the administrator,

the administrator shall hold the informal conference not later than 30 days after receiving the request.

(b) For good cause, and after notice in a record to the person requesting an informal conference, the administrator may extend the time for the holding of an informal conference.

(c) The administrator may hold the informal conference in person, by telephone, or by electronic means.

(3) If an informal conference is held under Subsection (2), not later than 30 days after the conference ends, the administrator shall provide a response to the person that requested the conference.

(4) (a) The administrator may deny a request for an informal conference under this section if the administrator reasonably believes that the request was made in bad faith or primarily to delay the examination.

(b) If the administrator denies a request for an informal conference, the denial shall be in a record provided to the person requesting the informal conference.

Section 66. Section **67-4a-1009** is enacted to read:

67-4a-1009. Administrator's contract with another to conduct examination.

(1) The administrator may contract with a person to conduct an examination under this chapter.

(2) If the administrator contracts with a person under Subsection (1):

(a) the contract may provide for compensation of the person based on a fixed fee, hourly fee, or contingent fee; and

(b) a contingent fee arrangement may not provide for a payment that exceeds 15% of the amount or value of property paid or delivered as a result of the examination.

(3) A contract under Subsection (1) is a public record under Section [63G-2-301](#).

Section 67. Section **67-4a-1010** is enacted to read:

67-4a-1010. Report by administrator to state official.

(1) Not later than three months after the end of the fiscal year, the administrator shall compile and submit a report to the treasurer, president of the Senate, and speaker of the House.

(2) The report shall contain the following information about property presumed abandoned for the preceding fiscal year for the state:

(a) the total amount and value of all property paid or delivered under this chapter to the administrator, separated into:

(i) the part voluntarily paid or delivered; and

(ii) the part paid or delivered as a result of an examination under Section 67-4a-1002;

(b) the total amount and value of all property paid or delivered by the administrator to persons that made claims for property held by the administrator;

(c) the total amount expended to provide notice to apparent owners under Section 67-4a-503; and

(d) other information the administrator believes would be useful or informative.

Section 68. Section **67-4a-1011** is enacted to read:

67-4a-1011. Determination of liability for unreported reportable property.

If the administrator determines from an examination conducted under Section 67-4a-1002 that a putative holder failed or refused to pay or deliver to the administrator property that is reportable under this chapter, the administrator shall issue a determination of the putative holder's liability to pay or deliver and give notice in a record to the putative holder of the determination.

Section 69. Section **67-4a-1101** is enacted to read:

**Part 11. Determination of Liability and
Putative Holder Remedies**

67-4a-1101. Informal conference.

(1) (a) Not later than 30 days after receipt of a notice under Section 67-4a-1011, the putative holder may request an informal conference with the administrator to review the determination.

(b) Except as otherwise provided in this section, the administrator may designate an employee to act on behalf of the administrator.

(2) If a putative holder makes a timely request under Subsection (1) for an informal

1626 conference:

1627 (a) not later than 20 days after the date of the request, the administrator shall set the
1628 time and place of the conference;

1629 (b) the administrator shall give the putative holder notice in a record of the time and
1630 place of the conference;

1631 (c) the conference may be held in person, by telephone, or by electronic means, as
1632 determined by the administrator;

1633 (d) the request tolls the 90-day period under Sections [67-4a-1103](#) and [67-4a-1104](#) until
1634 notice of a decision under Subsection (2)(g) has been given to the putative holder or the
1635 putative holder withdraws the request for the conference;

1636 (e) the conference may be postponed, adjourned, and reconvened as the administrator
1637 determines appropriate;

1638 (f) the administrator or the administrator's designee with the approval of the
1639 administrator may modify a determination made under Section [67-4a-1011](#) or withdraw it; and

1640 (g) the administrator shall issue a decision in a record and provide a copy of the record
1641 to the putative holder and examiner not later than 20 days after the conference ends.

1642 (3) (a) A conference under Subsection (2) is not an administrative remedy and is not a
1643 contested case subject to the state administrative procedure act.

1644 (b) An oath is not required and rules of evidence do not apply in the conference.

1645 (4) At a conference under Subsection (2), the putative holder shall be given an
1646 opportunity to confer informally with the administrator and the person that examined the
1647 records of the putative holder to:

1648 (a) discuss the determination made under Section [67-4a-1011](#); and

1649 (b) present any issue concerning the validity of the determination.

1650 (5) If the administrator fails to act within the period prescribed in Subsection (2)(a) or
1651 (g), the failure does not affect a right of the administrator, except that interest does not accrue
1652 on the amount for which the putative holder was determined to be liable under Section
1653 [67-4a-1011](#) during the period in which the administrator failed to act until the earlier of:

(a) the date under Section [67-4a-1103](#) the putative holder initiates administrative review or files an action under Section [67-4a-1104](#); or

(b) 90 days after the putative holder received notice of the administrator's determination under Section [67-4a-1011](#) if no review was initiated under Section [67-4a-1103](#) and no action was filed under Section [67-4a-1104](#).

(6) The administrator may hold an informal conference with a putative holder about a determination under Section [67-4a-1011](#) without a request at any time before the putative holder initiates administrative review under Section [67-4a-1103](#) or files an action under Section [67-4a-1104](#).

(7) Interest and penalties under Section [67-4a-1204](#) continue to accrue on property not reported, paid, or delivered as required by this chapter after the initiation, and during the pendency, of an informal conference under this section.

Section 70. Section **67-4a-1102** is enacted to read:

[67-4a-1102. Review of administrator's determination.](#)

A putative holder may seek relief from a determination under Section [67-4a-1011](#) by:

(1) administrative review under Section [67-4a-1103](#); or

(2) judicial review under Section [67-4a-1104](#).

Section 71. Section **67-4a-1103** is enacted to read:

[67-4a-1103. Administrative review.](#)

(1) Not later than 30 days after receiving notice of the administrator's determination under Section [67-4a-1011](#), a putative holder may initiate a proceeding under Section [63G-4-301](#) for review of the administrator's determination.

(2) A final decision in an administrative proceeding initiated under Subsection (1) is subject to judicial review by the district court as a matter of right in a de novo proceeding on the record in which either party is entitled to introduce evidence as a supplement to the record.

Section 72. Section **67-4a-1104** is enacted to read:

[67-4a-1104. Judicial remedy.](#)

(1) Not later than 90 days after receiving notice of the administrator's determination

under Section [67-4a-1011](#), the putative holder may:

(a) file an action against the administrator in the district court challenging the administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or

(b) pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than six months after payment or delivery, file an action against the administrator in the district court for a refund of all or part of the amount paid or return of all or part of the property delivered.

(2) If a putative holder pays or delivers property the administrator determined shall be paid or delivered to the administrator at any time after the putative holder files an action under Subsection (1)(a), the court shall continue the action as if the action had been filed originally as an action for a refund or return of property under Subsection (1)(b).

(3) On the final determination of an action filed under Subsection (1), the court may, on application, award to the prevailing party the prevailing party's reasonable attorney fees, costs, and expenses of litigation.

(4) A putative holder that is the prevailing party in an action under this section for refund of money paid to the administrator is entitled to interest on the amount refunded, at the same rate a holder is required to pay to the administrator under Subsection [67-4a-1204](#)(1), from the date paid to the administrator until the date of the refund.

Section 73. Section **67-4a-1201** is enacted to read:

Part 12. Enforcement by Administrator

67-4a-1201. Judicial action to enforce liability.

(1) (a) If a determination under Section [67-4a-1011](#) becomes final and is not subject to administrative or judicial review, the administrator may commence an action in the district court or in a district court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property.

(b) The action shall be brought not later than one year after the determination becomes final.

1710 (2) In an action under Subsection (1), if no court in this state has jurisdiction over the
1711 defendant, the administrator may commence an action in any court having jurisdiction over the
1712 defendant.

1713 Section 74. Section **67-4a-1202** is enacted to read:

1714 **67-4a-1202. Interstate and international agreement -- Cooperation.**

1715 (1) Subject to Subsection (2), the administrator may:

1716 (a) exchange information with another state or foreign country relating to property
1717 presumed abandoned or relating to the possible existence of property presumed abandoned; and

1718 (b) authorize in a record another state or foreign country or a person acting on behalf of
1719 the other state or foreign country to examine the other state or foreign country's records of a
1720 putative holder as provided in Part 10, Verified Report of Property and Examination of
1721 Records.

1722 (2) An exchange or examination under Subsection (1) may be done only if the state or
1723 foreign country has confidentiality and security requirements substantially equivalent to those
1724 in Part 14, Confidentiality and Security of Information, or agrees in a record to be bound by
1725 this state's confidentiality and security requirements.

1726 Section 75. Section **67-4a-1203** is enacted to read:

1727 **67-4a-1203. Action involving another state or foreign country.**

1728 (1) The administrator may join another state or foreign country to examine and seek
1729 enforcement of this chapter against a putative holder.

1730 (2) On request of another state or foreign country, the attorney general may commence
1731 an action on behalf of the other state or foreign country to enforce, in this state, the law of the
1732 other state or foreign country against a putative holder subject to a claim by the other state or
1733 foreign country, if the other state or foreign country agrees to pay costs incurred by the attorney
1734 general in the action.

1735 (3) (a) The administrator may request the official authorized to enforce the unclaimed
1736 property law of another state or foreign country to commence an action to recover property in
1737 the other state or foreign country on behalf of the administrator.

(b) This state shall pay the costs, including reasonable attorney fees and expenses, incurred by the other state or foreign country in an action under this Subsection (3).

(4) The administrator may pursue an action on behalf of this state to recover property subject to this chapter but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.

(5) The attorney general may retain an attorney for the administrator in this state, another state, or a foreign country to commence an action to recover property on behalf of the administrator and may agree to pay attorney fees based in whole or in part on a fixed fee, an hourly fee, or a percentage of the amount or value of property recovered in the action.

(6) (a) Expenses incurred by this state in an action under this section may be paid from property received under this chapter or the net proceeds of the property.

(b) Expenses paid to recover property may not be deducted from the amount that is subject to a claim under this chapter by the owner.

Section 76. Section **67-4a-1204** is enacted to read:

67-4a-1204. Interest and penalty for failure to act in timely manner.

(1) A holder that fails to report, pay, or deliver property within the time prescribed by this chapter shall pay to the administrator interest at an annual rate calculated based on the federal short-term rate determined by the secretary of the treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter plus four percentage points on the property or value of the property from the date the property should have been reported, paid, or delivered to the administrator until the date reported, paid, or delivered.

(2) Except as otherwise provided in Section [67-4a-1205](#) or [67-4a-1206](#), the administrator may require a holder that fails to report, pay, or deliver property within the time prescribed by this chapter to pay to the administrator, in addition to interest included under Subsection (1), a civil penalty of \$200 for each day the duty is not performed, up to a cumulative maximum amount of \$5,000.

Section 77. Section **67-4a-1205** is enacted to read:

67-4a-1205. Other civil penalties.

(1) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the administrator may require the holder to pay the administrator, in addition to interest as provided in Subsection 67-4a-1204(1), a civil penalty of \$1,000 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$25,000, plus 25% of the amount or value of property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.

(2) If a holder makes a fraudulent report under this chapter, the administrator may require the holder to pay to the administrator, in addition to interest under Subsection 67-4a-1204(1), a civil penalty of \$1,000 for each day from the date the report was made until corrected, up to a cumulative maximum of \$25,000, plus 25% of the amount or value of any property that should have been reported but was not included in the report or was under reported.

Section 78. Section **67-4a-1206** is enacted to read:

67-4a-1206. Waiver of interest and penalty.

The administrator:

(1) may waive, in whole or in part, interest under Subsection 67-4a-1204(1) and penalties under Subsection 67-4a-1204(2) or Section 67-4a-1205; and

(2) may waive a penalty under Subsection 67-4a-1204(2) if the administrator determines that the holder acted in good faith and without negligence.

Section 79. Section **67-4a-1301** is enacted to read:

Part 13. Agreement to Locate Property of Apparent

Owner Held by Administrator

67-4a-1301. When agreement to locate property enforceable.

An agreement by an apparent owner and another person, the primary purpose of which is to locate, deliver, recover, or assist in the location, delivery, or recovery of property held by the administrator, is enforceable only if the agreement:

(1) is in a record that clearly states the nature of the property and the services to be

1794 provided;

1795 (2) is signed by or on behalf of the apparent owner; and

1796 (3) states the amount or value of the property reasonably expected to be recovered,
1797 computed before and after a fee or other compensation to be paid to the person has been
1798 deducted.

1799 Section 80. Section **67-4a-1302** is enacted to read:

1800 **67-4a-1302. When agreement to locate property void.**

1801 (1) Subject to Subsection (2), an agreement under Section [67-4a-1301](#) is void if the
1802 agreement is entered into during the period beginning on the date the property was paid or
1803 delivered by a holder to the administrator and ending 24 months after the payment or delivery.

1804 (2) If a provision in an agreement described in Subsection (1) applies to mineral
1805 proceeds for which compensation is to be paid to the other person based in whole or in part on
1806 a part of the underlying minerals or mineral proceeds not then presumed abandoned, the
1807 provision is void regardless of when the agreement was entered into.

1808 (3) (a) An agreement under Subsection (1) that provides for compensation in an
1809 amount that is unconscionable is unenforceable except by the apparent owner.

1810 (b) An apparent owner that believes the compensation the apparent owner has agreed
1811 to pay is unconscionable or the administrator, acting on behalf of an apparent owner, or both,
1812 may file an action in the district court to reduce the compensation to the maximum amount that
1813 is not unconscionable.

1814 (c) On the final determination of an action filed under this Subsection (3), the court
1815 may, on application, award the prevailing party the prevailing party's reasonable attorney fees,
1816 costs, and expenses of litigation.

1817 (4) An apparent owner or the administrator may assert that an agreement described in
1818 this section is void on a ground other than it provides for payment of unconscionable
1819 compensation.

1820 (5) This section does not apply to an apparent owner's agreement with an attorney to
1821 pursue a claim for recovery of specifically identified property held by the administrator or to

contest the administrator's denial of a claim for recovery of the property.

Section 81. Section **67-4a-1303** is enacted to read:

67-4a-1303. Right of agent of apparent owner to recover property held by administrator.

(1) (a) An apparent owner that contracts with another person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner that is held by the administrator may designate the person as the agent of the apparent owner.

(b) The designation under Subsection (1)(a) shall be in a record signed by the apparent owner.

(2) The administrator shall give the agent of the apparent owner all information concerning the property that the apparent owner is entitled to receive, including information that otherwise is confidential information under Section [67-4a-1402](#).

(3) If authorized by the apparent owner, the agent of the apparent owner may bring an action against the administrator on behalf of and in the name of the apparent owner.

Section 82. Section **67-4a-1401** is enacted to read:

Part 14. Confidentiality and Security of Information

67-4a-1401. Definitions -- Applicability.

(1) As used in this part, "personal information" means:

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

(i) social security number or other government-issued number or identifier;

(ii) date of birth;

(iii) home or physical address;

(iv) electronic mail address or other online contact information or Internet provider address;

(v) financial account number or credit or debit card number;

(vi) biometric data, health or medical data, or insurance information; or

(vii) passwords or other credentials that permit access to an online or other account;

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

(c) any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of the data, or if lost or misused, would require notice or reporting under Section 13-44-202 and federal privacy and data security law, regardless of whether the administrator or the administrator's agent is subject to the law.

(2) A provision of this part that applies to the administrator or the administrator's records applies to an administrator's agent.

Section 83. Section **67-4a-1402** is enacted to read:

67-4a-1402. Confidential information.

(1) Except as otherwise provided in this chapter, the following are confidential and exempt from public inspection or disclosure:

(a) records of the administrator and the administrator's agent related to the administration of this chapter;

(b) reports and records of a holder in the possession of the administrator or the administrator's agent; and

(c) personal information and other information derived or otherwise obtained by or communicated to the administrator or the administrator's agent from an examination under this chapter of the records of a person.

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

Section 84. Section **67-4a-1403** is enacted to read:

67-4a-1403. When confidential information may be disclosed.

(1) When reasonably necessary to enforce or implement this chapter, the administrator may disclose confidential information concerning property held by the administrator or the administrator's agent only to:

(a) an apparent owner or the apparent owner's personal representative, attorney, other

1878 legal representative, relative, or agent designated under Section 67-4a-1303 to have the
1879 information;

1880 (b) the personal representative, other legal representative, relative of a deceased
1881 apparent owner, agent designated under Section 67-4a-1303 by the deceased apparent owner,
1882 or person entitled to inherit from the deceased apparent owner;

1883 (c) another department or agency of this state or of the United States;

1884 (d) the person that administers the unclaimed property law of another state, if the other
1885 state accords substantially reciprocal privileges to the administrator of this state if the other
1886 state is required to maintain the confidentiality and security of information obtained in a
1887 manner substantially equivalent to Part 14, Confidentiality and Security of Information; or

1888 (e) a person subject to an examination as required by Subsection 67-4a-1004(6).

1889 (2) (a) Except as otherwise provided in Subsection 67-4a-1402(1), the administrator
1890 shall include on the website or in the database required by Subsection 67-4a-503(4)(a) the
1891 name of each apparent owner of property held by the administrator.

1892 (b) The administrator may include in published notices, printed publications,
1893 telecommunications, the Internet, other media, on the website, or in the database additional
1894 information concerning the apparent owner's property if the administrator believes the
1895 information will assist in identifying and returning property to the owner and does not disclose
1896 personal information except the home or physical address of an apparent owner.

1897 (3) The administrator and the administrator's agent may not use confidential
1898 information provided to the administrator or the administrator's agent or in the administrator or
1899 the administrator's agent's possession except as expressly authorized by this chapter or required
1900 by law other than in this chapter.

1901 Section 85. Section 67-4a-1404 is enacted to read:

1902 **67-4a-1404. Confidentiality agreement.**

1903 A person to be examined under Section 67-4a-1002 may require, as a condition of
1904 disclosure of the records of the person to be examined, that each person having access to the
1905 records disclosed in the examination execute and deliver to the person to be examined a

1906 confidentiality agreement that:

1907 (1) is in a form that is reasonably satisfactory to the administrator; and

1908 (2) requires the person having access to the records to comply with the provisions of
1909 this part applicable to the person.

1910 Section 86. Section **67-4a-1405** is enacted to read:

1911 **67-4a-1405. No confidential information in notice.**

1912 Except as otherwise provided in Sections [67-4a-501](#) and [67-4a-502](#), a holder is not
1913 required under this chapter to include confidential information in a notice the holder is required
1914 to provide to an apparent owner under this chapter.

1915 Section 87. Section **67-4a-1406** is enacted to read:

1916 **67-4a-1406. Security of information.**

1917 (1) If a holder is required to include confidential information in a report to the
1918 administrator, the information shall be provided by a secure means.

1919 (2) If confidential information in a record is provided to and maintained by the
1920 administrator or the administrator's agent as required by this chapter, the administrator or the
1921 administrator's agent shall:

1922 (a) implement administrative, technical, and physical safeguards to protect the security,
1923 confidentiality, and integrity of the information required by Section [13-44-202](#) and federal
1924 privacy and data security law regardless of whether the administrator or the administrator's
1925 agent is subject to the law;

1926 (b) protect against reasonably anticipated threats or hazards to the security,
1927 confidentiality, or integrity of the information; and

1928 (c) protect against unauthorized access to or use of the information that could result in
1929 substantial harm or inconvenience to a holder or the holder's customers, including insureds,
1930 annuitants, and policy or contract owners and the insureds', annuitants', and policy or contract
1931 owners' beneficiaries.

1932 (3) The administrator:

1933 (a) after notice and comment, shall adopt and implement a security plan that identifies

and assesses reasonably foreseeable internal and external risks to confidential information in the administrator's possession and seeks to mitigate the risks; and

(b) shall ensure that an administrator's agent adopts and implements a similar plan with respect to confidential information in the administrator's agent's possession.

(4) The administrator and the administrator's agent shall educate and train the administrator's and the administrator's agent's employees regarding the plan adopted under Subsection (3).

(5) The administrator and the administrator's agent shall in a secure manner return or destroy all confidential information no longer reasonably needed under this chapter.

Section 88. Section **67-4a-1407** is enacted to read:

67-4a-1407. Security breach.

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

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

(b) any interference with operations in any system hosting or housing confidential information that:

(i) compromises the security, confidentiality, or integrity of the information; or

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

(2) Except as necessary to inform an insurer, attorney, investigator, or others as required by law, the administrator and the administrator's agent may not disclose, without the express consent in a record of the holder, an event described in Subsection (1) to a person whose confidential information was supplied by the holder.

(3) If an event described in Subsection (1) occurs, the administrator and the administrator's agent shall:

(a) take action necessary for the holder to understand and minimize the effect of the event and determine the event's scope; and

1962 (b) cooperate with the holder with respect to:

1963 (i) any notification required by law concerning a data or other security breach; and

1964 (ii) a regulatory inquiry, litigation, or similar action.

1965 Section 89. Section **67-4a-1408** is enacted to read:

1966 **67-4a-1408. Indemnification for breach.**

1967 (1) If a claim is made or action commenced arising out of an event described in

1968 Subsection [67-4a-1407](#)(1) relating to confidential information possessed by the administrator,

1969 this state shall indemnify, defend, and hold harmless a holder and the holder's affiliates,

1970 officers, directors, employees, and agents as to:

1971 (a) any claim or action; and

1972 (b) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or

1973 other expense, including reasonable attorney fees and costs, established by the claim or action.

1974 (2) If a claim is made or action commenced arising out of an event described in

1975 Subsection [67-4a-1407](#)(1) relating to confidential information possessed by an administrator's

1976 agent, the administrator's agent shall indemnify, defend, and hold harmless a holder and the

1977 holder's affiliates, officers, directors, employees, and agents as to:

1978 (a) any claim or action; and

1979 (b) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or

1980 other expense, including reasonable attorney fees and costs, established by the claim or action.

1981 (3) The administrator shall require the administrator's agent that will receive

1982 confidential information required under this chapter to maintain adequate insurance for

1983 indemnification obligations of the administrator's agent under Subsection (2).

1984 (4) The agent required to maintain the insurance shall provide evidence of the

1985 insurance to:

1986 (a) the administrator not less frequently than annually; and

1987 (b) the holder on commencement of an examination and annually thereafter until all

1988 confidential information is returned or destroyed under Subsection [67-4a-1406](#)(5).

1989 Section 90. Section **67-4a-1501** is enacted to read:

1990 **Part 15. Miscellaneous Provisions**1991 **67-4a-1501. Uniformity of application and construction.**

1992 In applying and construing this uniform chapter, consideration shall be given to the
1993 need to promote uniformity of the law with respect to the chapter's subject matter among states
1994 that enact it.

1995 Section 91. Section **67-4a-1502** is enacted to read:

1996 **67-4a-1502. Relation to Electronic Signatures in Global and National Commerce**
1997 **Act.**

1998 This chapter modifies, limits, or supersedes the Electronic Signatures in Global and
1999 National Commerce Act, 15 U.S.C. Sec. 7001 et seq., except this chapter does not:

2000 (1) modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c); or

2001 (2) authorize electronic delivery of any of the notices described in Section 103(b) of
2002 that act, 15 U.S.C. Sec. 7003(b).

2003 Section 92. Section **67-4a-1503** is enacted to read:

2004 **67-4a-1503. Transitional provision.**

2005 (1) An initial report filed under this chapter for property that was not required to be
2006 reported before May 9, 2017, but that is required to be reported under this chapter, shall include
2007 all items of property that would have been presumed abandoned during the 10-year period
2008 preceding May 9, 2017, as if this chapter had been in effect during that period.

2009 (2) This chapter does not relieve a holder of a duty that arose before May 9, 2017, to
2010 report, pay, or deliver property.

2011 (3) Subject to Subsections 67-4a-610(2) and (3), a holder that did not comply with the
2012 law governing unclaimed property before May 9, 2017, is subject to applicable provisions for
2013 enforcement and penalties in effect before May 9, 2017.

2014 Section 93. Section **67-4a-1504** is enacted to read:

2015 **67-4a-1504. Severability.**

2016 If any provision of this chapter or its application to any person or circumstance is held
2017 invalid, the invalidity does not affect other provisions or applications of this chapter that can be

2018 given effect without the invalid provision or application, and to this end the provisions of this
2019 chapter are severable.

2020 Section 94. Section **78B-6-816** is amended to read:

2021 **78B-6-816. Abandoned premises -- Retaking and rerenting by owner -- Liability**
2022 **of tenant -- Personal property of tenant left on premises.**

2023 (1) In the event of abandonment, the owner may retake the premises and attempt to rent
2024 them at a fair rental value and the tenant who abandoned the premises shall be liable:

2025 (a) for the entire rent due for the remainder of the term; or

2026 (b) for rent accrued during the period necessary to rerent the premises at a fair rental
2027 value, plus the difference between the fair rental value and the rent agreed to in the prior rental
2028 agreement, plus a reasonable commission for the renting of the premises and the costs, if any,
2029 necessary to restore the rental unit to its condition when rented by the tenant less normal wear
2030 and tear. This Subsection (1) applies, if less than Subsection (1)(a), notwithstanding that the
2031 owner did not rerent the premises.

2032 (2) (a) If the tenant has abandoned the premises and has left personal property on the
2033 premises, the owner is entitled to remove the property from the dwelling, store it for the tenant,
2034 and recover actual moving and storage costs from the tenant.

2035 (b) (i) The owner shall post a copy of the notice in a conspicuous place and send by
2036 first class mail to the last known address for the tenant a notice that the property is considered
2037 abandoned.

2038 (ii) The tenant may retrieve the property within 15 calendar days from the date of the
2039 notice if the tenant tenders payment of all costs of inventory, moving, and storage to the owner.

2040 (iii) Except as provided in Subsection (5), if the property has been in storage for at
2041 least 15 calendar days and the tenant has made no reasonable effort to recover the property after
2042 notice was sent, pay reasonable costs associated with the inventory, removal, and storage, and
2043 no court hearing on the property is pending, the owner may:

2044 (A) sell the property at a public sale and apply the proceeds toward any amount the
2045 tenant owes; or

2046 (B) donate the property to charity if the donation is a commercially reasonable
2047 alternative.

2048 (c) Any money left over from the public sale of the property shall be handled as
2049 specified in Title 67, Chapter 4a, Part 2, [~~Standards for Determining When Property Is~~
2050 ~~Abandoned or Unclaimed~~] Presumption of Abandonment.

2051 (d) Nothing contained in this act shall be in derogation of or alter the owner's rights
2052 under Title 38, Chapter 3, Lessors' Liens, or any other contractual liens or rights.

2053 (3) If abandoned property is determined to belong to a person who is the tenant or an
2054 occupant, the tenant or occupant may claim the property, upon payment of any costs, inventory,
2055 moving, and storage, by delivery of a written demand with evidence of ownership of the
2056 personal property within 15 calendar days after the notice described in Subsection (2)(b) is
2057 sent. The owner may not be liable for the loss of the abandoned personal property if the
2058 written demand is not received.

2059 (4) As used in this section, "personal property" does not include a motor vehicle, as
2060 defined in Section 41-1a-102.

2061 (5) A tenant has no recourse for damage or loss if the tenant fails to recover any
2062 abandoned property as required in this section.

2063 (6) An owner is not required to store the following abandoned personal property:

- 2064 (a) chemicals, pests, potentially dangerous or other hazardous materials;
2065 (b) animals, including dogs, cats, fish, reptiles, rodents, birds, or other pets;
2066 (c) gas, fireworks, combustibles, or any item considered to be hazardous or explosive;
2067 (d) garbage;
2068 (e) perishable items; or
2069 (f) items that when placed in storage might create a hazardous condition or a pest
2070 control issue.

2071 (7) An owner shall give an extension for up to 15 calendar days, beyond the 15
2072 calendar day limit described in Subsection (2)(b)(ii), to recover the abandoned property, if a
2073 tenant provides:

(a) a copy of a police report or protection order for situations of domestic violence, as defined in Section 77-36-1;

(b) verification of an extended hospitalization from a verified medical provider; or

(c) a death certificate or obituary for a tenant's death, provided by an immediate family member.

(8) Items listed in Subsection (6) may be properly disposed of by the owner immediately upon determination of abandonment. A tenant may not recover for disposal of abandoned items listed in Subsection (6).

(9) Notice of any public sale shall be mailed to the last known address of the tenant at least five calendar days prior to the public sale.

(10) If the tenant is present at the public sale:

(a) the tenant may specify the order in which the personal property is sold;

(b) the owner may sell only as much personal property necessary to satisfy the amount due under the rental agreement and statutorily allowed damages, costs, and fees associated with the abandoned items; and

(c) any unsold personal property shall be released to the tenant.

(11) If the tenant is not present at the public sale:

(a) all items may be sold; and

(b) any surplus amount over the amount due to the owner shall be paid to the tenant, if the tenant's current location is known. If the tenant's location is not known, any surplus shall be disposed of in accordance with Title 67, Chapter 4a, [~~Unclaimed Property Act~~] Revised Uniform Unclaimed Property Act.

Section 95. Repealer.

This bill repeals:

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

Section 67-4a-211, **Gift certificates -- Credit memos -- Gift cards.**

Section 67-4a-212, **Wages.**

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

2102

Section **67-4a-214**, Mineral proceeds.