

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

*As Engrossed: S2/25/99*

# A Bill

SENATE BILL 405

4  
5 By: Senator Webb  
6 By: Representative Napper

## For An Act To Be Entitled

"THE UNCLAIMED PROPERTY ACT. "

### Subtitle

"THE UNCLAIMED PROPERTY ACT. "

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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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18 SECTION 1. DEFINITIONS. In this Act:

19 (1) "Administrator" means Auditor of State.

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

23 (3) "Business association" means a corporation, joint stock company,  
24 investment company, partnership, unincorporated association, joint venture,  
25 limited liability company, business trust, trust company, land bank, safe  
26 deposit company, safekeeping depository, financial organization, insurance  
27 company, mutual fund, utility, or other business entity consisting of one or  
28 more persons, whether or not for profit.

29 (4) "Domicile" means the State of incorporation of a corporation and  
30 the State of the principal place of business of a holder other than a  
31 corporation.

32 (5) "Financial organization" means a savings and loan association,  
33 building and loan association, savings bank, industrial bank, bank, banking  
34 organization, or credit union.

35 (6) "Holder" means a person obligated to hold for the account of, or  
36 deliver or pay to, the owner property that is subject to this Act.

1       (7) "Insurance company" means an association, corporation, or fraternal  
2 or mutual benefit organization, whether or not for profit, engaged in the  
3 business of providing life endowments, annuities, or insurance, including  
4 accident, burial, casualty, credit life, contract performance, dental,  
5 disability, fidelity, fire, health, hospitalization, illness, life,  
6 malpractice, marine, mortgage, surety, wage protection, and workers'  
7 compensation insurance.

8       (8) "Mineral" means gas; oil; coal; other gaseous, liquid, and solid  
9 hydrocarbons; oil shale; cement material; sand and gravel; road material;  
10 building stone; chemical raw material; gemstone; fissionable and  
11 nonfissionable ores; colloidal and other clay; steam and other geothermal  
12 resource; or any other substance defined as a mineral by the law of this  
13 State.

14       (9) "Mineral proceeds" means amounts payable for the extraction,  
15 production, or sale of minerals, or, upon the abandonment of those payments,  
16 all payments that become payable thereafter. The term includes amounts  
17 payable:

18               (i) for the acquisition and retention of a mineral lease,  
19 including bonuses, royalties, compensatory royalties, shut-in royalties,  
20 minimum royalties, and delay rentals;

21               (ii) for the extraction, production, or sale of minerals,  
22 including net revenue interests, royalties, overriding royalties, extraction  
23 payments, and production payments; and

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

26       (10) "Money order" includes an express money order and a personal money  
27 order, on which the remitter is the purchaser. The term does not include a  
28 bank money order or any other instrument sold by a financial organization if  
29 the seller has obtained the name and address of the payee.

30       (11) "Owner" means a person who has a legal or equitable interest in  
31 property subject to this Act or the person's legal representative. The term  
32 includes a depositor in the case of a deposit, a beneficiary in the case of a  
33 trust other than a deposit in trust, and a creditor, claimant, or payee in the  
34 case of other property.

35       (12) "Person" means an individual, business association, financial  
36 organization, estate, trust, government, governmental subdivision, agency, or

1 instrumentality, or any other legal or commercial entity.

2 (13) (A) "Property" means tangible property described in Section 3 or a  
3 fixed and certain interest in intangible property that is held, issued, or  
4 owed in the course of a holder's business, or by a government, governmental  
5 subdivision, agency, or instrumentality, and all income or increments  
6 therefrom. The term includes property that is referred to as or evidenced by:

7 (i) money, a check, draft, deposit, interest, or dividend;

8 (ii) credit balance, customer's overpayment, ~~gift certificate,~~  
9 security deposit, refund, credit memorandum, unpaid wage, unused ticket,  
10 mineral proceeds, or unidentified remittance;

11 (iii) stock or other evidence of ownership of an interest in a  
12 business association or financial organization;

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

14 (v) money deposited to redeem stocks, bonds, coupons, or other  
15 securities or to make distributions;

16 (vi) an amount due and payable under the terms of an annuity or  
17 insurance policy, including policies providing life insurance, property and  
18 casualty insurance, workers' compensation insurance, or health and disability  
19 insurance; and

20 (vii) an amount distributable from a trust or custodial fund  
21 established under a plan to provide health, welfare, pension, vacation,  
22 severance, retirement, death, stock purchase, profit sharing, employee  
23 savings, supplemental unemployment insurance, or similar benefits.

24 (B) "Property" does not include gift certificates, gift cards, in-store  
25 merchandise credits, or layaway accounts issued or maintained by any person in  
26 the business of selling tangible personal property at retail and such items  
27 shall not be subject to this subchapter.

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

31 (15) "State" means a State of the United States, the District of  
32 Columbia, the Commonwealth of Puerto Rico, or any territory or insular  
33 possession subject to the jurisdiction of the United States.

34 (16) "Utility" means persons and corporations, or their lessees,  
35 trustees, and receivers, owning or operating in this state equipment or  
36 facilities as provided in ACA § 23-1-101(4).

1  
2 SECTION 2. PRESUMPTIONS OF ABANDONMENT.

3 (a) Property is presumed abandoned if it is unclaimed by the apparent  
4 owner during the time set forth below for the particular property:

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

6 (2) money order, seven (7) years after issuance;

7 (3) stock or other equity interest in a business association or  
8 financial organization, including a security entitlement under Chapter 8 of  
9 Title 4 of the Arkansas Code (UCC - Investment Securities), five (5) years  
10 after the earlier of (i) the date of the most recent dividend, stock split, or  
11 other distribution unclaimed by the apparent owner, or (ii) the date of the  
12 second mailing of a statement of account or other notification or  
13 communication that was returned as undeliverable or after the holder  
14 discontinued mailings, notifications, or communications to the apparent owner;

15 (4) debt of a business association or financial organization,  
16 other than a bearer bond or an original issue discount bond, five (5) years  
17 after the date of the most recent interest payment unclaimed by the apparent  
18 owner;

19 (5) a demand, savings, or time deposit, including a deposit that  
20 is automatically renewable, five (5) years after the earlier of maturity or  
21 the date of the last indication by the owner of interest in the property; but  
22 a deposit that is automatically renewable is deemed matured for purposes of  
23 this section upon its initial date of maturity, unless the owner has consented  
24 to a renewal at or about the time of the renewal and the consent is in writing  
25 or is evidenced by a memorandum or other record on file with the holder;

26 (6) money or credits owed to a customer as a result of a retail  
27 business transaction, three (3) years after the obligation accrued;

28 (7) amount owed by an insurer on a life or endowment insurance  
29 policy or an annuity that has matured or terminated, three (3) years after the  
30 obligation to pay arose or, in the case of a policy or annuity payable upon  
31 proof of death, three (3) years after the insured has attained, or would have  
32 attained if living, the limiting age under the mortality table on which the  
33 reserve is based;

34 (8) property distributable by a business association or financial  
35 organization in a course of dissolution, one year after the property becomes  
36 distributable;

1           (9) property received by a court as proceeds of a class action,  
2 and not distributed pursuant to the judgment, one year after the distribution  
3 date;

4           (10) property held by a court, government, governmental  
5 subdivision, agency, or instrumentality, one year after the property becomes  
6 distributable;

7           (11) wages or other compensation for personal services, one year  
8 after the compensation becomes payable;

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

11           (13) property in an individual retirement account, defined benefit  
12 plan, or other account or plan that is qualified for tax deferral under the  
13 income tax laws of the United States, three (3) years after the earliest of  
14 the date of the distribution or attempted distribution of the property, the  
15 date of the required distribution as stated in the plan or trust agreement  
16 governing the plan, or the date, if determinable by the holder, specified in  
17 the income tax laws of the United States by which distribution of the property  
18 must begin in order to avoid a tax penalty; and

19           (14) all other property, five (5) years after the owner's right to  
20 demand the property or after the obligation to pay or distribute the property  
21 arises, whichever first occurs.

22           (b) At the time that an interest is presumed abandoned under subsection  
23 (a), any other property right accrued or accruing to the owner as a result of  
24 the interest, and not previously presumed abandoned, is also presumed  
25 abandoned.

26           (c) Property is unclaimed if, for the applicable period set forth in  
27 subsection (a), the apparent owner has not communicated in writing or by other  
28 means reflected in a contemporaneous record prepared by or on behalf of the  
29 holder, with the holder concerning the property or the account in which the  
30 property is held, and has not otherwise indicated an interest in the property.

31           A communication with an owner by a person other than the holder or its  
32 representative who has not in writing identified the property to the owner is  
33 not an indication of interest in the property by the owner.

34           (d) An indication of an owner's interest in property includes:

35           (i) the presentment of a check or other instrument of payment of a  
36 dividend or other distribution made with respect to an account or underlying

1 stock or other interest in a business association or financial organization  
2 or, in the case of a distribution made by electronic or similar means,  
3 evidence that the distribution has been received;

4 (ii) owner-directed activity in the account in which the property  
5 is held, including a direction by the owner to increase, decrease, or change  
6 the amount or type of property held in the account;

7 (iii) the making of a deposit to or withdrawal from a bank  
8 account; and

9 (iv) the payment of a premium with respect to a property interest  
10 in an insurance policy; but the application of an automatic premium loan  
11 provision or other nonforfeiture provision contained in an insurance policy  
12 does not prevent a policy from maturing or terminating if the insured has died  
13 or the insured or the beneficiary of the policy has otherwise become entitled  
14 to the proceeds before the depletion of the cash surrender value of a policy  
15 by the application of those provisions.

16 (e) Property is payable or distributable for purposes of this Act  
17 notwithstanding the owner's failure to make demand or present an instrument or  
18 document otherwise required to obtain payment.

19  
20 SECTION 3. CONTENTS OF SAFE DEPOSIT BOX OR OTHER SAFEKEEPING  
21 DEPOSITORY. Tangible property held in a safe deposit box or other safekeeping  
22 depository in this State in the ordinary course of the holder's business and  
23 proceeds resulting from the sale of the property permitted by other law, are  
24 presumed abandoned if the property remains unclaimed by the owner for more  
25 than five (5) years after expiration of the lease or rental period on the box  
26 or other depository.

27  
28 SECTION 4. RULES FOR TAKING CUSTODY. Except as otherwise provided in  
29 this Act or by other statute of this State, property that is presumed  
30 abandoned, whether located in this or another State, is subject to the custody  
31 of this State if:

32 (1) the last known address of the apparent owner, as shown on the  
33 records of the holder, is in this State;

34 (2) the records of the holder do not reflect the identity of the person  
35 entitled to the property and it is established that the last known address of  
36 the person entitled to the property is in this State;

1           (3) the records of the holder do not reflect the last known address of  
2 the apparent owner and it is established that:

3           (i) the last known address of the person entitled to the property  
4 is in this State; or

5           (ii) the holder is domiciled in this State or is a government or  
6 governmental subdivision, agency, or instrumentality of this State and has not  
7 previously paid or delivered the property to the State of the last known  
8 address of the apparent owner or other person entitled to the property;

9           (4) the last known address of the apparent owner, as shown on the  
10 records of the holder, is in a State that does not provide for the escheat or  
11 custodial taking of the property and the holder is domiciled in this State or  
12 is a government or governmental subdivision, agency, or instrumentality of  
13 this State;

14           (5) the last known address of the apparent owner, as shown on the  
15 records of the holder, is in a foreign country and the holder is domiciled in  
16 this State or is a government or governmental subdivision, agency, or  
17 instrumentality of this State;

18           (6) the transaction out of which the property arose occurred in this  
19 State, the holder is domiciled in a State that does not provide for the  
20 escheat or custodial taking of the property, and the last known address of the  
21 apparent owner or other person entitled to the property is unknown or is in a  
22 State that does not provide for the escheat or custodial taking of the  
23 property; or

24           (7) the property is a traveler's check or money order purchased in this  
25 State, or the issuer of the traveler's check or money order has its principal  
26 place of business in this State and the issuer's records show that the  
27 instrument was purchased in a State that does not provide for the escheat or  
28 custodial taking of the property, or do not show the State in which the  
29 instrument was purchased.

30  
31           SECTION 5. DORMANCY CHARGE. A holder may deduct from property presumed  
32 abandoned a charge imposed by reason of the owner's failure to claim the  
33 property within a specified time only if there is a valid and enforceable  
34 written contract between the holder and the owner under which the holder may  
35 impose the charge and the holder regularly imposes the charge, which is not  
36 regularly reversed or otherwise canceled. The amount of the deduction is

1 limited to an amount that is not unconscionable.

2  
3 SECTION 6. BURDEN OF PROOF AS TO PROPERTY EVIDENCED BY RECORD OF CHECK  
4 OR DRAFT. A record of the issuance of a check, draft, or similar instrument  
5 is prima facie evidence of an obligation. In claiming property from a holder  
6 who is also the issuer, the administrator's burden of proof as to the  
7 existence and amount of the property and its abandonment is satisfied by  
8 showing issuance of the instrument and passage of the requisite period of  
9 abandonment. Defenses of payment, satisfaction, discharge, and want of  
10 consideration are affirmative defenses that must be established by the holder.

11  
12 SECTION 7. REPORT OF ABANDONED PROPERTY.

13 (a) A holder of property presumed abandoned shall make a report to the  
14 administrator concerning the property.

15 (b) The report must be verified and must contain:

16 (1) a description of the property;

17 (2) except with respect to a traveler's check or money order, the  
18 name, if known, and last known address, if any, and the social security number  
19 or taxpayer identification number, if readily ascertainable, of the apparent  
20 owner of property of the value of \$50 or more;

21 (3) an aggregated amount of items valued under \$50 each;

22 (4) in the case of an amount of \$50 or more held or owing under an  
23 annuity or a life or endowment insurance policy, the full name and last known  
24 address of the annuitant or insured and of the beneficiary;

25 (5) in the case of property held in a safe deposit box or other  
26 safekeeping depository, an indication of the place where it is held and where  
27 it may be inspected by the administrator, and any amounts owing to the holder;

28 (6) the date, if any, on which the property became payable,  
29 demandable, or returnable, and the date of the last transaction with the  
30 apparent owner with respect to the property; and

31 (7) other information that the administrator by rule prescribes as  
32 necessary for the administration of this Act.

33 (c) If a holder of property presumed abandoned is a successor to  
34 another person who previously held the property for the apparent owner or the  
35 holder has changed its name while holding the property, the holder shall file  
36 with the report its former names, if any, and the known names and addresses of

1 all previous holders of the property.

2 (d) The report must be filed before November 1 of each year and cover  
3 the twelve (12) months next preceding July 1 of that year, but a report with  
4 respect to a life insurance company must be filed before May 1 of each year  
5 for the calendar year next preceding.

6 (e) The holder of property presumed abandoned shall send written notice  
7 to the apparent owner, not more than one hundred twenty (120) days or less  
8 than sixty (60) days before filing the report, stating that the holder is in  
9 possession of property subject to this Act, if:

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

12 (2) the claim of the apparent owner is not barred by a statute of  
13 limitations; and

14 (3) the value of the property is fifty dollars (\$50) or more.

15 (f) Before the date for filing the report, the holder of property  
16 presumed abandoned may request the administrator to extend the time for filing  
17 the report. The administrator may grant the extension for good cause. The  
18 holder, upon receipt of the extension, may make an interim payment on the  
19 amount the holder estimates will ultimately be due, which terminates the  
20 accrual of additional interest on the amount paid.

21 (g) The holder of property presumed abandoned shall file with the  
22 report an affidavit stating that the holder has complied with subsection (e).

23  
24 SECTION 8. PAYMENT OR DELIVERY OF ABANDONED PROPERTY.

25 (a) Except for property held in a safe deposit box or other safekeeping  
26 depository, upon filing the report required by Section 7, the holder of  
27 property presumed abandoned shall pay, deliver, or cause to be paid or  
28 delivered to the administrator the property described in the report as  
29 unclaimed, but if the property is an automatically renewable deposit, and a  
30 penalty or forfeiture in the payment of interest would result, the time for  
31 compliance is extended until a penalty or forfeiture would no longer result.  
32 Tangible property held in a safe deposit box or other safekeeping depository  
33 may not be delivered to the administrator until one hundred twenty (120) days  
34 after filing the report required by Section 7.

35 (b) If the property reported to the administrator is a security or  
36 security entitlement under Chapter 8 of Title 4 of the Arkansas Code (UCC -

1 Investment Securities), the administrator is an appropriate person to make an  
2 indorsement, instruction, or entitlement order on behalf of the apparent owner  
3 to invoke the duty of the issuer or its transfer agent or the securities  
4 intermediary to transfer or dispose of the security or the security  
5 entitlement in accordance with Chapter 8 of Title 4 of the Arkansas Code (UCC  
6 - Investment Securities).

7 (c) If the holder of property reported to the administrator is the  
8 issuer of a certificated security, the administrator has the right to obtain a  
9 replacement certificate pursuant to Arkansas Code 4-8-408, but an indemnity  
10 bond is not required.

11 (d) An issuer, the holder, and any transfer agent or other person  
12 acting pursuant to the instructions of and on behalf of the issuer or holder  
13 in accordance with this section is not liable to the apparent owner and must  
14 be indemnified against claims of any person in accordance with Section 10.

15  
16 SECTION 9. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY.

17 (a) The administrator shall publish a notice not later than November 30  
18 of the year next following the year in which abandoned property has been paid  
19 or delivered to the administrator. The notice must be published in a  
20 newspaper of general circulation in the county of this State in which is  
21 located the last known address of any person named in the notice. If a holder  
22 does not report an address for the apparent owner, or the address is outside  
23 this State, the notice must be published in the county in which the holder has  
24 its principal place of business within this State or another county that the  
25 administrator reasonably selects. The advertisement must be in a form that,  
26 in the judgment of the administrator, is likely to attract the attention of  
27 the apparent owner of the unclaimed property. The form must contain:

28 (1) the name of each person appearing to be the owner of the  
29 property, as set forth in the report filed by the holder;

30 (2) the last known address or location of each person appearing to  
31 be the owner of the property, if an address or location is set forth in the  
32 report filed by the holder;

33 (3) a statement explaining that property of the owner is presumed  
34 to be abandoned and has been taken into the protective custody of the  
35 administrator; and

36 (4) a statement that information about the property and its return

1 to the owner is available to a person having a legal or beneficial interest in  
2 the property, upon request to the administrator.

3 (b) The administrator is not required to advertise the name and address  
4 or location of an owner of property having a total value less than \$50, or  
5 information concerning a traveler's check, money order, or similar instrument.

6  
7 SECTION 10. CUSTODY BY STATE; RECOVERY BY HOLDER; DEFENSE OF HOLDER.

8 (a) In this section, payment or delivery is made in "good faith" if:

9 (1) payment or delivery was made in a reasonable attempt to comply  
10 with this Act;

11 (2) the holder was not then in breach of a fiduciary obligation  
12 with respect to the property and had a reasonable basis for believing, based  
13 on the facts then known, that the property was presumed abandoned; and

14 (3) there is no showing that the records under which the payment  
15 or delivery was made did not meet reasonable commercial standards of practice.

16 (b) Upon payment or delivery of property to the administrator, the  
17 State assumes custody and responsibility for the safekeeping of the property.  
18 A holder who pays or delivers property to the administrator in good faith is  
19 relieved of all liability arising thereafter with respect to the property.

20 (c) A holder who has paid money to the administrator pursuant to this  
21 Act may subsequently make payment to a person reasonably appearing to the  
22 holder to be entitled to payment. Upon a filing by the holder of proof of  
23 payment and proof that the payee was entitled to the payment, the  
24 administrator shall promptly reimburse the holder for the payment without  
25 imposing a fee or other charge. If reimbursement is sought for a payment made  
26 on a negotiable instrument, including a traveler's check or money order, the  
27 holder must be reimbursed upon filing proof that the instrument was duly  
28 presented and that payment was made to a person who reasonably appeared to be  
29 entitled to payment. The holder must be reimbursed for payment made even if  
30 the payment was made to a person whose claim was barred under Section 19(a).

31 (d) A holder who has delivered property other than money to the  
32 administrator pursuant to this Act may reclaim the property if it is still in  
33 the possession of the administrator, without paying any fee or other charge,  
34 upon filing proof that the apparent owner has claimed the property from the  
35 holder.

36 (e) The administrator may accept a holder's affidavit as sufficient

1 proof of the holder's right to recover money and property under this section.

2 (f) If a holder pays or delivers property to the administrator in good  
3 faith and thereafter another person claims the property from the holder or  
4 another State claims the money or property under its laws relating to escheat  
5 or abandoned or unclaimed property, the administrator, upon written notice of  
6 the claim, shall defend the holder against the claim and indemnify the holder  
7 against any liability on the claim resulting from payment or delivery of the  
8 property to the administrator.

9 (g) Property removed from a safe deposit box or other safekeeping  
10 depository is received by the administrator subject to the holder's right to  
11 be reimbursed for the cost of the opening and to any valid lien or contract  
12 providing for the holder to be reimbursed for unpaid rent or storage charges.  
13 The administrator shall reimburse the holder out of the proceeds remaining  
14 after deducting the expense incurred by the administrator in selling the  
15 property.

16  
17 SECTION 11. CREDITING OF DIVIDENDS, INTEREST, AND INCREMENTS TO OWNER'S  
18 ACCOUNT. If property other than money is delivered to the administrator under  
19 this Act, the owner is entitled to receive from the administrator any income  
20 or gain realized or accruing on the property at or before liquidation or  
21 conversion of the property into money. If the property was an interest  
22 bearing demand, savings, or time deposit, including a deposit that is  
23 automatically renewable, the administrator shall pay interest at a rate of six  
24 percent (6%) a year or any lesser rate the property earned while in the  
25 possession of the holder. Interest begins to accrue when the property is  
26 delivered to the administrator and ceases on the earlier of the expiration of  
27 seven (7) years after delivery or the date on which payment is made to the  
28 owner. Interest on interest bearing property is not payable for any period  
29 before the effective date of this Act, unless authorized by law superseded by  
30 this Act.

31  
32 SECTION 12. PUBLIC SALE OF ABANDONED PROPERTY.

33 (a) Except as otherwise provided in this section, the administrator,  
34 within three (3) years after the receipt of abandoned property, shall sell it  
35 to the highest bidder at public sale at a location in the State which in the  
36 judgment of the administrator affords the most favorable market for the

1 property. The administrator may decline the highest bid and reoffer the  
2 property for sale if the administrator considers the bid to be insufficient.  
3 The administrator need not offer the property for sale if the administrator  
4 considers that the probable cost of sale will exceed the proceeds of the sale.  
5 A sale held under this section must be preceded by a single publication of  
6 notice, at least three weeks before sale, in a newspaper of general  
7 circulation in the county in which the property is to be sold.

8 (b) Securities listed on an established stock exchange must be sold at  
9 prices prevailing on the exchange at the time of sale. Other securities may  
10 be sold over the counter at prices prevailing at the time of sale or by any  
11 reasonable method selected by the administrator. If securities are sold by  
12 the administrator before the expiration of three (3) years after their  
13 delivery to the administrator, a person making a claim under this Act before  
14 the end of the three-year period is entitled to the proceeds of the sale of  
15 the securities or the market value of the securities at the time the claim is  
16 made, whichever is greater, plus dividends, interest, and other increments  
17 thereon up to the time the claim is made, less any deduction for expenses of  
18 sale. A person making a claim under this Act after the expiration of the  
19 three-year period is entitled to receive the securities delivered to the  
20 administrator by the holder, if they still remain in the custody of the  
21 administrator, or the net proceeds received from sale, and is not entitled to  
22 receive any appreciation in the value of the property occurring after delivery  
23 to the administrator, except in a case of intentional misconduct or  
24 malfeasance by the administrator.

25 (c) A purchaser of property at a sale conducted by the administrator  
26 pursuant to this Act takes the property free of all claims of the owner or  
27 previous holder and of all persons claiming through or under them. The  
28 administrator shall execute all documents necessary to complete the transfer  
29 of ownership.

30  
31 SECTION 13. Deposit of Funds.

32 (a) All funds received under this act, including the proceeds from the  
33 sale of abandoned property, shall be deposited by the administrator in a  
34 special trust fund to be known as the "Unclaimed Property Proceeds Trust  
35 Fund", from which he shall make prompt payment of claims duly allowed by him  
36 as hereinafter provided. Such funds shall be deposited in accounts in one (1)

1 or more financial institutions authorized to do business in this state to be  
2 administered in accordance with the laws of this state pertaining to the  
3 appropriation, administration, and expenditure of cash funds. Before making  
4 the deposit, he shall record the name and last known address of each person  
5 appearing from the holder's reports to be entitled to the abandoned property,  
6 and the name and last known address of each insured or annuitant, and, with  
7 respect to each policy or contract listed in the report of a life insurance  
8 corporation, its number, the name of the corporation, and the amount due. The  
9 record shall be available for public inspection at all reasonable business  
10 hours.

11 (b) At the end of each fiscal year, the administrator shall withdraw  
12 from the Unclaimed Property Proceeds Trust Fund an amount necessary to  
13 reimburse the State Central Services Fund, or its successor fund or fund  
14 account, for moneys expended for personal services and operating expenses of  
15 administering and enforcing this act.

16 (c) At least once each fiscal year, the administrator shall transfer to  
17 the general revenues of the state all funds that have been collected and held  
18 for a full three (3) years, less the amount transferred to the State Central  
19 Services Fund, or its successor fund or fund account, as required by this act.

20 (d) Each bank depository of unclaimed property funds shall secure the  
21 funds to the extent of the amount of the balance of the funds any time on hand  
22 and in such manner as the administrator shall require.

23  
24 SECTION 14. CLAIM OF ANOTHER STATE TO RECOVER PROPERTY.

25 (a) After property has been paid or delivered to the administrator  
26 under this Act, another State may recover the property if:

27 (1) the property was paid or delivered to the custody of this  
28 State because the records of the holder did not reflect a last known location  
29 of the apparent owner within the borders of the other State and the other  
30 State establishes that the apparent owner or other person entitled to the  
31 property was last known to be located within the borders of that State and  
32 under the laws of that State the property has escheated or become subject to a  
33 claim of abandonment by that State;

34 (2) the property was paid or delivered to the custody of this  
35 State because the laws of the other State did not provide for the escheat or  
36 custodial taking of the property, and under the laws of that State

1 subsequently enacted the property has escheated or become subject to a claim  
2 of abandonment by that State;

3 (3) the records of the holder were erroneous in that they did not  
4 accurately identify the owner of the property and the last known location of  
5 the owner within the borders of another State and under the laws of that State  
6 the property has escheated or become subject to a claim of abandonment by that  
7 State;

8 (4) the property was subjected to custody by this State under  
9 Section 4(6) and under the laws of the State of domicile of the holder the  
10 property has escheated or become subject to a claim of abandonment by that  
11 State; or

12 (5) the property is a sum payable on a traveler's check, money  
13 order, or similar instrument that was purchased in the other State and  
14 delivered into the custody of this State under Section 4(7), and under the  
15 laws of the other State the property has escheated or become subject to a  
16 claim of abandonment by that State.

17 (b) A claim of another State to recover escheated or abandoned property  
18 must be presented in a form prescribed by the administrator, who shall decide  
19 the claim within ninety (90) days after it is presented. The administrator  
20 shall allow the claim upon determining that the other State is entitled to the  
21 abandoned property under subsection (a).

22 (c) The administrator shall require another State, before recovering  
23 property under this section, to agree to indemnify this State and its officers  
24 and employees against any liability on a claim to the property.

25  
26 SECTION 15. FILING CLAIM WITH ADMINISTRATOR; HANDLING OF CLAIMS BY  
27 ADMINISTRATOR.

28 (a) A person, excluding another State, claiming property paid or  
29 delivered to the administrator may file a claim on a form prescribed by the  
30 administrator and verified by the claimant.

31 (b) Within ninety (90) days after a claim is filed, the administrator  
32 shall allow or deny the claim and give written notice of the decision to the  
33 claimant. If the claim is denied, the administrator shall inform the claimant  
34 of the reasons for the denial and specify what additional evidence is required  
35 before the claim will be allowed. The claimant may then file a new claim with  
36 the administrator or maintain an action under Section 16.

1        (c) Within thirty (30) days after a claim is allowed, the property or  
2 the net proceeds of a sale of the property must be delivered or paid by the  
3 administrator to the claimant, together with any dividend, interest, or other  
4 increment to which the claimant is entitled under Sections 11 and 12.

5        (d) A holder who pays the owner for property that has been delivered to  
6 the State and which, if claimed from the administrator by the owner would be  
7 subject to an increment under Sections 11 and 12, may recover from the  
8 administrator the amount of the increment.

9  
10        SECTION 16. ACTION TO ESTABLISH CLAIM. A person aggrieved by a  
11 decision of the administrator or whose claim has not been acted upon within  
12 ninty (90) days after its filing may maintain an original action to establish  
13 the claim in the Pulaski County circuit court, naming the administrator as a  
14 defendant. If the aggrieved person establishes the claim in an action against  
15 the administrator, the court may award the claimant reasonable attorney's  
16 fees.

17  
18        SECTION 17. ELECTION TO TAKE PAYMENT OR DELIVERY.

19        (a) The administrator may decline to receive property reported under  
20 this Act which the administrator considers to have a value less than the  
21 expenses of notice and sale.

22        (b) A holder, with the written consent of the administrator and upon  
23 conditions and terms prescribed by the administrator, may report and deliver  
24 property before the property is presumed abandoned. Property so delivered  
25 must be held by the administrator and is not presumed abandoned until it  
26 otherwise would be presumed abandoned under this Act.

27  
28        SECTION 18. DESTRUCTION OR DISPOSITION OF PROPERTY HAVING NO  
29 SUBSTANTIAL COMMERCIAL VALUE; IMMUNITY FROM LIABILITY. If the administrator  
30 determines after investigation that property delivered under this Act has no  
31 substantial commercial value, the administrator may destroy or otherwise  
32 dispose of the property at any time. An action or proceeding may not be  
33 maintained against the State or any officer or against the holder for or on  
34 account of an act of the administrator under this section, except for  
35 intentional misconduct or malfeasance.

36

1 SECTION 19. PERIODS OF LIMITATION.

2 (a) The expiration, before or after the effective date of this Act, of  
3 a period of limitation on the owner's right to receive or recover property,  
4 whether specified by contract, statute, or court order, does not preclude the  
5 property from being presumed abandoned or affect a duty to file a report or to  
6 pay or deliver or transfer property to the administrator as required by this  
7 Act.

8 (b) An action or proceeding may not be maintained by the administrator  
9 to enforce this Act in regard to the reporting, delivery, or payment of  
10 property more than ten (10) years after the holder specifically identified the  
11 property in a report filed with the administrator or gave express notice to  
12 the administrator of a dispute regarding the property. In the absence of such  
13 a report or other express notice, the period of limitation is tolled. The  
14 period of limitation is also tolled by the filing of a report that is  
15 fraudulent.

16  
17 SECTION 20. REQUESTS FOR REPORTS AND EXAMINATION OF RECORDS.

18 (a) The administrator may require a person who has not filed a report,  
19 or a person who the administrator believes has filed an inaccurate,  
20 incomplete, or false report, to file a verified report in a form specified by  
21 the administrator. The report must state whether the person is holding  
22 property reportable under this Act, describe property not previously reported  
23 or as to which the administrator has made inquiry, and specifically identify  
24 and state the amounts of property that may be in issue.

25 (b) The administrator, at reasonable times and upon reasonable notice,  
26 may examine the records of any person to determine whether the person has  
27 complied with this Act. The administrator may conduct the examination even if  
28 the person believes it is not in possession of any property that must be  
29 reported, paid, or delivered under this Act. The administrator may contract  
30 with any other person to conduct the examination on behalf of the  
31 administrator.

32 (c) The administrator at reasonable times may examine the records of an  
33 agent, including a dividend disbursing agent or transfer agent, of a business  
34 association or financial association that is the holder of property presumed  
35 abandoned if the administrator has given the notice required by subsection (b)  
36 to both the association or organization and the agent at least ninety (90)

1 days before the examination.

2 (d) Documents and working papers obtained or compiled by the  
3 administrator, or the administrator's agents, employees, or designated  
4 representatives, in the course of conducting an examination are confidential  
5 and are not public records, but the documents and papers may be:

6 (1) used by the administrator in the course of an action to  
7 collect unclaimed property or otherwise enforce this Act;

8 (2) used in joint examinations conducted with or pursuant to an  
9 agreement with another State, the federal government, or any other  
10 governmental subdivision, agency, or instrumentality;

11 (3) produced pursuant to subpoena or court order; or

12 (4) disclosed to the abandoned property office of another State  
13 for that State's use in circumstances equivalent to those described in this  
14 subdivision, if the other State is bound to keep the documents and papers  
15 confidential.

16 (e) If an examination of the records of a person results in the  
17 disclosure of property reportable under this Act, the administrator may assess  
18 the cost of the examination against the holder at the rate of two hundred  
19 dollars (\$200) a day for each examiner, or a greater amount that is reasonable  
20 and was incurred, but the assessment may not exceed the value of the property  
21 found to be reportable. The cost of an examination made pursuant to  
22 subsection (c) may be assessed only against the business association or  
23 financial organization.

24 (f) If, after the effective date of this Act, a holder does not  
25 maintain the records required by Section 21 and the records of the holder  
26 available for the periods subject to this Act are insufficient to permit the  
27 preparation of a report, the administrator may require the holder to report  
28 and pay to the administrator the amount the administrator reasonably  
29 estimates, on the basis of any available records of the holder or by any other  
30 reasonable method of estimation, should have been but was not reported.

31  
32 SECTION 21. RETENTION OF RECORDS.

33 (a) Except as otherwise provided in subsection (b), a holder required  
34 to file a report under Section 7 shall maintain the records containing the  
35 information required to be included in the report for ten (10) years after the  
36 holder files the report, unless a shorter period is provided by rule of the

1 administrator.

2 (b) A business association or financial organization that sells,  
3 issues, or provides to others for sale or issue in this State, traveler's  
4 checks, money orders, or similar instruments other than third-party bank  
5 checks, on which the business association or financial organization is  
6 directly liable, shall maintain a record of the instruments while they remain  
7 outstanding, indicating the State and date of issue, for three (3) years after  
8 the holder files the report.

9  
10 SECTION 22. ENFORCEMENT. The administrator may maintain an action in  
11 this or another State to enforce this Act. The court may award reasonable  
12 attorney's fees to the prevailing party.

13  
14 SECTION 23. INTERSTATE AGREEMENTS AND COOPERATION; JOINT AND RECIPROCAL  
15 ACTIONS WITH OTHER STATES.

16 (a) The administrator may enter into an agreement with another State to  
17 exchange information relating to abandoned property or its possible existence.  
18 The agreement may permit the other State, or another person acting on behalf  
19 of a State, to examine records as authorized in Section 20. The administrator  
20 by rule may require the reporting of information needed to enable compliance  
21 with an agreement made under this section and prescribe the form.

22 (b) The administrator may join with another State to seek enforcement  
23 of this Act against any person who is or may be holding property reportable  
24 under this Act.

25 (c) At the request of another State, the attorney general of this State  
26 may maintain an action on behalf of the other State to enforce, in this State,  
27 the unclaimed property laws of the other State against a holder of property  
28 subject to escheat or a claim of abandonment by the other State, if the other  
29 State has agreed to pay expenses incurred by the attorney general in  
30 maintaining the action.

31 (d) The administrator may request that the attorney general of another  
32 State or another attorney commence an action in the other State on behalf of  
33 the administrator. With the approval of the attorney general of this State,  
34 the administrator may retain any other attorney to commence an action in this  
35 State on behalf of the administrator. This State shall pay all expenses,  
36 including attorney's fees, in maintaining an action under this subsection.

1 With the administrator's approval, the expenses and attorney's fees may be  
2 paid from money received under this Act. The administrator may agree to pay  
3 expenses and attorney's fees based in whole or in part on a percentage of the  
4 value of any property recovered in the action. Any expenses or attorney's  
5 fees paid under this subsection may not be deducted from the amount that is  
6 subject to the claim by the owner under this Act.

7  
8 SECTION 24. INTEREST AND PENALTIES.

9 (a) A holder who fails to report, pay, or deliver property within the  
10 time prescribed by this Act shall pay to the administrator interest at the  
11 annual rate of two percentage points above the annual rate of discount in  
12 effect on the date the property should have been paid or delivered for the  
13 most recent issue of 52-week United States Treasury bills on the property or  
14 value thereof from the date the property should have been reported, paid or  
15 delivered.

16 (b) Except as otherwise provided in subsection (c), a holder who fails  
17 to report, pay, or deliver property within the time prescribed by this Act, or  
18 fails to perform other duties imposed by this Act, shall pay to the  
19 administrator, in addition to interest as provided in subsection (a), a civil  
20 penalty of \$200 for each day the report, payment, or delivery is withheld, or  
21 the duty is not performed, up to a maximum of \$5,000.

22 (c) A holder who willfully fails to report, pay, or deliver property  
23 within the time prescribed by this Act, or willfully fails to perform other  
24 duties imposed by this Act, shall pay to the administrator, in addition to  
25 interest as provided in subsection (a), a civil penalty of \$1,000 for each day  
26 the report, payment, or delivery is withheld, or the duty is not performed, up  
27 to a maximum of \$25,000, plus twenty-five percent (25%) of the value of any  
28 property that should have been but was not reported.

29 (d) A holder who makes a fraudulent report shall pay to the  
30 administrator, in addition to interest as provided in subsection (a), a civil  
31 penalty of \$1,000 for each day from the date a report under this Act was due,  
32 up to a maximum of \$25,000, plus twenty-five percent (25%) of the value of any  
33 property that should have been but was not reported.

34 (e) The administrator for good cause may waive, in whole or in part,  
35 interest under subsection (a) and penalties under subsections (b) and (c), and  
36 shall waive penalties if the holder acted in good faith and without

1 negligence.

2  
3 SECTION 25. AGREEMENT TO LOCATE PROPERTY.

4 (a) An agreement by an owner, the primary purpose of which is to  
5 locate, deliver, recover, or assist in the recovery of property that is  
6 presumed abandoned is void and unenforceable if it was entered into during the  
7 period commencing on the date the property was presumed abandoned and  
8 extending to a time that is 24 months after the date the property is paid or  
9 delivered to the administrator. This subsection does not apply to an owner's  
10 agreement with an attorney to file a claim as to identified property or  
11 contest the administrator's denial of a claim.

12 (b) An agreement by an owner, the primary purpose of which is to  
13 locate, deliver, recover, or assist in the recovery of property is enforceable  
14 only if the agreement is in writing, provides for a fee of not more than ten  
15 percent (10%) of the recovery, clearly sets forth the nature of the property  
16 and the services to be rendered, is signed by the apparent owner, and states  
17 the value of the property before and after the fee or other compensation has  
18 been deducted.

19 (c) If an agreement covered by this section applies to mineral proceeds  
20 and the agreement contains a provision to pay compensation that includes a  
21 portion of the underlying minerals or any mineral proceeds not then presumed  
22 abandoned, the provision is void and unenforceable.

23 (d) An agreement covered by this section which provides for  
24 compensation that is unconscionable is unenforceable except by the owner. An  
25 owner who has agreed to pay compensation that is unconscionable, or the  
26 administrator on behalf of the owner, may maintain an action to reduce the  
27 compensation to a conscionable amount. The court may award reasonable  
28 attorney's fees to an owner who prevails in the action.

29 (e) This section does not preclude an owner from asserting that an  
30 agreement covered by this section is invalid on grounds other than  
31 unconscionable compensation.

32  
33 SECTION 26. FOREIGN TRANSACTIONS. This Act does not apply to property  
34 held, due, and owing in a foreign country and arising out of a foreign  
35 transaction.

1 SECTION 27. TRANSITIONAL PROVISIONS.

2 (a) An initial report filed under this Act for property that was not  
3 required to be reported before the effective date of this Act but which is  
4 subject to this Act must include all items of property that would have been  
5 presumed abandoned during the 10-year period next preceding the effective date  
6 of this Act as if this Act had been in effect during that period.

7 (b) This Act does not relieve a holder of a duty that arose before the  
8 effective date of this Act to report, pay, or deliver property. Except as  
9 otherwise provided in Section 19(b), a holder who did not comply with the law  
10 in effect before the effective date of this Act is subject to the applicable  
11 provisions for enforcement and penalties which then existed, which are  
12 continued in effect for the purpose of this section.

13  
14 SECTION 28. RULES. The administrator may adopt pursuant to the  
15 Administrative Procedures Act rules necessary to carry out this Act.

16  
17 SECTION 29. UNI FORMITY OF APPLICATION AND CONSTRUCTION. This Act shall  
18 be applied and construed to effectuate its general purpose to make uniform the  
19 law with respect to the subject of this Act among States enacting it.

20  
21 SECTION 30. SEVERABILITY CLAUSE. If any provision of this Act or the  
22 application thereof to any person or circumstance is held invalid, the  
23 invalidity does not affect other provisions or applications of this Act which  
24 can be given effect without the invalid provision or application, and to this  
25 end the provisions of this Act are severable.

26  
27 SECTION 31. All provisions of this act of a general and permanent  
28 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
29 Code Revision Commission shall incorporate the same in the Code.

30  
31 SECTION 32. All laws and parts of laws in conflict with this act are  
32 hereby repealed.

33  
34 SECTION 33. REPEALS. The following sections of the Arkansas Code are  
35 repealed:

36 (a) ACA §§ 18-28-201 through 18-28-214.

1           ~~§ 18-28-201. Definitions and use of terms.~~

2           ~~As used in this subchapter, unless the context otherwise requires:~~

3           ~~(1) "Banking organization" means any bank, trust company, savings bank,~~  
4 ~~industrial bank, land bank, safe deposit company, or a private banker engaged~~  
5 ~~in business in this state;~~

6           ~~(2) "Business association" means any corporation other than a public~~  
7 ~~corporation, joint stock company, business trust, partnership, or any~~  
8 ~~association for business purposes of two (2) or more individuals;~~

9           ~~(3) "Financial organization" means any savings and loan association,~~  
10 ~~building and loan association, credit union, cooperative bank, or investment~~  
11 ~~company engaged in business in this state;~~

12           ~~(4) "Holder" means any person in possession of property subject to this~~  
13 ~~subchapter belonging to another, or who is trustee in case of a trust, or is~~  
14 ~~indebted to another on an obligation subject to this subchapter;~~

15           ~~(5) "Life insurance corporation" means any association or corporation~~  
16 ~~transacting within this state the business of insurance on the lives of~~  
17 ~~persons, or insurance appertaining thereto, including, but not by way of~~  
18 ~~limitation, endowments and annuities;~~

19           ~~(6) "Owner" means a depositor in case of a deposit, a beneficiary in case~~  
20 ~~of a trust, a creditor, claimant, or payee in case of other choses in action,~~  
21 ~~or any person having a legal or equitable interest in property subject to this~~  
22 ~~subchapter, or his legal representative;~~

23           ~~(7) "Person" means any individual, business association, government or~~  
24 ~~political subdivision, public corporation, public authority, estate, trust,~~  
25 ~~two (2) or more persons having a joint or common interest, or any other legal~~  
26 ~~or commercial entity;~~

27           ~~(8) "Utility" means any person who owns or operates within this state for~~  
28 ~~public use, any plant, equipment, property, franchise, or license for the~~  
29 ~~transmission of communications or the production, storage, transmission, sale,~~  
30 ~~delivery, or furnishing of electricity, water, steam, or gas;~~

31           ~~(9) "Auditor" means the Auditor of the State of Arkansas or his designee;~~

32           ~~(10)(A) "Intangible property" includes:~~

33           ~~(i) Moneys, checks, drafts, deposits, interest, dividends, and income;~~

34           ~~(ii) Credit balances, customer overpayments, gift certificates,~~  
35 ~~security deposits, refunds, credit memos, unpaid wages, unused airline~~  
36 ~~tickets, and unidentified remittances;~~

1 ~~\_\_\_\_\_ (iii) Stocks and other intangible ownership interests in business~~  
2 ~~associations;~~

3 ~~\_\_\_\_\_ (iv) Moneys deposited to redeem stocks, bonds, coupons, and other~~  
4 ~~securities, or to make distributions;~~

5 ~~\_\_\_\_\_ (v) Amounts due and payable under the terms of insurance policies; and~~

6 ~~\_\_\_\_\_ (vi) Amounts distributable from a trust or custodial fund established~~  
7 ~~under a plan to provide health, welfare, pension, vacation, severance,~~  
8 ~~retirement, death, stock purchase, profit sharing, employee savings,~~  
9 ~~supplemental unemployment insurance, or similar benefits;~~

10 ~~\_\_\_\_\_ (B) [Repealed.]~~

11 ~~\_\_\_\_\_ (11) "Finders" means parties engaged in locating unclaimed property for a~~  
12 ~~fee of not more than ten percent (10%) of the value of the unclaimed property;~~

13 ~~\_\_\_\_\_ (12) "Gift certificates and credit memos" means that a gift certificate~~  
14 ~~or a credit memo issued in the ordinary course of the issuer's business which~~  
15 ~~remains unclaimed by the owner for more than seven (7) years after becoming~~  
16 ~~payable or distributable is presumed abandoned;~~

17 ~~\_\_\_\_\_ (A) In the case of a gift certificate, the amount presumed abandoned is~~  
18 ~~the price paid by the purchaser of the gift certificate;~~

19 ~~\_\_\_\_\_ (B) In the case of a credit memo, the amount presumed abandoned is the~~  
20 ~~amount credited to the recipient of the credit memo;~~

21 ~~\_\_\_\_\_ (13) "Wages, rents, and royalties" means unpaid wages, including wages~~  
22 ~~represented by unrepresented payroll checks, rents, and royalties, owing in the~~  
23 ~~ordinary course of the holder's business which remain unclaimed by the owner~~  
24 ~~for more than seven (7) years after becoming payable and are presumed~~  
25 ~~abandoned;~~

26 ~~\_\_\_\_\_ (14) "Underlying shares" means an ownership interest in a business~~  
27 ~~association, the evidence of which, generally a stock certificate, is in the~~  
28 ~~possession of the missing owner.~~

29 ~~\_\_\_\_\_ § 18-28-202. Property held by banking or financial organizations or by~~  
30 ~~business associations.~~

31 ~~\_\_\_\_\_ The following property held or owing by a banking or financial~~  
32 ~~organization or by a business association is presumed abandoned:~~

33 ~~\_\_\_\_\_ (a) Any demand, savings, or matured time deposit made in this state with~~  
34 ~~a banking organization, together with any interest or dividend thereon,~~  
35 ~~excluding any charges that may lawfully be withheld, unless the owner has~~  
36 ~~within seven (7) years:~~

1 ~~\_\_\_\_\_ (1) Increased or decreased the amount of the deposit, or presented the~~  
2 ~~passbook or other similar evidence of the deposit for the crediting of~~  
3 ~~interest; or~~

4 ~~\_\_\_\_\_ (2) Corresponded in writing with the banking organization concerning~~  
5 ~~the deposit; or~~

6 ~~\_\_\_\_\_ (3) Otherwise indicated an interest in the deposit as evidenced by a~~  
7 ~~memorandum on file with the banking organization, or unless the banking or~~  
8 ~~financial organization has corresponded with the owner of the property by mail~~  
9 ~~and said correspondence has not been returned unclaimed or undelivered to the~~  
10 ~~banking or financial organization by the postal service.~~

11 ~~\_\_\_\_\_ (b) Any funds paid in this state toward the purchase of shares or other~~  
12 ~~interest in a financial organization, or any deposit made therewith in this~~  
13 ~~state, and any interest or dividends thereon, excluding any charge that may~~  
14 ~~lawfully be withheld, unless the owner has within seven (7) years:~~

15 ~~\_\_\_\_\_ (1) Increased or decreased the amount of the funds or deposits, or~~  
16 ~~presented an appropriate record for the crediting of interest or dividends; or~~

17 ~~\_\_\_\_\_ (2) Corresponded in writing with the financial organization concerning~~  
18 ~~the funds or deposit; or~~

19 ~~\_\_\_\_\_ (3) Otherwise indicated an interest in the funds or deposit as~~  
20 ~~evidenced by a memorandum on file with the financial organization or unless~~  
21 ~~the banking or financial organization has corresponded with the owner of the~~  
22 ~~property by mail and said correspondence has not been returned unclaimed or~~  
23 ~~undelivered to the banking or financial organization by the postal service.~~

24 ~~\_\_\_\_\_ (c) Any sum payable on checks certified in this state or on written~~  
25 ~~instruments issued in this state on which a banking or financial organization~~  
26 ~~or business association is directly liable, including, by way of illustration~~  
27 ~~but not of limitation, certificates of deposit, drafts, money orders, and~~  
28 ~~traveler's checks, that, with the exception of traveler's checks, has been~~  
29 ~~outstanding for more than seven (7) years from the date it was payable, or~~  
30 ~~from the date of its issuance if payable on demand, or, in the case of~~  
31 ~~traveler's checks, that has been outstanding for more than fifteen (15) years~~  
32 ~~from the date of its issuance, unless the owner has within seven (7) years, or~~  
33 ~~within fifteen (15) years in the case of traveler's checks, corresponded in~~  
34 ~~writing with the banking or financial organization or business association~~  
35 ~~concerning it, or otherwise indicated an interest as evidenced by a memorandum~~  
36 ~~on file with the banking or financial organization or business association, or~~

1 ~~unless the banking or financial organization has corresponded with the owner~~  
2 ~~of the property by mail and said correspondence has not been returned~~  
3 ~~unclaimed or undelivered to the banking or financial organization by the~~  
4 ~~postal service.~~

5 ~~— (d) Any funds or other personal property, tangible or intangible, removed~~  
6 ~~from a safe deposit box or any other safekeeping repository or agency or~~  
7 ~~collateral deposit box in this state on which the lease or rental period has~~  
8 ~~expired due to nonpayment of rental charges or other reason, or any surplus~~  
9 ~~amounts arising from the sale thereof pursuant to law, that have been~~  
10 ~~unclaimed by the owner for more than seven (7) years from the date on which~~  
11 ~~the lease or rental period expired.~~

12 ~~— Provided, property held or owing by a banking or financial organization~~  
13 ~~which is part of a fund established by any organization or individual to~~  
14 ~~provide perpetual care for a cemetery or to provide funds to pay the burial~~  
15 ~~expenses of one (1) or more persons shall not be deemed abandoned and need not~~  
16 ~~be reported as provided in this subchapter.~~

17 ~~— § 18-28-203. Unclaimed funds held by life insurance corporations.~~

18 ~~— (a) Unclaimed funds, as defined in this section, held and owing by a~~  
19 ~~life insurance corporation shall be presumed abandoned if the last known~~  
20 ~~address, according to the records of the corporation, of the person entitled~~  
21 ~~to the funds is within this state. If a person other than the insured or~~  
22 ~~annuitant is entitled to the funds and no address of such person is known to~~  
23 ~~the corporation, or if it is not definite and certain from the records of the~~  
24 ~~corporation what person is entitled to the funds, it is presumed that the last~~  
25 ~~known address of the person entitled to the funds is the same as the last~~  
26 ~~known address of the insured or annuitant according to the records of the~~  
27 ~~corporation.~~

28 ~~— (b) "Unclaimed funds," as used in this section, means all moneys held and~~  
29 ~~owing by any life insurance corporation unclaimed and unpaid for more than~~  
30 ~~seven (7) years after the moneys became due and payable, as established from~~  
31 ~~the records of the corporation under any life or endowment insurance policy or~~  
32 ~~annuity contract which has matured or terminated. A life insurance policy not~~  
33 ~~matured by actual proof of the death of the insured is deemed to be matured~~  
34 ~~and the proceeds thereof are deemed to be due and payable if such policy was~~  
35 ~~in force when the insured attained the limiting age under the mortality table~~  
36 ~~on which the reserve is based, unless the person appearing entitled thereto~~

1 ~~has within the preceding seven (7) years:-~~

2 ~~— (1) Assigned, readjusted, or paid premiums on the policy, or subjected~~  
3 ~~the policy to loan; or~~

4 ~~— (2) Corresponded in writing with the life insurance corporation~~  
5 ~~concerning the policy. Moneys otherwise payable according to the records of~~  
6 ~~the corporation are deemed due and payable although the policy or contract has~~  
7 ~~not been surrendered as required.~~

8 ~~— § 18-28-204. Deposits and refunds held by utilities.~~

9 ~~— The following funds held or owing by any utility are presumed abandoned:-~~

10 ~~— (a) Any deposit made by a subscriber with a utility to secure payment~~  
11 ~~for, or any sum paid in advance for, utility services to be furnished in this~~  
12 ~~state, less any lawful deductions, that has remained unclaimed by the person~~  
13 ~~appearing on the records of the utility entitled thereto for more than seven~~  
14 ~~(7) years after the termination of the services for which the deposit or~~  
15 ~~advance payment was made.~~

16 ~~— (b) Any sum which a utility has been ordered to refund and which was~~  
17 ~~received for utility services rendered in this state, together with any~~  
18 ~~interest thereon, less any lawful deductions, that has remained unclaimed by~~  
19 ~~the person appearing on the records of the utility entitled thereto for more~~  
20 ~~than seven (7) years after the date it became payable in accordance with the~~  
21 ~~final determination or order providing for the refund.~~

22 ~~— § 18-28-205. Undistributed dividends and distributions of business~~  
23 ~~associations.~~

24 ~~— Any stock or other certificate of ownership, or any dividend, profit,~~  
25 ~~distribution, interest, payment on principal, or other sum held or owing by a~~  
26 ~~business association for, or to, a shareholder, certificate holder,~~  
27 ~~bondholder, or other security holder, who has not claimed it, or corresponded~~  
28 ~~in writing with the business association concerning it, within seven (7) years~~  
29 ~~after the date prescribed for payment or delivery, is presumed abandoned if:-~~

30 ~~— (a) It is held or owing by a business association organized under the~~  
31 ~~laws of, or created in, this state; or~~

32 ~~— (b) It is held or owing by a business association doing business in this~~  
33 ~~state, but not organized under the laws of, or created in, this state, and the~~  
34 ~~records of the business association indicate that the last known address of~~  
35 ~~the person entitled thereto is in this state.~~

36 ~~— (c) Underlying shares are presumed abandoned when the owner fails to~~

1 ~~exercise rights of ownership, including, but not limited to, cashing dividend~~  
2 ~~checks or communicating with the company which issued the stock within a~~  
3 ~~seven-year period. Underlying shares, regardless of when issued, shall be~~  
4 ~~considered subject to this subchapter.~~

5 ~~\_\_\_\_\_ § 18-28-206. Property of business associations and banking or financial~~  
6 ~~organizations held in course of dissolution.~~

7 ~~\_\_\_\_\_ All intangible personal property distributable in the course of a~~  
8 ~~voluntary dissolution of a business association, banking organization, or~~  
9 ~~financial organization organized under the laws of, or created in, this state~~  
10 ~~that is unclaimed by the owner within two (2) years after the date for final~~  
11 ~~distribution is presumed abandoned.~~

12 ~~\_\_\_\_\_ § 18-28-207. Property held by fiduciaries.~~

13 ~~\_\_\_\_\_ All intangible personal property, and any income or increment thereon,~~  
14 ~~held in a fiduciary capacity for the benefit of another person is presumed~~  
15 ~~abandoned unless the owner has, within seven (7) years after it becomes~~  
16 ~~payable or distributable, increased or decreased the principal, accepted~~  
17 ~~payment of principal or income, corresponded in writing concerning the~~  
18 ~~property, or otherwise indicated an interest as evidenced by a memorandum on~~  
19 ~~file with the fiduciary:~~

20 ~~\_\_\_\_\_ (a) If the property is held by a banking organization, or a financial~~  
21 ~~organization, or a business association organized under the laws of, or~~  
22 ~~created in, this state; or~~

23 ~~\_\_\_\_\_ (b) If it is held by a business association doing business in this state,~~  
24 ~~but not organized under the laws of, or created in, this state, and the~~  
25 ~~records of the business association indicate that the last known address of~~  
26 ~~the person entitled thereto is in this state; or~~

27 ~~\_\_\_\_\_ (c) If it is held in this state by any other person.~~

28 ~~History. Acts 1979, No. 256, § 7; A.S.A. 1947, § 50-626; Acts 1993, No. 1153,~~  
29 ~~§ 6.~~

30 ~~\_\_\_\_\_ § 18-28-208. Property held by state courts and public officers and~~  
31 ~~agencies.~~

32 ~~\_\_\_\_\_ (a) All intangible personal property held for the owner by any court,~~  
33 ~~public corporation, public authority, or public officer of this state, or a~~  
34 ~~political subdivision thereof, that has remained unclaimed by the owner for~~  
35 ~~more than seven (7) years is presumed abandoned. Unclaimed property held by~~  
36 ~~local courts, law enforcement officers, or elected public officials of a~~

~~political subdivision of this state shall be deposited by the holder in the county general fund wherein the holder is located.~~

~~— (b) All intangible property, including, but not limited to, any interest, dividend, or other earnings thereon, less any lawful charges, held by a business association, federal, state, or local government, or governmental subdivision, agency, or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within three (3) years after the date prescribed for payment or delivery, is presumed abandoned and subject to the custody of this state as unclaimed property if:~~

~~— (1) The last known address of the owner is in this state or is unknown; and~~

~~— (2) The person or entity originating or issuing the intangible property in this state or any political subdivision of this state, or is incorporated, organized, created or otherwise located in this state.~~

~~— (c) The provisions of subsection (b) of this section shall not apply to property which is or may be presumed abandoned and subject to the custody of this state pursuant to any other provision of law containing a dormancy period different than that prescribed in subsection (b) of this section.~~

~~— (d) The provisions of subsection (b) of this section shall apply to all property held at the time of enactment or at any time thereafter regardless of when such property became or becomes presumptively abandoned.~~

~~History. Acts 1979, No. 256, § 8; A.S.A. 1947, § 50-627; Acts 1991, No. 1245, § 1; 1992 (1st Ex. Sess.), No. 7, § 1; 1993, No. 1153, § 7; 1997, No. 1048, § 1.~~

~~— § 18-28-209. Miscellaneous personal property held for another person.~~

~~All intangible personal property, not otherwise covered by this subchapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven (7) years after it became payable or distributable is presumed abandoned.~~

~~— § 18-28-210. Reciprocity for property presumed abandoned or escheated under the laws of another state.~~

~~If specific property which is subject to the provisions of §§ 18-28-202, 18-28-205 - 18-28-207, and 18-28-209 is held for or owed or distributable to an owner whose last known address is in another state by a holder who is~~

1 ~~subject to the jurisdiction of that state, the specific property is not~~  
2 ~~presumed abandoned in this state and subject to this subchapter if:~~

3 ~~— (a) It may be claimed as abandoned or escheated under the laws of the~~  
4 ~~other state; and~~

5 ~~— (b) The laws of such other state make reciprocal provision that similar~~  
6 ~~specific property is not presumed abandoned or escheatable by such other state~~  
7 ~~when held for or owed or distributable to an owner whose last known address is~~  
8 ~~within this state by a holder who is subject to the jurisdiction of this~~  
9 ~~state.~~

10 ~~— § 18-28-211. Report of abandoned property.~~

11 ~~— (a) Every person holding funds or other property, tangible or~~  
12 ~~intangible, presumed abandoned under this subchapter shall report to the~~  
13 ~~Auditor of State with respect to the property as hereinafter provided.~~

14 ~~— (b) The report shall be verified and shall include:~~

15 ~~— (1) Except with respect to traveler's checks and money orders the name,~~  
16 ~~if known, and last known address, if any, of each person appearing from the~~  
17 ~~records of the holder to be the owner of any property of the value of one~~  
18 ~~hundred dollars (\$100) or more presumed abandoned under this subchapter;~~

19 ~~— (2) In the case of unclaimed funds of life insurance corporations, the~~  
20 ~~full name of the insured or annuitant and his last known address according to~~  
21 ~~the life insurance corporation's records;~~

22 ~~— (3) The nature and identifying number, if any, or description of the~~  
23 ~~property and the amount appearing from the records to be due, except that~~  
24 ~~items of value under one hundred dollars (\$100) each may be reported in~~  
25 ~~aggregate;~~

26 ~~— (4) The date when the property became payable, demandable, or returnable,~~  
27 ~~and the date of the last transaction with the owner with respect to the~~  
28 ~~property; and~~

29 ~~— (5) Other information which the Auditor of State prescribes by rule as~~  
30 ~~necessary for the administration of this subchapter.~~

31 ~~— (c) If the person holding property presumed abandoned is a successor to~~  
32 ~~other persons who previously held the property for the owner, or if the holder~~  
33 ~~has changed his name while holding the property, he shall file with his report~~  
34 ~~all prior known names and addresses of each holder of the property.~~

35 ~~— (d) The report shall be filed before November 1 of each year as of June~~  
36 ~~30 of the same year. The Auditor of State may postpone the reporting date upon~~

1 ~~written request by any person required to file a report.~~

2 ~~— (e) If the holder of property presumed abandoned under this subchapter~~  
3 ~~knows the whereabouts of the owner and if the owner's claim has not been~~  
4 ~~barred by the statute of limitations, the holder, before filing the annual~~  
5 ~~report, shall communicate with the owner and take necessary steps to prevent~~  
6 ~~abandonment from being presumed. The holder shall exercise due diligence to~~  
7 ~~ascertain the whereabouts of the owner.~~

8 ~~— (f) Verification, if made by a partnership, shall be executed by a~~  
9 ~~partner; if made by an unincorporated association or private corporation, by~~  
10 ~~an officer; and, if made by a public corporation, by its chief fiscal officer.~~

11 ~~— § 18-28-212. Notice and publication of lists of abandoned property.~~

12 ~~— (a) Within one hundred twenty (120) days from the filing of the report~~  
13 ~~required by § 18-28-211, the Auditor of State shall cause notice to be~~  
14 ~~published at least one (1) time each week for two (2) successive weeks in a~~  
15 ~~newspaper of general circulation in the county in this state in which is~~  
16 ~~located the last known address of any person to be named in the notice. If no~~  
17 ~~address is listed or if the address is outside this state, the notice shall be~~  
18 ~~published in the county in which the holder of the abandoned property has his~~  
19 ~~principal place of business within this state. After publication of the names~~  
20 ~~of the rightful owners, these names will become available for inspection by~~  
21 ~~the general public.~~

22 ~~— (b) The published notice shall be entitled "Notice of Names of Persons~~  
23 ~~Appearing to Be Owners of Abandoned Property", and shall contain:~~

24 ~~— (1) The names in alphabetical order and last known addresses, if any, of~~  
25 ~~persons listed in the report and entitled to notice within the county as~~  
26 ~~hereinbefore specified; and~~

27 ~~— (2) A statement that information concerning the amount or description of~~  
28 ~~the property and the name and address of the holder may be obtained by any~~  
29 ~~persons possessing an interest in the property by addressing an inquiry to the~~  
30 ~~Auditor of State.~~

31 ~~— (c) The Auditor of State is not required to publish in such notice any~~  
32 ~~item of less than one hundred dollars (\$100) unless he deems such publication~~  
33 ~~to be in the public interest.~~

34 ~~— (d) Within one hundred twenty (120) days from the receipt of the report~~  
35 ~~required by § 18-28-211, the Auditor of State shall mail a notice to each~~  
36 ~~person having an address listed therein who appears to be entitled to the~~

1 ~~property of the value of one hundred dollars (\$100) or more presumed abandoned~~  
2 ~~under this subchapter.~~

3 ~~— (e) The mailed notice shall contain a statement that, according to a~~  
4 ~~report filed with the Auditor of State, property is being held by the Auditor~~  
5 ~~of State to which the addressee appears entitled, and all further claims must~~  
6 ~~be directed to the Auditor of State.~~

7 ~~— (f) This section is not applicable to sums payable on traveler's checks~~  
8 ~~or money orders presumed abandoned under § 18-28-202.~~

9 ~~the first sentence of (a).~~

10 ~~— § 18-28-213. Payment or delivery of abandoned property.~~

11 ~~— Every person who has filed a report under § 18-28-211 or in the case of~~  
12 ~~sums payable on traveler's checks or money orders presumed abandoned under §~~  
13 ~~18-28-202 at the time of the filing of the report shall pay or deliver to the~~  
14 ~~Auditor of State all abandoned property specified in this report and remaining~~  
15 ~~unclaimed by the apparent owner.~~

16 ~~— § 18-28-214. Relief from liability by payment or delivery.~~

17 ~~— Upon the payment or delivery of abandoned property to the Auditor of~~  
18 ~~State, the state shall assume custody and shall be responsible for the~~  
19 ~~safekeeping thereof. Any person who pays or delivers abandoned property to the~~  
20 ~~Auditor of State under this subchapter is relieved of all liability to the~~  
21 ~~extent of the value of the property so paid or delivered for any claim which~~  
22 ~~then exists or which thereafter may arise or be made in respect to the~~  
23 ~~property. Any holder who has paid moneys to the Auditor of State pursuant to~~  
24 ~~this subchapter may make payment to any person appearing to such holder to be~~  
25 ~~entitled thereto, and upon proof of such payment and proof that the payee was~~  
26 ~~entitled thereto, the Auditor of State shall forthwith reimburse the holder~~  
27 ~~for the payment.~~

28 (b) ACA §§ 18-28-217 through 18-28-233.

29 § 18-28-217. Sale of abandoned property.

30 ~~— (a) All abandoned property, other than money, stocks, and bonds,~~  
31 ~~delivered to the Auditor of State under this subchapter shall, within three~~  
32 ~~(3) years after the delivery, be sold by him to the highest bidder at public~~  
33 ~~sale in whatever city in the state affords, in his judgment, the most~~  
34 ~~favorable market for the property involved. The Auditor of State may decline~~  
35 ~~the highest bid and reoffer the property for sale if he considers the price~~  
36 ~~bid insufficient. He need not offer any property for sale if, in his opinion,~~

1 ~~the probable cost of sale exceeds the value of the property.~~

2 ~~— (b) Any sale held under this section shall be preceded by a single~~  
3 ~~publication of notice thereof, at least three (3) weeks in advance of sale in~~  
4 ~~a newspaper of general circulation in the county where the property is to be~~  
5 ~~sold.~~

6 ~~— (c) The purchaser at any sale conducted by the Auditor of State pursuant~~  
7 ~~to this subchapter shall receive title to the property purchased free from all~~  
8 ~~claims of the owner or prior holder thereof and of all persons claiming~~  
9 ~~through or under them. The Auditor of State shall execute all documents~~  
10 ~~necessary to complete the transfer of title.~~

11 ~~— (d) The Auditor of the State shall sell any stocks or bonds delivered~~  
12 ~~under this subchapter on the open market at the then-current market value,~~  
13 ~~using a licensed broker.~~

14 ~~— § 18-28-218. Deposit of funds.~~

15 ~~— (a) All funds received under this subchapter, including the proceeds~~  
16 ~~from the sale of abandoned property under § 18-28-217, shall be deposited by~~  
17 ~~the Auditor of State in a special trust fund to be known as the "Unclaimed~~  
18 ~~Property Proceeds Trust Fund", from which he shall make prompt payment of~~  
19 ~~claims duly allowed by him as hereinafter provided. Such funds shall be~~  
20 ~~deposited in accounts in one (1) or more financial institutions authorized to~~  
21 ~~do business in this state to be administered in accordance with the laws of~~  
22 ~~this state pertaining to the appropriation, administration, and expenditure of~~  
23 ~~cash funds. Before making the deposit, he shall record the name and last~~  
24 ~~known address of each person appearing from the holder's reports to be~~  
25 ~~entitled to the abandoned property, and the name and last known address of~~  
26 ~~each insured or annuitant, and, with respect to each policy or contract listed~~  
27 ~~in the report of a life insurance corporation, its number, the name of the~~  
28 ~~corporation, and the amount due. The record shall be available for public~~  
29 ~~inspection at all reasonable business hours.~~

30 ~~— (b) At the end of each fiscal year, the Auditor of State shall withdraw~~  
31 ~~from the Unclaimed Property Proceeds Trust Fund an amount necessary to~~  
32 ~~reimburse the State Central Services Fund, or its successor fund or fund~~  
33 ~~account, for moneys expended for personal services and operating expenses of~~  
34 ~~administering and enforcing this subchapter.~~

35 ~~— (c) At least once each fiscal year, the Auditor of State shall transfer~~  
36 ~~to the general revenues of the State all funds that have been collected and~~

1 held for a full three (3) years, less the amount transferred to the State  
2 Central Services Fund, or its successor fund or fund account, as required by  
3 this subchapter.

4 ~~— (d) Each bank depository of unclaimed property funds shall secure the~~  
5 ~~funds to the extent of the amount of the balance of the funds at any time on~~  
6 ~~hand and in such manner as the Auditor of State shall require.~~

7 ~~— § 18-28-219. Claim for abandoned property paid or delivered.~~

8 ~~— Any person claiming an interest in any property delivered to the state~~  
9 ~~under this subchapter may file a claim thereto or to the proceeds from the~~  
10 ~~sale thereof on the form prescribed by the Auditor of State.~~

11 ~~— § 18-28-220. Determination of claims.~~

12 ~~— (a) The Auditor of State shall consider any claim filed under this~~  
13 ~~subchapter and may hold a hearing and receive evidence concerning it. If a~~  
14 ~~hearing is held, he shall prepare a finding and a decision in writing on each~~  
15 ~~claim filed, stating the substance of any evidence heard by him and the~~  
16 ~~reasons for his decision. The decision shall be a public record.~~

17 ~~— (b) If the claim is allowed, the Auditor of State shall make payment~~  
18 ~~forthwith. The claim shall be paid without deduction for costs of notices or~~  
19 ~~sale or for service charges, and any such claim paid shall include any~~  
20 ~~interest to which the owner would have been entitled had the property not been~~  
21 ~~presumed to be abandoned. Such interest shall not accrue more than seven (7)~~  
22 ~~years after such property has been determined to be abandoned.~~

23 ~~— (c) The Auditor of State shall not consider any claim filed under this~~  
24 ~~subchapter where a finder has charged a fee of over ten percent (10%) of the~~  
25 ~~total amount of the claim.~~

26 ~~— (d) The Auditor of State shall not consider any claim unless filed within~~  
27 ~~three (3) years after the Auditor of State has taken possession of the~~  
28 ~~unclaimed property.~~

29 ~~— § 18-28-221. Judicial action upon determinations.~~

30 ~~— Any person aggrieved by a decision of the Auditor of State or as to~~  
31 ~~whose claim the Auditor of State has failed to act within ninety (90) days~~  
32 ~~after the filing of the claim may commence an action in the Circuit Court of~~  
33 ~~Pulaski County to establish his claim. The proceeding shall be brought within~~  
34 ~~ninety (90) days after the decision of the Auditor of State or within one~~  
35 ~~hundred eighty (180) days from the filing of the claim if the Auditor of State~~  
36 ~~fails to act. The action shall be tried de novo without a jury.~~

1 ~~\_\_\_\_\_ § 18-28-222. Election to take payment or delivery.~~

2 ~~\_\_\_\_\_ The Auditor of State, after receiving reports of property deemed~~  
3 ~~abandoned pursuant to this subchapter, may decline to receive any property~~  
4 ~~reported which he deems to have a value less than the cost of giving notice~~  
5 ~~and holding sale, or he may, if he deems it desirable because of the small sum~~  
6 ~~involved, postpone taking possession until a sufficient sum accumulates.~~  
7 ~~Unless the holder of the property is notified to the contrary within one~~  
8 ~~hundred twenty (120) days after filing the report required under § 18-28-211,~~  
9 ~~the Auditor of State shall be deemed to have elected to receive the custody of~~  
10 ~~the property.~~

11 ~~\_\_\_\_\_ § 18-28-223. Examination of records.~~

12 ~~\_\_\_\_\_ The Auditor of State may at reasonable times and upon reasonable notice~~  
13 ~~examine the records of any person if he has reason to believe that such person~~  
14 ~~has failed to report property that should have been reported pursuant to this~~  
15 ~~subchapter.~~

16 ~~\_\_\_\_\_ § 18-28-224. Proceeding to compel delivery of abandoned property.~~

17 ~~\_\_\_\_\_ If any persons refuse to deliver property to the Auditor of State as~~  
18 ~~required under this subchapter, the Auditor of State shall bring an action in~~  
19 ~~a court of appropriate jurisdiction to enforce such delivery.~~

20 ~~History. Acts 1979, No. 256, § 23; 1985, No. 780, § 15; A.S.A. 1947, § 50-642.~~

21 ~~\_\_\_\_\_ § 18-28-225. Penalties.~~

22 ~~\_\_\_\_\_ (a) Any person who fails to report, pay, or deliver property within the~~  
23 ~~time prescribed by this subchapter or perform other duties required under this~~  
24 ~~subchapter, shall pay to the Auditor of State a civil penalty of one hundred~~  
25 ~~dollars (\$100) for each day such report, payment, or delivery is withheld, or~~  
26 ~~the duty is not performed, but not more than one thousand dollars (\$1,000).~~

27 ~~\_\_\_\_\_ (b) The Auditor of State may waive, in whole or in part, penalties under~~  
28 ~~subsection (a) of this section.~~

29 ~~\_\_\_\_\_ § 18-28-226. Rules and regulations.~~

30 ~~\_\_\_\_\_ The Auditor of State is authorized to make necessary rules and~~  
31 ~~regulations to carry out the provisions of this subchapter.~~

32 ~~\_\_\_\_\_ § 18-28-227. Effect of laws of other states.~~

33 ~~\_\_\_\_\_ This subchapter shall not apply to any property that has been presumed~~  
34 ~~abandoned or escheated under the laws of another state prior to July 1, 1979.~~

35 ~~\_\_\_\_\_ § 18-28-228. [Reserved.]~~

36 ~~\_\_\_\_\_ § 18-28-229. Uniformity of interpretation.~~

1 ~~\_\_\_\_\_ This subchapter shall be so construed as to effectuate its general~~  
2 ~~purpose to make uniform the law of those states which enact it.~~

3 ~~\_\_\_\_\_ § 18-28-230. Short title.~~

4 ~~\_\_\_\_\_ This subchapter may be cited as the "Uniform Disposition of Unclaimed~~  
5 ~~Property Act."~~

6 ~~\_\_\_\_\_ § 18-28-231. Repeal - Effect of subchapter upon other acts.~~

7 ~~\_\_\_\_\_ Acts 1949, No. 229, and all laws and parts of laws in conflict with this~~  
8 ~~subchapter are repealed. Nothing in this subchapter shall affect or repeal~~  
9 ~~Acts 1971, No. 383.~~

10 ~~\_\_\_\_\_ § 18-28-232. Effective date.~~

11 ~~\_\_\_\_\_ It is found and determined by the Seventy-Second General Assembly of the~~  
12 ~~State of Arkansas that the present Arkansas law pertaining to the escheat of~~  
13 ~~abandoned property is inadequate, ineffective, and inefficient and that this~~  
14 ~~subchapter is necessary to provide for the efficient and expedient escheat to~~  
15 ~~the state of abandoned property. Therefore, an emergency is declared to exist,~~  
16 ~~and this subchapter being immediately necessary for the preservation of the~~  
17 ~~public peace, health, and safety shall be in full force and effect from and~~  
18 ~~after July 1, 1979.~~

19 ~~\_\_\_\_\_ § 18-28-233. Records maintenance requirement.~~

20 ~~\_\_\_\_\_ (a) Any banking organization, business association, financial~~  
21 ~~organization, holder, life insurance corporation, or utility, as defined under~~  
22 ~~the provisions of this subchapter, shall maintain any record pertaining to any~~  
23 ~~property subject to the provisions of this subchapter for a period of at least~~  
24 ~~two (2) years beyond the expiration of the seven-year period required for~~  
25 ~~claiming property from the holder.~~

26 ~~\_\_\_\_\_ (b) This section shall become effective for holders acquiring property~~  
27 ~~subject to the provisions of this subchapter on or after January 1, 1994.~~

28 ~~\_\_\_\_\_ (c) ACA §§ 18-28-301 through 18-28-303.~~

29 ~~\_\_\_\_\_ § 18-28-301. Action brought at the request of another state.~~

30 ~~\_\_\_\_\_ At the request of another state, the Auditor of the State of Arkansas~~  
31 ~~may bring an action in the name of the administrator of the other state, in~~  
32 ~~any court of appropriate jurisdiction to enforce the unclaimed property laws~~  
33 ~~of the other state against a holder in this state of property subject to~~  
34 ~~escheat or claim of abandonment by the other state, if the other state has~~  
35 ~~agreed to pay the expenses incurred by the Auditor of State in bringing the~~  
36 ~~action.~~

1 ~~§ 18-28-302. Request that action be brought in another state.~~

2 ~~(a) The Auditor of the State of Arkansas may request that the~~  
3 ~~administrator of another state or any other person bring an action in the name~~  
4 ~~of the Auditor of State in any other state.~~

5 ~~(b)(1) This state shall pay all expenses including attorney's fees in any~~  
6 ~~action under this subsection.~~

7 ~~(2) The Auditor of State may agree to pay the person bringing the action~~  
8 ~~an attorney's fee which is based in whole or in part on a percentage of the~~  
9 ~~value of any property recovered in the action.~~

10 ~~(3) Any expenses paid pursuant to this subsection may not be deducted~~  
11 ~~from the amount that is subject to the claim by the owner in accordance with~~  
12 ~~this subchapter.~~

13 ~~(c) The Auditor of State may enter into a contract with a firm or firms~~  
14 ~~or individual for performance of such services as may be necessary to locate,~~  
15 ~~obtain, protect, and transmit unclaimed property located in other states and~~  
16 ~~belonging to owners with last known addresses in Arkansas, with such firm or~~  
17 ~~firms or individual entitled to retain or be paid a portion of the abandoned~~  
18 ~~property at an agreed upon fee for his services.~~

19 ~~§ 18-28-303. Agreements to provide information to other states --~~  
20 ~~Reporting.~~

21 ~~(a) The Auditor of the State of Arkansas may enter into an agreement~~  
22 ~~to provide information needed to enable another state to audit or otherwise~~  
23 ~~determine unclaimed property it may be entitled to escheat or subject to a~~  
24 ~~claim of custody as abandoned property.~~

25 ~~(b) The Auditor of the State of Arkansas may by rule require the~~  
26 ~~reporting of information needed to enable him to comply with agreements made~~  
27 ~~pursuant to this section and may prescribe the form, including verification of~~  
28 ~~the information to be reported and the times for filing the reports.~~

29 /s/ Webb

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