

No. 111 Original

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IN THE  
Supreme Court of the United States

OCTOBER TERM, 1988

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STATE OF DELAWARE,  
*Plaintiff,*

STATE OF TEXAS,  
*Plaintiff-Intervenor,*

v.

STATE OF NEW YORK,  
*Defendant.*

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APPENDIX TO THE BRIEF OF THE STATES OF  
ALABAMA, HAWAII, ILLINOIS, INDIANA, KANSAS,  
LOUISIANA, MONTANA, NEVADA, OKLAHOMA,  
SOUTH DAKOTA, UTAH AND WASHINGTON, AND  
THE COMMONWEALTHS OF KENTUCKY AND  
PENNSYLVANIA IN SUPPORT OF MOTION FOR  
LEAVE TO FILE COMPLAINT IN INTERVENTION

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## APPENDIX

RELEVANT PROVISIONS OF PLAINTIFFS' IN  
INTERVENTION UNCLAIMED PROPERTY STATUTES

## ALABAMA

Ala. Code §§ 35-12-21 to 35-12-33 (1977)

## § 35-12-21. Definitions.

As used in this article, unless the context otherwise requires, the following terms shall have the meanings respectively ascribed to them by this section:

\* \* \* \*

(2) BUSINESS ASSOCIATION. Any corporation other than a public corporation, joint stock company, business trust, partnership, broker or any association for business purposes of two or more individuals.

(3) FINANCIAL ORGANIZATION. Any savings and loan association, building and loan association, industrial loan organization, credit union, cooperative bank or investment company engaged in business in this state.

(4) HOLDER. Any person in possession of property subject to this article belonging to another, or who is trustee in case of a trust or is indebted to another on an obligation subject to this article.

\* \* \* \*

(6) OWNER. A depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this article, or his legal representative.

(7) PERSON. Any individual, business association, government or political subdivision, public corporation, public authority, public official, estate, trust, two or more persons having a joint or common interest or any other legal or commercial entity.

\* \* \* \*

§ 35-12-25. Undistributed dividends and distributions of business associations.

Any stock or other certificate of ownership, or any dividend, profit, distribution, royalty, interest, payment on principal, or other sum held or owing by a business association, broker or person for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it or corresponded in writing with the business association, broker or person concerning it within seven years after the date prescribed for payment or delivery is presumed abandoned if:

(1) It is held or owing by a business association, broker or person organized under the laws of or created in this state; or

(2) It is held or owing by a business association, broker or person doing business in this state, but not organized under the laws of or created in this state, and the records of the business association, broker or person indicate that the last known address of the person entitled thereto is in this state.

\* \* \* \*

§ 35-12-27. Intangible property held by fiduciaries.

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person, is presumed abandoned unless the owner has, within seven years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, cor-

responded in writing concerning the property or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(1) If the property is held by a banking organization or a financial organization or by a business association organized under the laws of or created in this state; or

(2) If it is held by a business association, a banking organization or a financial organization doing business in this state, but not organized under the laws of or created in this state, and the records of the business association, a banking organization or a financial organization indicate that the last known address of the person entitled thereto is in this state; or

(3) If it is held in this state by another person.

\* \* \* \*

§ 35-12-29. Miscellaneous personal property not otherwise covered by article.

All tangible and intangible personal property, not otherwise covered by this article, including, but not limited to and by way of illustration, money, stocks, bonds, certificates of membership in corporations, income, amounts due and payable under the terms of insurance policies not covered by section 35-12-23, pension trust agreements, profit-sharing plans, security deposits, refunds, funds deposited to redeem stocks, bonds, coupons and other securities, or to make a distribution thereof, together with any income, interest 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 years after it became payable or distributable is presumed abandoned; provided, that unclaimed or unpaid wages and salaries which have remained unclaimed

by the owner for more than one year after becoming payable are presumed abandoned.

\* \* \* \*

§ 35-12-31. Report of abandoned property.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this article shall report to the commissioner of revenue with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of \$10.00 or more presumed abandoned under this section;

\* \* \* \*

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

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

(5) Other information which the commissioner of revenue prescribes by rule as necessary for the administration of this article.

\* \* \* \*

(d) Reports required under this article shall be filed before November 1 of each year as of June 30 next preceding, but the reports filed by insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The commissioner of revenue may postpone the reporting date upon written request by any person required to file a report.



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

\* \* \* \*

§ 35-12-32. Notices to be published and mailed by commissioner of revenue.

\* \* \* \*

(e) The mailed notice shall contain:

(1) A statement that, according to a report filed with the commissioner of revenue, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the commissioner of revenue to whom all further claims must be directed.

\* \* \* \*

§ 35-12-33. Payment or delivery of abandoned property—Generally.

Every person who has filed a report under section 35-12-31, within 20 days after the time specified in section 35-12-32 for claiming the property from the holder or, in the case of sums payable on traveler's checks or money orders presumed abandoned under section 35-12-22, within 20 days after the filing of the report, shall pay

or deliver to the commissioner of revenue all abandoned property specified in the report; except, that if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section 35-12-32, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the commissioner of revenue, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

\* \* \* \*

## HAWAII

Haw. Rev. Stat. §§ 523A-1 to 523A-19  
(1985 & Supp. 1987)

§ 523A-1. Definitions and use of terms.

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

“Apparent owner” means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

“Attorney general” means the chief legal officer of this State.

\* \* \* \*

“Business association” means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

“Director” means the director of finance.

“Domicile” means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

“Financial organization” means a savings and loan association, cooperative bank, building and loan association, or credit union.

“Holder” means a person, wherever organized or domiciled, who is:

- (1) In possession of property belonging to another,
- (2) A trustee, or
- (3) Indebted to another on an obligation.

\* \* \* \*

“Intangible property” includes:

- (1) Moneys, checks, drafts, deposits, interest, dividends, and income;
- (2) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, payroll checks, unused airline tickets, and unidentified remittances;
- (3) Stocks and other intangible ownership interests in business associations;
- (4) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;
- (5) Checks payable under the terms of insurance policies; and
- (6) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

“Last known address” means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

“Owner” means a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other tangible property, or a person having a legal or equitable interest in property subject to this chapter or a person’s legal representative.

“Person” means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or

common interest, or any other legal or commercial entity.

\* \* \* \*

§ 523A-2. Property presumed abandoned; general rule.

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

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

§ 523A-3. General rules for taking custody of intangible unclaimed property.

Unless otherwise provided in this chapter or by other statute of this State, intangible property is subject to the custody of this State as unclaimed property if the conditions raising a presumption of abandonment under sections 523A-2 and 523A-5 to 523A-16 are satisfied and:

- (1) The last known address of the apparent owner, as shown on the records of the holder, is in this State;
- (2) The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;
- (3) The records of the holder do not reflect the last known address of the apparent owner, and it is established that:
  - (A) The last known address of the person entitled to the property is in this State, or
  - (B) The holder is a domiciliary or a government or governmental subdivision or agency of this

State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;

- (4) The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of this State;
- (5) The last known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this State; or
- (6) The transaction out of which the property arose occurred in this State, and:
  - (A) (i) The last known address of the apparent owner or other person entitled to the property is unknown, or
  - (ii) The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property, and
  - (B) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

§ 523A-10. Stock and other intangible interest in business associations.

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

- (1) Communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or
- (2) Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

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

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

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

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

\* \* \* \*

#### § 523A-12. Property held by agents and fiduciaries.

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

(b) Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the Internal



Revenue laws of the United States are not payable or distributable within the meaning of subsection (a) unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

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

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

\* \* \* \*

#### § 523A-17. Report of abandoned property.

(a) A person holding property tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the director concerning the property as provided in this section.

(b) The report shall be verified and shall include:

- (1) Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of \$50 or more presumed abandoned under this chapter;

\* \* \* \*

- (4) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under \$50 each may be reported in the aggregate;

- (5) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property; and
- (6) Other information the director prescribes by rule as necessary for the administration of this chapter.

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

(d) The report shall be filed before November 1 of each year as of June 30, next preceding, but the report of any life insurance company shall be filed before May 1 of each year as of December 31 next preceding. On written request by any person required to file a report, the director may postpone the reporting date.

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

- (1) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate,
- (2) The claim of the apparent owner is not barred by the statute of limitations, and
- (3) The property has a value of \$50 or more.

§ 523A-19. Payment or delivery of abandoned property.

(a) Except as otherwise provided in subsections (b) and (c), a person who is required to file a report under section 523A-17, within six months after the final date for filing the report as required by section 523A-17, shall pay or deliver to the director all abandoned property required to be reported.

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

(c) Property reported under section 523A-17 for which the holder is not required to report the name of the apparent owner shall be delivered to the director at the time of filing the report.

(d) The holder of an interest under section 523A-10 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the director. Upon delivery of a duplicate certificate to the director, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with section 523A-20 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the director, for any losses or damages resulting to any person by the issuance and delivery to the director of the duplicate certificate.

\* \* \* \*

## ILLINOIS

Ill. Rev. Stat. ch. 141, §§ 101 to 111  
(1986 & Supp. 1988)

§ 101. Definitions.

1. As used in this Act, unless the context otherwise requires:

\* \* \* \*

(b) "Business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of 2 or more individuals.

(c) "Financial organization" means any savings and loan association, building and loan association, credit union, currency exchange, co-operative bank or investment company, engaged in business in this State.

(d) "Holder" means any person in possession of property subject to this Act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this Act.

\* \* \* \*

(f) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this Act, or his legal representative.

(g) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

\* \* \* \*

(i) "Director" means the Director of the Illinois Department of Financial Institutions.

\* \* \* \*

¶ 102a. Business associations—Report of unclaimed property and earnings—Property included.

2a. Business associations shall report all property and any earnings thereon which has remained unclaimed for 7 years and is therefore presumed abandoned. This property shall consist of, but is not limited to: (1) unclaimed wages, (2) deposits or payment for repair or purchase of goods or services, (3) credit checks or memos, or customer overpayments, (4) stocks, bonds and interest and dividends therefrom, (5) unidentified remittances, unrefunded overcharges, (6) unpaid claims, unpaid accounts payable or unpaid commissions, and (7) credit balances-accounts receivable, checks written off, employee bond buying and profit-sharing.

\* \* \* \*

¶ 107. Property held in fiduciary capacity—Presumption of abandonment.

7. All intangible personal property and any income or increment thereon, held in a fiduciary capacity (other than as trustee of an active express trust) for the benefit of another person is presumed abandoned unless the owner has, within 7 years after it becomes payable or distributable, increased or deceased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary;

(a) If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this State; or

(b) If it is held by a business association, doing business in this State, but not organized under the laws of or created in this State, and the records of the business association indicate that the last known address of the person entitled thereto is in this State; or

(c) If it is held in this State by any other person.

\* \* \* \*

¶ 109. Property not otherwise covered by Act—Presumption of abandonment.

9. All intangible personal property, not otherwise covered by this Act, 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 7 years after it became payable or distributable is presumed abandoned. This provision shall not apply to intangible personal property held prior to October 1, 1968 by business associations. Property remitted to the State pursuant to this Act, prior to the effective date of this amendatory Act of 1982, shall not be affected by this amendatory Act of 1982.

\* \* \* \*

¶ 111. Report of custodians.

11. (a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this Act shall report to the Director with respect to the property as hereinafter provided.

(b) The information shall be obtained in one or more reports as required by the Director. The information shall be verified and shall include:

(1) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of \$25 or more presumed abandoned under this Act;

\* \* \* \*

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value of \$100 or less each may be reported in aggregate;

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

(5) Other information which the Director prescribes by rule as necessary for the administration of this Act.

\* \* \* \*

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 as the case may be. The Director may postpone the reporting date upon written request by any person required to file a report.

(e) Before filing the annual report the holder of property presumed abandoned under this Act shall communicate with the owner at his last known address if any address is known to the holder, setting forth the provisions hereof necessary to occur in order to prevent abandonment from being presumed.

\* \* \* \*

(g) Any person who has possession of property which he has reason to believe will be reportable in the future as unclaimed property, may report and deliver it prior to the date required for such reporting in accordance with this Section and is then relieved of responsibility as provided in Section 14.

(h) Accounting records pertaining to property presumed abandoned shall be retained until the property is delivered to the Director.

\* \* \* \*

¶ 113. Delivery of property to director—Exception—  
Proof of claim.

13. Every person who has filed a report as provided by Section 11 shall within 20 days after the time specified in Section 12 for claiming the property from the holder

pay or deliver to the Director all abandoned property specified in the report after first deducting therefrom actual costs of mailing. Any such person, who pursuant to a statutory requirement, filed a bond or bonds pertaining to such abandoned property with the Director or his predecessor, may also deduct an amount equivalent to that part of the bond premium attributable to such abandoned property. Provided, however, that if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in Section 12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the Director, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

\* \* \* \*



## INDIANA

Ind. Code Ann. §§ 32-9-1-3 to 32-9-1-17  
(1979 & Supp. 1988)

§ 32-9-1-3. Definitions and use of terms.

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

(a) "Attorney General" means the attorney general of the state of Indiana or his deputy or representative duly designated in writing.

\* \* \* \*

(c) "Business association" means any corporation, including both for profit and not-for-profit corporations, joint stock company, business trust, partnership, eleemosynary organization or cooperative association and every other association or organization of two [2] or more individuals.

(d) "Engaging in business in this state" means the engaging in any transaction or the doing of any business within this state, including, but not limited to, the owning or holding of property in this state or holding property for a person whose last known name and address as shown on the books and records of the holder is in this state.

(e) "Financial organization" means any savings and loan association, either state or national, building and loan association, either state or national, industrial loan company, credit union, business association which issues traveler's checks, rural loan and savings association, guaranty loan and savings association, mortgage guarantee company, savings bank, small loan company or investment company engaged in business in this state.

(f) "Holder" means any person having possession, custody or control of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

(g) "Intangible personal property" means intangible personal property, of every kind or description, and includes, but not by way of limitation[:]

(1) money;

(2) bills of exchange;

(3) stocks, bonds and other securities;

\* \* \* \*

(6) dividends, cash or stock;

(7) certificates of membership in a corporation or association;

(8) amounts due and payable pursuant to the terms of any policy of insurance; also moneys held and owing by any life insurance company engaged in business in this state;

\* \* \* \*

(10) funds deposited by a holder with fiscal agents or fiduciaries for payment to an owner of dividends, coupon interest and liquidation value of stocks and bonds;

(11) funds to redeem stocks and bonds;

\* \* \* \*

(13) money owing under profit-sharing plans;

(14) funds deposited to reedeem stocks, bonds, coupons and other securities, or to make a distribution thereof, together with any interest thereon; and

(15) all other liquidated choses in action of whatsoever kind or character.

\* \* \* \*

(i) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject

to this chapter, or his heirs, legal representative, successor or assign.

(j) "Person" means any individual, business association, banking organization, financial organization public authority, estate, trust, two [2] or more persons having a joint or common interest, or any other legal or commercial entity; the United States government, including any officer, agency, department, authority, instrumentality, board, bureau, or court thereof, and any corporation organized by the United States for public purposes; the state of Indiana, including any officer, agency, board, bureau, commission, division, department or court thereof or any body politic and corporate created by the state of Indiana for public purposes, and any political subdivision of the state of Indiana, including any municipality, county, civil township, civil incorporated city or town, any public school corporation, and university or college supported in part by state funds, any other territorial subdivision of the state recognized or designated in any law, including judicial circuits, any public utility entity not privately owned, any special taxing district or entity and any public improvement district authority or entity authorized to levy taxes or assessments, but shall not include any retirement system supported entirely or in part by the state of Indiana.

\* \* \* \*

§ 32-9-1-7-1. (House Enrolled Bill No. 1960 eff. July 1, 1989).

(a) Except as provided in subsections (b) and (e), stock or other intangible ownership interest in a business association, a banking organization, or a financial organization the existence of which is evidenced by records available to the organization or association is presumed abandoned and, with respect to the interest, the organization or association is the holder if a dividend, distribution, or other sum payable as a result of the interest

has remained unclaimed by the owner for seven (7) years and the owner within seven (7) years has not:

(1) communicated in writing with the business association, or the banking or financial organization regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or

(2) otherwise communicated with the business association or the banking or financial organization regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association or organization prepared by an employee of the association or organization.

(b) At the expiration of a seven (7) year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least seven (7) dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If seven (7) dividends, distributions, or other sums are paid during the seven (7) year period, the period leading to a presumption of abandonment commences on the date payment of the first unclaimed dividends, distributions, or other sum became due and payable. If seven (7) dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been seven (7) dividends, distributions, or other sums that have not been claimed by the owner.

(c) The running of the seven (7) year period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection (a). If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

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

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

(§ 32-9-1-7 is repealed)

\* \* \* \*

#### § 32-9-1-9. Presumption of abandonment; intangible personal property; fiduciaries.

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within seven (7) years after the final date for distribution of such property and the cessation of all active fiduciary duties as required by law or the instrument under which the fiduciary is acting, increased or decreased the principal, accepted payment of principal or income, corresponded in writing with the fiduciary concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

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

(b) If it is held by a business association, banking or financial organization engaged in business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate

that the last known address of the person entitled thereto is in this state; or

(c) If it is held in this state by any other person.

\* \* \* \*

§ 32-9-1-11. Intangible personal property unclaimed for seven years; presumption.

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

\* \* \* \*

§ 32-9-1-15. Presumption of abandonment; reports.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the attorney general of the state of Indiana with respect to the property as provided in this section.

(b) The report shall be verified and shall include:

(1) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under fifty dollars (\$50.00) each may be reported in aggregate in the absence of a request by the attorney general to the holder that such items be reported individually;

(2) the name, the United States social security account number, and the United States income tax number, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of fifty dollars (\$50.00) or more presumed abandoned under this chapter;

\* \* \* \*

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

(5) Other information which the attorney general prescribes by rule as necessary for the administration of this chapter.

\* \* \* \*

(d) The reports required by this section shall be filed before November first of each year as of June thirtieth next preceding, but the report of life insurance companies shall be filed before May first of each year as of December thirty-first next preceding. The attorney general may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by a statute of limitations, the holder shall, before filing the annual report, attempt to communicate with the owner so that the owner may take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner. A notice from the holder to the owner sent to the owner's last known address by United States mail, postage prepaid, shall satisfy the requirements of this subsection.

(f) Each:

\* \* \* \*

(2) Business association;

(3) Financial organization;

that has not held abandoned property during the previous reporting year shall file a report concerning abandoned property only if the attorney general or his representative makes a written request for the report.

\* \* \* \*

§ 32-9-1-17. Delivery of property to attorney general; requisites; procedures.

Every holder of property presumed to be abandoned under this chapter shall pay or deliver all such property to the attorney general. Every person who has filed a report as provided by section 15 [32-9-1-15] of this chapter shall within twenty-five (25) days after the date specified in the notice published pursuant to section 16 [32-9-1-16] of this chapter for claiming the property from the holder pay or deliver to the attorney general all abandoned property specified in the report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section 16 [32-9-1-16] of this chapter, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the attorney general, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment. Every holder of property presumed to be abandoned under this chapter who fails to file the report required by section 15 [32-9-1-15] of this chapter shall within twenty-five (25) days after the date on which the report was due pay or deliver to the attorney general all property presumed abandoned which he holds.

When the property to be delivered to the attorney general is either an ownership interest normally evidenced by a certificate of ownership or an ownership of a debt normally evidenced by a written instrument and is considered abandoned pursuant to section 7 [32-9-1-7] of this chapter, any business association, banking or financial organization in which the ownership interest is owned or which is the creditor, shall transfer the ownership interest or the ownership of the debt to the state of Indiana by the issuance of a new certificate of ownership, or written instrument evidencing the debt, as the case may require, in the name of the state of Indiana



and the delivery of such certificate or instrument to the attorney general. Upon delivery of a duplicate certificate to the attorney general, the holder and any transfer agent, registrar or other person acting for or on behalf of the holder in executing or delivering such duplicate certificate are relieved from all liability of every kind to any person including, but not limited to, any person acquiring the original certificate or the duplicate of such certificate issued to the attorney general for any losses or damages resulting to such person by the issuance and delivery of the duplicate certificate to the attorney general.

Payment of any intangible property to the attorney general shall be made at the office of the attorney general in Indiana, or at such other location as the attorney general by regulation may designate. Except as otherwise agreed by the attorney general and the holder, tangible personal property shall be delivered to the attorney general at the place where it is held.

\* \* \* \*

## KANSAS

Kan. Stat. Ann. §§ 58-3901 to 58-3914  
(1983 and Senate Bill No. 326 1989 Session\*)

## § 58-3901. Definitions.

As used in this act, unless the context otherwise requires:

\* \* \* \*

(b) "Business association" means any corporation, joint stock company, business trust, partnership, or any association for business purposes of one or more individuals.

(c) "Financial organization" means any savings and loan association, building and loan association, credit union, or investment company, engaged in business in this state.

(d) "Holder" means any person in possession of property subject to this act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this act.

\* \* \* \*

(f) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this act, or his or her legal representative.

(g) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

\* \* \* \*

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\* Note: Provisions of Senate Bill No. 326 become effective July 1, 1989.

§ 58-3905. Unclaimed stock or other certificate of ownership, dividend, distribution or other sum held or owing by a business association.

(a) Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder who has not claimed it, or corresponded in writing with the business association concerning it, within five years after the date prescribed for payment or delivery, shall be presumed abandoned property if:

(1) It is held or owing by a business association organized under the laws of or created in this state; or

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

(b) Subject to subsection (a), any intangible interest in a business association, as evidenced by the stock records or membership records of the association, shall be presumed abandoned property if:

(1) The interest in the association is owned by a person who for more than five years has neither claimed a dividend or other sum referred to in subsection (a) nor corresponded in writing with the association or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association; and

(2) the association does not know the location of the owner at the end of such five-year period, after making reasonable efforts to locate the owner, including an attempt to reach the owner by restricted mail. With respect to such interest, the business association shall be deemed the holder.

§ 58-3907. Property held by fiduciaries.

Except as provided by K.S.A. 58-3908 and amendments thereto, all intangible personal property and income or increment thereon held in a fiduciary capacity for the benefit of another person shall be presumed abandoned property unless, within five (5) years after it becomes payable or distributable, the owner has increased or decreased the principal, accepted payment of principal or income, the owner has corresponded in writing concerning the property, the owner has otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary or the fiduciary has mailed annually correspondence to the owner and the same has not been returned to the sender:

(a) If the abandoned property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this state; or

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

(c) If it is held in this state by any other person.

\* \* \* \*

§ 58-3912. Report of abandoned property to state treasurer; contents; filing date; exercise of due diligence by holder to ascertain whereabouts of owner; verification by partnership; contents of initial report.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this act shall report to the state treasurer with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property presumed abandoned under this act;

\* \* \* \*

(3) the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under (\$25) each may be reported in aggregate;

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

(5) such other information as may be required by the state treasurer necessary for the administration of this act.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed the holder's name while holding the property, such person shall file with the report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The state treasurer may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed.

The holder shall exercise due diligence to ascertain the whereabouts of the owner.

\* \* \* \*

§ 58-3914. Payment or delivery of abandoned property to state treasurer.

(a) Every person who has filed a report under K.S.A. 58-3912, and amendments thereto, within 20 days after the time specified in K.S.A. 58-3913, and amendments thereto, for claiming the property from the holder, or in the case of sums payable on traveler's checks or money orders presumed abandoned under K.S.A. 58-3902, and amendments thereto, within 20 days after the filing of the report, shall pay or deliver to the state treasurer all abandoned property specified in the report, except that, if the owner establishes such person's right to receive the abandoned property to the satisfaction of the holder within the time specified in K.S.A. 58-3913, and amendments thereto, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the state treasurer, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment. In the case of any stock or other certificate of ownership, delivery shall be accomplished by a registration of such property in the name of the state treasurer for the benefit of the owner.

(b) The holder of any interest under subsection (b) of K.S.A. 58-3905, and amendments thereto, shall deliver a duplicate certificate by registration of such property in the name of the state treasurer for the benefit of the owner, or other evidence of ownership if the holder does not issue certificates of ownership.

\* \* \* \*

## KENTUCKY

Ky. Rev. Stat. Ann. §§ 393.010 to 393.110 (1988)

§ 393.010. Construction of chapter.

(1) As used in this chapter, unless the context requires otherwise:

\* \* \* \*

(b) "Business association" means any corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals;

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

\* \* \* \*

(e) "Claim" means to demand payment or surrender of property from the person whose duty it is to pay the claimant, or surrender to him the property involved;

(f) "Commissioner" means the commissioner of revenue;

(g) "Department" means the department of revenue;

(h) "Person" means any individual, state or national bank, partnership, joint stock company, business, trust, association, corporation, or other form of business enterprise, including a receiver, trustee or liquidating agent.

\* \* \* \*

§ 393.066. Presumption of abandonment of intangible personal property held by fiduciary.

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within seven (7) years after it becomes

payable or distributable, increased or decreased the principal, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(1) If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this state; or

(2) If it is held by a business association doing business in this state, or any agent or fiduciary acting for or under contract with a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or

(3) If it is held in this state by any other person.

\* \* \* \*

#### § 393.090. Presumption of abandonment of intangible personal property not otherwise covered.

Except as otherwise provided in KRS 393.010, all intangible property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state by any person and has remained unclaimed by the owner for more than seven (7) years after it became payable or distributable is presumed abandoned.

\* \* \* \*

#### § 393.110. Holders of abandoned property to report to cabinet—Posting and publication of notices, exceptions—Duty to surrender property to cabinet—Rights of action.

(1) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the cabinet with respect to the property annually as of July 1. The report shall be filed in the office of the cabinet on or before September 1



of each year for the preceding July 1. The report shall include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of twenty-five dollars (\$25) or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations the full name of the insured or annuitant and his last known address according to the records of the life insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under twenty-five dollars (\$25) each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim therefor within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the cabinet;

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the cabinet prescribes by administrative regulations necessary for the administration of this chapter. The report shall be made in duplicate; the original shall be retained by the cabinet and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days said copy on the courthouse door or the courthouse bulletin board, and also to publish said copy pursuant to KRS Chapter 424; except the sheriff

shall not be required to publish any item with a fair cash value of twenty-five dollars (\$25) or less. The list shall be published within (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424. The cost of the publication shall be paid by the state. The sheriff shall immediately certify in writing to the cabinet the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and such posting and publishing shall be constructive notice to all interested parties.

(2) Within sixty (60) days after the receipt of the report required by subsection (1) of this section, the cabinet shall mail notice to each person having an address listed therein who appears to be entitled to property presumed abandoned under this chapter; except the cabinet shall not be required to mail a notice to any person whose name appears on the abandoned property list where the fair cash value of the property is twenty-five dollars (\$25) or less. The notice shall contain:

(a) A statement that according to a report filed with the cabinet properties being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the cabinet to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, between November 1 and November 15 of each year, turn over to the cabinet all property so reported;

but if the person making the report or the owner of the property shall certify to the cabinet that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall report the existence of any fact or circumstance which has a substantial tendency to rebut such presumption, then, the person reporting or holding the property shall not be required to turn the property over to the cabinet except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding such property shall be under no duty while any such action is pending to turn the property over to the cabinet, but shall have the duty of notifying the cabinet of the pendency of such action.

(4) The person reporting or holding the property or any claimant thereof shall always have the right to a judicial determination of his rights under this chapter and nothing therein shall be construed otherwise; and the Commonwealth may institute an action to recover such property as is presumed abandoned whether it has been reported or not and may include in one (1) petition all such property within the jurisdiction of the court in which the action is brought provided the property of different persons is set out in separate paragraphs.

\* \* \* \*

## LOUISIANA

La. Rev. Stat. Ann. §§ 9:152 to 9:170  
(West Supp. 1989)

§ 9:152. Definitions and use of terms.

As used in this Chapter, unless the context otherwise requires:

(1) "Administrator" means the secretary of the Department of Revenue and Taxation for the State of Louisiana.

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

\* \* \* \*

(4) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

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

(6) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, or credit union.

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

- (a) In possession of property belong to another,
- (b) A trustee, or
- (c) Indebted to another on an obligation.

\* \* \* \*

(10) "Intangible personal property" includes, by way of illustration:

(a) Monies, checks, drafts, deposits, interest, dividends, and income;

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(c) Stocks and other intangible ownership interests in business associations;

(d) Monies deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(e) Amounts due and payable under the terms of insurance policies; and

(f) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

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

(12) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible personal property, or a person having a legal or equitable interest in property subject to this Chapter or his legal representative.

(13) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

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

\* \* \* \*

(16) "Reportable period" means the fiscal year ending June thirtieth of each year except for life insurance companies where reportable period means the calendar year ending December thirty-first. Except as in the case of life insurance companies, the first unclaimed property reportable under this Chapter shall be for the fiscal year beginning July 1, 1985 and ending June 30, 1986, and the report due under this Chapter shall be filed no later than November 1, 1986. In the case of life insurance companies the first unclaimed property reportable under this Chapter shall be for the calendar year beginning January 1, 1986 and ending December 31, 1986, and the report due under this Chapter shall be filed no later than May 1, 1987.

§ 9:153. Property presumed abandoned; general rule.

A. Except as otherwise provided by this Chapter, all intangible personal property, including any income or increment derived thereon, less any lawful charges, that is held, issued, or owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than five years after it became payable or distributable is presumed abandoned.

B. Property is payable or distributable for the purpose of this Chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

§ 9:154. General rules for taking custody of intangible unclaimed property.

Unless otherwise provided in this Chapter or by other statute of this state, intangible personal property is sub-

ject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment in R.S. 9:153 and R.S. 9:156 through R.S. 9:167 are satisfied, and:

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

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

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

(a) The last known address of the person entitled to the property is in this state; or

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

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

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

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

(a) (i) The last known address of the apparent owner or other person entitled to the property is unknown, or

(ii) The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property, and

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

\* \* \* \*

§ 9:161. Dividends, stock, and other intangible interests in business associations.

A. Except as provided in Subsections (B) and (E), dividends, stock, or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for seven years and the owner within seven years has not:

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

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

B. At the expiration of a seven-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest will not be presumed abandoned unless there have been at least seven dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If seven dividends, dis-



tributions, or other sums are paid during the seven-year period, the period leading to a presumption of abandonment commences on the date payment of the first such unclaimed dividend, distribution, or other sum became due and payable. If seven dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been seven dividends, distributions, or other sums that have not been claimed by the owner.

C. The running of the seven-year period of abandonment ceases immediately upon the occurrence of a communication referred to in Subsection A. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

D. At the same time an interest is presumed abandoned under this Section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

E. This Chapter does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within seven years communicated in any manner described in Subsection A.

\* \* \* \*

§ 9:163. Property held by agents and fiduciaries.

A. Intangible personal property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned

unless the owner, within five years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by the fiduciary.

B. Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the Internal Revenue laws of the United States are not payable or distributable within the meaning of Subsection A unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

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

D. For the purposes of this Chapter, a person who is deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

\* \* \* \*

#### § 9:168. Report of abandoned property.

A. A person holding property presumed abandoned and subject to custody as unclaimed property under this Chapter shall report to the administrator concerning the property as provided in this Section.

B. The report must be verified and must include:

(1) Except with respect to traveler's checks and money orders, the name and social security number, if known, and last known address, if any, of each person appearing

from the records of the holder to be the owner of property of the value of fifty dollars or more presumed abandoned under this Chapter;

(2) In the case of unclaimed funds of fifty dollars or more held or owing under any life or endowment insurance policy or annuity contract, the full name, last known address and social security number, if known, address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the fund;

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

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

(5) Other information which the administrator prescribes by rule as necessary for the administration of this Chapter.

C. If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed his name while holding the property, he shall file with his report all known names and addresses of each previous holder of the property.

D. The report must be filed before November first of each year as of June thirtieth, next preceding, but the report of any life insurance company must be filed before May first of each year as of December thirty-first next preceding. On written request by any person required to file a report, the administrator may postpone the reporting date for a period not to exceed ninety days.

E. Not more than one hundred twenty days before filing the report required by this Section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this Chapter shall send written notice to the apparent owner at his last known address informing him that the holder is in possession of property subject to this Chapter if:

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

(2) The claim of the apparent owner is not barred by any period of prescription; and

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

\* \* \* \*

§ 9:170. Payment or delivery of abandoned property.

A. Except as otherwise provided in Subsections B and C, a person who is required to file a report under R.S. 9:168, within six months after the final date for filing the report as required by R.S. 9:168, shall pay or deliver to the administrator all abandoned property required to be reported.

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

C. Property reported under R.S. 9:168 for which the holder is not required to report the name of the apparent owner must be delivered to the administrator at the time of filing the report.

D. The holder of an interest under R.S. 9:161 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the administrator. Upon delivery of a duplicate certificate to the administrator, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with the provision of R.S. 9:171 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the administrator, for any losses or damages resulting to any person by the issuance and delivery to the administrator of the duplicate certificate.

\* \* \* \*

## MONTANA

Mont. Code Ann. §§ 70-9-102 to 70-9-303 (1987)

§ 70-9-102. Definitions.

As used in parts 1 through 3, unless the context otherwise requires, the following definitions apply:

\* \* \* \*

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

(3) "Department" means the department of revenue provided for in 2-15-1301.

(4) "Financial organization" means any savings and loan association, building and loan association, credit union, cooperative bank, or investment company engaged in business in this state.

(5) "Holder" means any person in possession of property subject to parts 1 through 3 belonging to another or who is trustee in case of a trust or is indebted to another on an obligation subject to parts 1 through 3.

(6) "Intangible property" includes:

(a) money, checks, drafts, deposits, interest, dividends, and income;

(b) credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(c) stocks and other intangible ownership interests in business associations;

(d) money deposited to redeem stocks, bonds, coupons, and other securities or to make distributions;

(e) amounts due and payable under the terms of insurance policies; and

(f) amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(7) "Last-known address" means a description, in the records of the holder, of the location of the apparent owner sufficient for the purpose of the delivery of mail.

\* \* \* \*

(9) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of other choses in action or any person having a legal or equitable interest in property subject to parts 1 through 3 or his legal representative.

(10) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

\* \* \* \*

#### § 70-9-111. General rules for taking custody of intangible unclaimed property.

(1) Unless otherwise provided by law, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under part 2 are satisfied and:

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

(b) the records of the holder do not reflect the identity of the person entitled to the property and it is established that the last-known address of the person entitled to the property is in this state;

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

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

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

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

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

(f) the transaction out of which the property arose occurred in this state; and

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

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

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



§ 70-9-204. Stock, dividends, and distributions of business association.

(1) Any stock or other certificate of ownership or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder or a participating patron of a cooperative, who has not claimed it or corresponded in writing with the business association concerning it with 5 years after the date prescribed for payment or delivery is presumed abandoned if it is held or owing by a business association:

(a) organized under the laws of or created in this state; or

(b) doing business in this state but not organized under the laws of or created in this state and the records of the business association indicate that the last-known address of the person entitled thereto is in this state.

(2) Any intangible interest in a business association as evidenced by the stock or membership records of the association is presumed abandoned and the association deemed the holder thereof when:

(a) the interest in the association is owned by a person who for more than 5 years has not claimed a dividend or other sum referred to in subsection (1);

(b) the records of the association indicate that the last-known address of the person entitled to the dividend is in this state; and

(c) the association is:

(i) organized under the laws of or created in this state; or

(ii) doing business in this state but not organized under the laws of or created in this state.

(3) Any dividends or other distributions held for or owing to a person at the time an intangible interest in a

business association is presumed abandoned pursuant to subsection (2) are presumed abandoned.

\* \* \* \*

§ 70-9-206. Property held by fiduciary.

All intangible personal property and any income or increment thereon held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within 5 years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(1) if the property is held by a business association, banking organization, or financial organization organized under the laws of or created in this state;

(2) if it is held by a business association, banking organization, or financial organization doing business in this state but not organized under the laws of or created in this state and the records of the business association, banking organization, or financial organization indicate that the last known address of the person entitled thereto is in this state; or

(3) if it is held in this state by another person.

\* \* \* \*

§ 70-9-208. Miscellaneous property held for another person.

All intangible personal property not otherwise covered by parts 1 through 3, 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 5 years after it became payable or distributable is presumed abandoned.

\* \* \* \*

§ 70-9-301. Report of abandoned property—duty to prevent abandonment prior to filing.

(1) Every person holding moneys or other property, tangible or intangible, presumed abandoned under parts 1 through 3 shall report the property to the department of revenue as hereinafter provided.

(2) The report shall be verified and shall include:

(a) except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of \$10 or more presumed abandoned under parts 1 through 3;

\* \* \* \*

(c) the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due. Items of value under \$10 each may be reported in aggregate.

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

(e) other information which the department of revenue prescribes by rule as necessary for the administration of parts 1 through 3.

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

(4) The report shall be filed before November 1 every year as of June 30 next preceding, but the reports of life

insurance corporations, banking and financial organizations, and cooperatives shall be filed before May 1 of each year as of December 31 next preceding. The department may postpone the reporting date upon written request by any person required to file a report. The department shall furnish forms for this report.

(5) Not more than 120 days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under parts 1 through 3 shall send written notice to the apparent owner at his last-known address informing him that the holder is in possession of property subject to this chapter if:

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

(b) the claim of the apparent owner is not barred by the statute of limitations; and

(c) the property has a value of \$100 or more.

\* \* \* \*

§ 70-9-303. Payment or delivery of abandoned property to department—service charges.

(1) Every person who has filed a report as provided by 70-9-301 shall, within 20 days after the time specified in 70-9-302 for claiming the property from the holder or, in the case of sums payable on travelers' checks or money orders presumed abandoned under 70-9-201, within 20 days after the filing of the report, pay or deliver to the department of revenue all abandoned property specified in this report, except that if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in 70-9-302 or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be

presumed abandoned, to the department but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

(2) No service, handling, maintenance, or other charge or fee of any kind may be deducted or withheld from any property subject to escheat under this chapter unless specifically permitted by this chapter.

(3) Even when specifically permitted by this chapter, such charges or fees may not be excluded, withheld, or deducted from property subject to this chapter if, under its normal procedure, the holder would not have excluded, withheld, or deducted such charges or fees had the property been claimed by the owner prior to being reported or remitted to the department.

\* \* \* \*

## NEVADA

Nev. Rev. Stat. Ann. §§ 120A.025 to 120A.320  
(1986 & Supp. 1987)

§ 120A.025. "Administrator" defined.

"Administrator" means the chief of the division of unclaimed property.

\* \* \* \*

§ 120A.040. "Business association" defined.

"Business association" means any corporation (other than a public corporation), joint-stock company, investment company, business trust, partnership or any association for business purposes of two or more natural persons, whether or not for profit, including a banking organization, financial organization, insurance company or utility.

§ 120A.050. "Division" defined.

"Division" means the division of unclaimed property in the department of commerce.

\* \* \* \*

§ 120A.080. "Holder" defined.

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

1. In possession of property belonging to another;
2. A trustee; or
3. Indebted to another on an obligation.

\* \* \* \*

§ 120A.095. "Intangible property" defined.

"Intangible property" includes:

1. Money, checks, drafts, deposits, interest, dividends and income;

2. Credit balances, customers' overpayments, gift certificates, security deposits, refunds, credit memoranda, unpaid wages, unused airline tickets and unidentified remittances;

3. Stocks and other intangible interests in business associations;

4. Money deposited to redeem stocks, bonds, coupons and other securities or to make distributions;

5. Amounts due under the terms of insurance policies; and

6. Amount distributable from a trust or custodial fund established under a plan to provide benefits such as health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employees' savings, supplemental unemployment insurance or the like.

#### § 120A.100. "Owner" defined.

"Owner" means a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, a creditor, claimant or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter, or his legal representative.

#### § 120A.110. "Person" defined.

"Person" means any natural person, business association, government, political subdivision or governmental agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest or any other legal or commercial entity.

\* \* \* \*

#### § 120A.190. Intangible interest or money held or owing by business association; exception.

1. Any stock or other intangible interest, or any dividend, profit, distribution, interest, payment on principal

or other sum held or owing by a business association is presumed abandoned if, within 5 years after the date prescribed for payment or delivery the shareholder, certificate holder, member, bondholder, other security holder or the participating patron of a cooperative has not claimed the property, corresponded in writing with the business association or otherwise indicated an interest in the property as evidenced by a memorandum or other record on file with the association. As to that property, the business association shall be deemed to be the holder.

2. Any dividend, profit, interest or other distributions held for or owing to a person at the time the stock or other property to which they attach are presumed to be abandoned shall be deemed to be abandoned at the same time as the stock or other property.

3. This section does not apply to any stock or other intangible interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible interest not enrolled in the reinvestment plan, that the owner has not within 5 years communicated in any manner described in subsection 1.

\* \* \* \*

#### § 120A.210. Intangible personal property held in fiduciary capacity.

All intangible personal property and any income or increment thereon held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within 5 years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:



1. If the property is held by a banking organization or a financial organization or by a business association organized under the laws of or created in this state;

2. If it is held by a business association doing business in this state but not organized under the laws of or created in this state and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or

3. If it is held in this state by any other person.

\* \* \* \*

§ 120A.230. Intangible personal property not otherwise covered by chapter.

All intangible personal property not otherwise covered by this chapter, 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 5 years after it became payable or distributable is presumed abandoned.

\* \* \* \*

§ 120A.250. Annual report of property presumed abandoned: Filing; contents; verification.

1. Every person holding money or other property presumed abandoned under this chapter shall make a verified report to the division with respect to the property.

2. The report must include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of \$50 or more presumed abandoned under this chapter.

(b) In case of unclaimed money held by an insurance company, the full name of the insured annuitant and his last known address according to the corporation's records.

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

(d) The date when the property became payable, demandable or returnable and the date of the last transaction with the owner with respect to the property.

(e) Other information which the administrator prescribes by regulation as necessary for the administration of this chapter.

\* \* \* \*

4. The report must be filed before November 1 of each year for the preceding fiscal year ending June 30 except that the report of an insurance company must be filed before May 1 of each year for the preceding calendar year. The administrator may, in writing, postpone the reporting date upon written request by any person required to file a report.

5. Verification of the report, if made by:

(a) A partnership, must be executed by a partner.

(b) An unincorporated association or private corporation, must be executed by an officer.

(c) A public entity or corporation, must be executed by its chief fiscal officer.

\* \* \* \*

§ 120A.320. Time for paying or delivering abandoned property to division; delivery of duplicate certificate or other evidence of ownership to administrator.

1. Except as otherwise provided in subsections 2 and 4, every person who has filed a report under NRS 120A.250 shall, within 20 days after the time specified in NRS 120A.280 for claiming the property from the holder or in the case of sums payable on traveler's

checks or money orders presumed abandoned under NRS 120A.160, within 20 days after the filing of the report, pay or deliver to the division all abandoned property specified in this report.

2. If an owner has established his right to receive any of the abandoned property to the holder's satisfaction within the time specified in NRS 120A.280 or if it appears to the holder that for some other reason the presumption of abandonment is erroneous, the property will no longer be presumed abandoned and the holder need not pay or deliver it to the division, but shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

3. The holder of an interest under NRS 120A.190 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the division. Upon delivery of a duplicate certificate to the administrator, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the division, for any losses or damages resulting to any person by the issuance and delivery to the division of the duplicate certificate.

4. Property which in all probability will be presumed abandoned pursuant to NRS 120A.200 may, upon approval of the administrator, be reported and delivered by the holder to the division before the date it is statutorily presumed abandoned.

\* \* \* \*

## OKLAHOMA

Okla. Stat. Ann. tit. 60, §§ 651 to 663 (1981 & Supp. 1989)

§ 651. Definitions.

As used in this Act, unless the context otherwise requires:

\* \* \* \*

(b) "Business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals.

(c) "Financial organization" means any savings and loan association, building and loan association, credit union, or investment company domiciled or incorporated within this State, or engaged in business in this State.

(d) "Holder" means any person in possession of property subject to this Act belonging to another, or who is trustee in case of a trust, or is indebted to another on any obligation subject to this Act.

\* \* \* \*

(f) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or the owner of record of corporate stock or other evidence of beneficial ownership in a business organization or a person claiming under him by reason of a decree of a court of record or by reason of an instrument in writing executed by such owner of record.

(g) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

\* \* \* \*

(i) "Memorandum" shall include a mark, symbol or statement indicating knowledge of or interest in funds on deposit.

(j) "Commission" means the Oklahoma Tax Commission.

\* \* \* \*

# § 655. Undistributed dividends and distributions of business associations

Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment or principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member bondholder, or other security holder or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with a business association concerning it, within seven (7) years after the date prescribed for payment or delivery, is presumed abandoned if:

1. It is held or owing by a business association organized under the laws of or created in this state; or

2. It is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last-known address of the person entitled thereto is in this state. Provided however, the Uniform Disposition of Unclaimed Property Act shall not apply to patronage dividends, capital credits, customer deposits or non-negotiated payment checks held or owing by cooperative electric power or telephone associations organized under Sections 437 and 438.1 of title 18 of the Oklahoma statutes, rural water, sewer, gas and solid waste management districts organized under Section 1324.1 of title 82 of the Oklahoma statutes, or agricultural cooperative marketing or supply associations organized under Section 361 of title 2 of the Oklahoma statutes; when such associations are domiciled in Oklahoma.

### § 656. Property held by fiduciaries

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

1. If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this state; or
2. If it is held by a business association, doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last-known address of the person entitled thereto is in this state; or
3. If it is held in this state by any other person.

\* \* \* \*

### § 658. Miscellaneous personal property held for another

All intangible personal property, not otherwise covered by the Uniform Disposition of Unclaimed Property Act, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state in the ordinary course of business of the holder and has remained unclaimed by the owner for more than seven (7) years after it became payable or distributable is presumed abandoned; provided, that no travelers' check shall be presumed abandoned until it has been outstanding for fifteen (15) years from its date of issuance.

\* \* \* \*

### § 659. Additional conditions leading to presumption of abandonment

Unless otherwise provided, intangible personal property is subject to a presumption of abandonment under

this Act if the appropriate conditions leading to a presumption of abandonment, described in Sections 2 through 8 of this Act, [ §§ 652 to 658 ] are met, and if:

(a) The last known address of the owner appearing on the records of the holder is in this State, whether or not the holder:

(1) is domiciled in this State or is engaged in or transacts business in this State, or

(2) if a court, public corporation, public authority, or public officer, is a court, public corporation, public authority, or public officer of this State or a political subdivision thereof; or,

(b) No address of the owner appears on the records of the holder, and the holder is:

(1) domiciled in this State, or

(2) a court of this State, or

(3) a federal court within this State, or

(4) a public corporation, a public authority, or public officer of this State or a political subdivision thereof; or,

(c) (1) The last known address of the owner appearing on the records of the holder is in another State, and

(2) such other State makes no provision in its laws for the escheat or taking custody of such property, and

(3) the holder is:

(A) domiciled in this State, or

\* \* \* \*

(D) a public corporation, public authority, or public officer of this State or a political subdivision thereof.

\* \* \* \*

#### § 661. Report of abandoned property

A. Every person holding funds or other property, tangible or intangible, presumed abandoned under the Uni-

form Disposition of Unclaimed Property Act shall report to the Oklahoma Tax Commission with respect to the property as hereinafter provided.

B. The report shall be verified and shall include:

1. The name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of Fifty Dollars (\$50.00) or more presumed abandoned under the Uniform Disposition of Unclaimed Property Act;

\* \* \* \*

3. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except, that (A) items of value under Fifty Dollars (\$50.00) each may be reported in the aggregate and (B) on request of the holder, the Oklahoma Tax Commission may, in its discretion, approve the reporting of one or more categories of unclaimed funds in the aggregate on an estimated basis, whenever it shall appear that each of the items in any such category has a value of less than Fifty Dollars (\$50.00) and the cost of reporting such items would be disproportionate to the amounts involved; and

4. The date when the property became payable, demandable or returnable, and the date of the last transaction with the owner with respect to the property.

\* \* \* \*

D. The report shall be filed before November 1 of each year as of September 1 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of March 1 next preceding. The Oklahoma Tax Commission may postpone the reporting date upon written request by any person required to file a report.

E. Before filing the annual report the holder of property presumed abandoned under the Uniform Disposition of Unclaimed Property Act shall, if the claim of the



owner has not been barred by the statute of limitations, communicate with the owner with respect to property of the value of Fifty Dollars (\$50.00) or more at his last-known address if any such address is known to the holder, setting forth the provisions hereof necessary to occur in order to prevent abandonment from being presumed; provided, however, that the holder in his discretion need not so communicate with the owner if he has previously attempted to communicate with the owner, or otherwise exercised due diligence to ascertain the whereabouts of the owner. The mailing of notice by first-class mail to the last-known address of the owner by the holder shall constitute compliance with this subsection and, if done, no further act on the part of the holder shall be necessary.

\* \* \* \*

G. Notwithstanding anything to the contrary in the Uniform Disposition of Unclaimed Property Act:

1. The initial report filed under the Uniform Disposition of Unclaimed Property Act shall include all items of property that would have been presumed abandoned if the Uniform Disposition of Unclaimed Property Act had been in effect during the ten-year period preceding April 24, 1967; provided, that those items of property as to which the bar of the applicable statute of limitations has accrued as of April 24, 1967, need not be reported;

2. If the aggregate value of all items of property held for or owed or distributable to an owner and unclaimed hereunder is less than Fifty Dollars (\$50.00), such property shall not be required to be reported under the Uniform Disposition of Unclaimed Property Act.

Should any holder wish to be relieved of the burden of holding such excludable property it may, at its election, report such property and be accorded the protection of Section 664 of this title.

\* \* \* \*

## § 663. Payment or delivery of abandoned property

Every person who has filed a report as provided by Section 11 [§ 661] shall within twenty (20) days after the time specified in Section 12 [§ 662] for claiming the property from the holder, or in the case of sums payable or travelers' checks or money orders presumed abandoned under Section 2 [§ 652] within twenty (20) days after the filing of the report, pay or deliver to the Commission all abandoned property specified in the report after first deducting therefrom expenses incurred in the mailing of notices required by Section 11(e). Any such person who, pursuant to a statutory requirement, filed a bond or bonds pertaining to such abandoned property with the Oklahoma Tax Commission may also deduct an amount equivalent to that part of the bond premium attributable to such abandoned property. Provided, however, that is the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in Section 12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the Commission, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

\* \* \* \*

## PENNSYLVANIA

Pa. Cons. Stat. Ann. §§ 1301.1 to 1301.13  
(Purdon Supp. 1988)

## § 1301.1. Definitions.

As used in this article, unless the context otherwise requires:

“Business association” shall include any corporation (other than a public corporation), joint stock company, business trust, partnership or any association of two (2) or more individuals for business purposes, whether organized or operated under State or Federal law.

“Financial institution” shall include a bank, a private bank, a bank and trust company, a savings association, a savings bank, a trust company, a savings and loan association, a building and loan association, a credit union, and any issuer of travelers checks, money orders, or similar monetary obligations or commitments, whether organized or operated under State or Federal law.

“Holder” shall include any person in possession of property subject to this article belonging to another, or who is a trustee in case of a trust, or is indebted to another on an obligation subject to this article or any financial institution which has paid amounts and sums to the secretary under subsection (c) of Section 1301.13 of this article.

\* \* \* \*

“Owner” shall include a depositor in case of a deposit, a creditor, claimant, or payee in case of other choses in action, or any other person having a legal or equitable interest in property subject to this article, or his legal representative.

“Person” shall include any individual, business association, government, or political subdivision, public corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

“Property” shall include all real and personal property, tangible or intangible, all legal and equitable interests therein, together with any income, accretions, or profits thereof and thereon, and al other rights to property, subject to all legal demands on the same. The term shall not include property deemed lost at common law.

“Secretary” shall mean the Secretary of Revenue of the Commonwealth of Pennsylvania.

\* \* \* \*

§ 1301.2. Property subject to custody and control of the Commonwealth.

(a) All abandoned and unclaimed property and property without a rightful or lawful owner as hereafter set forth is subject to the custody and control of the Commonwealth:

1. If it is tangible and physically located within the Commonwealth; or

2. If it is intangible, and

(i) the last known address of the owner, as shown by the records of the holder, is within the Commonwealth; or

(ii) the last known address of the owner as shown by the records of the holder is within a jurisdiction, the laws of which do not provide for the escheat or custodial taking of such property, and the domicile of the holder is within the Commonwealth; or

(iii) no address of the owner appears on the records of the holder and the domicile of the holder is within the Commonwealth. Where the records of the holder do not show a last known address of the owner of a travelers check or money order it shall be presumed that the state in which the travelers check or money order was issued is the state of the last known address of the owner; or

(iv) no address of the owner appears on the records of the holder and the domicile of the holder is not within the Commonwealth, but it is proved that the last known address of the owner is in the Commonwealth.

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

\* \* \* \*

#### § 1301.6. Property held by business associations.

The following property held or owing by a business association is presumed abandoned and unclaimed:

1. The consideration paid for a gift certificate which has remained unredeemed for two (2) years or more after its redemption period has expired or for seven (7) years or more from the date of issuance if no redemption period is specified.

2. Any certificate of stock or participating right in a business association, for which a certificate has been issued or is issuable but has not been delivered, whenever the owner thereof has not claimed such property, or corresponded in writing with the business association concerning it, within seven (7) years after the date prescribed for delivery of the property to the owner.

3. Any sum due as a dividend, profit, distribution, payment or distributive share of principal held or owing by a business association, whenever the owner has not claimed such sum or corresponded in writing with the business association concerning it within seven (7) years after the date prescribed for payment or delivery.

4. Any sum due as principal or interest on the business association's bonds or debentures, or coupons attached thereto, whenever the owner has not claimed such sum or corresponded in writing with the business association concerning it within seven (7) years after the date prescribed for payment.

5. Any sum or certificate or participating right due by a cooperative to a participating patron, whenever the owner has not claimed such property, or corresponded with the cooperative concerning the same within seven (7) years after the date prescribed for payment or delivery.

\* \* \* \*

#### § 1301.8. Property held by fiduciaries.

The following property held by fiduciaries is presumed abandoned and unclaimed:

All property held in a fiduciary capacity for the benefit of another person, unless the owner within seven (7) years after it has or shall become payable or distributable has increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property or otherwise indicated an interest therein as evidenced by a writing on file with the fiduciary.

\* \* \* \*

#### § 1301.10. Miscellaneous property held for or owing to another.

The following property, held or owing to any owner, is presumed abandoned and unclaimed:

All property, not otherwise covered by this article, that is admitted in writing by the holder and adjudicated to be due, that is held or owing in the ordinary course of the holder's business, and that has remained unclaimed by the owner for more than seven (7) years after it became payable or distributable is presumed abandoned and unclaimed.

#### § 1301.11. Report of property subject to custody and control of the Commonwealth under this article.

(a) Every person holding property which became subject to custody and control of the Commonwealth under

this article during the preceding year shall report to the secretary as hereinafter provided.

(b) The report shall be verified and shall include:

1. Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of twenty-five dollars (\$25) or more;

2. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under twenty-five dollars (\$25) each may be reported in the aggregate;

3. The date when the property became payable, demandable, returnable or the date upon which the property was declared or found to be without a rightful or lawful owner, and the date of the last transaction with the owner with respect to the property; and

4. Other information which the secretary prescribes by rules or regulations as necessary for administration of this article.

(c) If the person holding property subject to custody and control of the Commonwealth under this article is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed on or before April 15 of the year following the year in which the property first became subject to custody and control of the Commonwealth under this article. The secretary may postpone for a period not exceeding six (6) months the reporting date upon written request by any person required to file a report.

(e) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

\* \* \* \*

§ 1301.13. Payment or delivery.

(a) Every person who holds property subject to the custody and control of the Commonwealth shall, within sixty (60) days after receipt of written demand from the secretary and after compliance with section 1301.12, where required, pay or deliver to the secretary all property subject to custody and control of the Commonwealth under this article, except that, if the owner establishes his right to receive the property to the satisfaction of the holder, or if it appears that for some other reason the property is not then subject to custody and control of the Commonwealth under this article, the holder need not pay or deliver the property to the secretary, but in lieu thereof shall file a verified written explanation of the proof of claim or as to the reason the property is not subject to custody and control of the Commonwealth.

(b) A receipt shall be issued, on behalf of the Commonwealth, for all property received under this article.

(c) Notwithstanding subsection (a) of this section in the case of the deposits and the sums payable under clauses 1 and 3 of section 1301.3 the amount of such deposits and such sums shall be paid to the secretary on or before the final date for filing the report required by section 1301.11.

(d) Any person who holds property which may become subject to the custody and control of the Commonwealth pursuant to this act may, with the consent of the secretary, report and deliver such property prior to the expiration of any holding period specified for such reporting. Any person who pays or delivers property prior to



the expiration of such holding period shall be relieved of further liability pursuant to section 1301.14. Property thus reported may be disposed of pursuant to sections 1301.12 and 1301.17 but in no event shall the period of filing of claims be diminished by such early delivery or disposition.

\* \* \* \*

## SOUTH DAKOTA

S.D. Codified Laws §§ 43-41A-1 to 43-41A-27  
(1983 & Supp. 1988)

§ 43-41A-1. Definition of terms.

Terms used in this chapter, unless the context otherwise requires, mean:

\* \* \* \*

(2) "Business association," any corporation (other than a public corporation), joint stock company, business trust, partnership, cooperative, or any association for business purposes for two or more individuals;

(3) "Financial organization," any credit union, cooperative bank or investment company engaged in business in this state;

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

\* \* \* \*

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

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

\* \* \* \*

§ 43-41A-6. Corporate and partnership securities and interests presumed abandoned—Exemption from chapter.

Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, provided that any cooperative organized pursuant to chapter 47-15 or chapter 47-21 is exempt from the provisions of chapter 43-41A, who has not claimed it, or corresponded in writing with the business association concerning it, within five years after the date prescribed for payment or delivery, is presumed abandoned if:

(1) It is held or owing by a business association organized under the laws of or created in this state; or

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

\* \* \* \*

§ 43-41A-8. Intangibles held by fiduciary presumed abandoned.

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of any other person is presumed abandoned unless the owner has, within five years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(1) If the property is held by a business association, banking organization, or financial organization organized under the laws of or created in this state; or

(2) If it is held by a business association, banking organization, or financial organization doing business in this state, but not organized under the laws of or created in this state, and the records of the business association, banking organization, or financial organization indicate that the last known address of the person entitled thereto is in this state; or

(3) If it is held in this state by any other person.

§ 43-41A-9. Other unclaimed intangibles presumed abandoned—Miscellaneous abandoned property.

All intangible personal property, not otherwise covered by this chapter, 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 five years after it became payable or distributable is presumed abandoned. Such miscellaneous abandoned property shall consist of, but is not limited to:

\* \* \* \*

(3) Credit checks or memos, or customer overpayments;

(4) Unidentified remittances, unrefunded overcharges, unpaid claims, unpaid accounts payable or unpaid commissions;

\* \* \* \*

(6) Credit balances, accounts receivable and miscellaneous outstanding checks.

\* \* \* \*

§ 43-41A-19. Reports to state treasurer required of holders of abandoned property.

Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the state treasurer with respect to the property as provided in §§ 43-41A-20 to 43-41A-23, inclusive.

\* \* \* \*

§ 43-41A-27. Delivery of reported property to state treasurer—Time of delivery.

Except as provided by § 43-41A-26, every person who has filed a report under § 43-41A-19, within twenty days after the time specified in subdivision (3) of § 43-41A-35 for claiming the property from the holder, or in the case of sums payable on traveler's checks or money orders presumed abandoned under § 43-41A-4 within twenty days after the filing of the report, shall pay or deliver to the state treasurer all abandoned property specified in this report.

\* \* \* \*

## UTAH

Utah Code Ann. §§ 78-44-2 to 78-44-20 (1987)

## § 78-44-2. Definitions and use of terms.

As used in this chapter:

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

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

(3) "Attorney general" means the chief legal officer of this state.

\* \* \* \*

(5) "Business association" means a nonpublic corporation, joint stock company, investment company, finance company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

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

(7) "Financial organization" means a savings and loan association, building and loan association, industrial loan corporation, or credit union.

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

- (a) In possession of property belonging to another;
- (b) A trustee; or
- (c) Indebted to another on an obligation.

\* \* \* \*

(10) "Intangible property" includes:

(a) Money, checks, drafts, deposits, interest, dividends, and income;

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(c) Stocks and other intangible ownership interests in business associations;

(d) Money deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(e) Amounts due and payable under the terms of insurance policies; and

(f) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(11) "Last known address" means a description of the last known location of the apparent owner sufficient for the purpose of the delivery of mail to that location.

(12) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or the legal representative of such person.

(13) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

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

\* \* \* \*

§ 78-44-3. Presumption of abandonment of intangible property.

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

(2) Property is payable or distributable for the purpose of this chapter even if the owner fails to make demand or to present any instrument or document required to receive payment.

§ 78-44-4. State custody of abandoned intangible property.

Unless otherwise provided in this chapter or by other statute of this state, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under section 78-44-3 and sections 78-44-6 through 78-44-17 are satisfied and:

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

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

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

(a) The last known address of the person entitled to the property is in this state; or

(b) The holder is a domiciliary or is an issuer of travelers checks or money orders as described in § 78-44-5, or



is a government or governmental subdivision or agency and has not previously paid or delivered the property to the state or country of the last known address of the apparent owner or other person entitled to the property;

(4) The last known address of the apparent owner, as shown on the records of the holder, is a description of a location in a state or country that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or is an issuer of travelers checks or money orders as described in § 78-44-5, or is a government or governmental subdivision or agency;

(5) The last known address of the apparent owner, as shown on the records of the holder, is a description of a location in a foreign nation and the holder is a domiciliary or is an issuer of travelers checks or money orders as described in § 78-44-5, or is a government or governmental subdivision or agency; or

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

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

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

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

§ 78-44-11. Business association ownership interests.

(1) Except as provided in subsections (2) and (5), stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for seven years from the date it becomes payable and the owner within seven years has not:

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

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

(2) The interest is not presumed abandoned until at least seven unclaimed dividends, distributions or other sums have been paid over a period of not less than seven years, although more than seven years may pass from the date the first of the unclaimed dividends, distributions or other sums became payable.

(3) The running of the period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection (1). If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time that dividend, distribution, or other sum became due and payable.

(4) When an interest is presumed abandoned under this section, any dividend, distribution, or other sum then

held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

(5) This chapter does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within seven years communicated in any manner described in subsection (1).

\* \* \* \*

#### § 78-44-13. Intangible property held in fiduciary capacity.

(1) Intangible property and any income or increment derived from it, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, as defined in subsection 78-44-2 (12), within five years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by the fiduciary.

\* \* \* \*

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

(4) For the purposes of this chapter, a person who holds property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder

of the property insofar as the interest of any other person in the property is concerned.

\* \* \* \*

§ 78-44-18. Report of abandoned property by holder—  
Contents—Time for filing—Notice to owner.

(1) A person holding property tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall file a verified report with the administrator as provided in this section.

(2) The report shall include:

(a) Except with respect to travelers checks and money orders, the name and social security number or tax I.D. number, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of \$25 or more which is presumed abandoned under this chapter;

\* \* \* \*

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

(d) The nature and an identifying number, if any, or description of the property and the amount appearing from the records to be due (items of value under \$25 each may be reported in the aggregate);

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

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

(3) If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed names while holding the property, that person shall file with the report all known names and addresses of each previous holder of the property.

(4) The report shall be filed before November 1 of each year as of June 30, next preceding, but the report of any life insurance company shall be filed before May 1 of each year as of December 31 next preceding. On written request by any person required to file a report, the administrator may postpone the reporting date.

(5) Not more than 120 days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at his or her last known address informing him or her that the holder is in possession of property subject to this chapter if:

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

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

\* \* \* \*

#### § 78-44-20. Delivery of abandoned property to administrator.

(1) Except as otherwise provided in subsections (2) and (3), a person who is required to file a report under section 78-44-18, within six months after the final date for filing the report as required by section 78-44-18, shall pay or deliver to the administrator all abandoned property required to be reported.

(2) If the owner establishes the right to receive the abandoned property to the satisfaction of the holder be-

fore the property has been delivered or it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property to the administrator, and the property will no longer be presumed abandoned. In that case, the holder shall file with the administrator a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

(3) Property reported under section 78-44-18 for which the holder is not required to report the name of the apparent owner, shall be delivered to the administrator at the time of filing the report.

(4) The holder of an interest under section 78-44-11 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the administrator. Upon delivery of a duplicate certificate to the administrator, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with the provisions of section 78-44-21 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the administrator, for any losses or damages resulting to any person by the issuance and delivery to the administrator of the duplicate certificate.

\* \* \* \*

## WASHINGTON

Wash. Rev. Code §§ 63.29.010 to 63.29.190 (Supp. 1988)

§ 63.29.010. Definitions and use of terms.

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

(1) "Department" means the department of revenue established under RCW 82.01.050.

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

(3) "Attorney general" means the chief legal officer of this state referred to in chapter 43.10 RCW.

\* \* \* \*

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

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

\* \* \* \*

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

(a) In possession of property belonging to another.

(b) A trustee, or

(c) Indebted to another on an obligation.

\* \* \* \*

(10) "Intangible property" does not include contract claims which are unliquidated but does include:

(a) Moneys, checks, drafts, deposits, interest, dividends, and income;

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances, but does not include discounts which represent credit balances for which no consideration was given;

(c) Stocks, and other intangible ownership interests in business associations;

(d) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(e) Liquidated amounts due and payable under the terms of insurance policies; and

(f) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

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

(12) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his legal representative.

(13) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

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



(15) "Third party bank check" means any instrument drawn against a customer's account with a banking organization or financial organization on which the banking organization or financial organization is only secondarily liable.

\* \* \* \*

§ 63.29.020. Property presumed abandoned—General Rule.

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

(2) Property, with the exception of unredeemed Washington state lottery tickets and unrepresented winning pari-mutuel tickets, is payable and distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

(3) This chapter does not apply to claim drafts issued by insurance companies representing offers to settle claims unliquidated in amount or settled by subsequent drafts or other means.

\* \* \* \*

§ 63.29.030. General rules for taking custody of intangible unclaimed property.

Unless otherwise provided in this chapter or by other statute of this state, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under RCW 63.29.020 and RCW 63.29.050 through RCW 63.29.160 are satisfied and:

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

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

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

(a) The last known address of the person entitled to the property is in this state, or

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

(4) The last known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of this state: PROVIDED, That a holder may rely, with acquittance, upon a list of such states which shall be provided by the department;

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

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

(a) (i) The last known address of the apparent owner or other person entitled to the property is unknown, or

(ii) The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property: PROVIDED, That

a holder may rely, with acquittance, upon a list of such states which shall be provided by the department, and

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

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§ 63.29.100. Stock and other intangible interests in business associations.

(1) Except as provided in subsections (2) and (5) of this section, stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for seven years and the owner within seven years has not:

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

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

(2) At the expiration of a seven-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least seven dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If seven dividends, distributions or other sums are paid during the seven-year period, the period leading to a presumption of abandonment commences on the date payment of the first such unclaimed

dividend, distribution, or other sum became due and payable. If seven dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been seven dividends, distributions, or other sums that have not been claimed by the owner.

(3) The running of the seven-year period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection (1) of this section. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

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

(5) This chapter shall not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within seven years communicated in any manner described in subsection (1) of this section.

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§ 63.29.120. Property held by agents and fiduciaries.

(1) Intangible property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within five years after it has become payable or distributable, has increased or decreased the principal,

accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by the fiduciary.

(2) Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the internal revenue laws of the United States are not payable or distributable within the meaning of subsection (1) of this section unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

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

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

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#### § 63.29.170. Report of abandoned property.

(1) A person holding property presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the department concerning the property as provided in this section.

(2) The report must be verified and must include:

(a) Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of twenty-

five dollars or more presumed abandoned under this chapter;

(b) In the case of unclaimed funds of twenty-five dollars or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

(c) In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where it is held and where it may be inspected by the department, and any amounts owing to the holder;

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under twenty-five dollars each may be reported in the aggregate;

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

(f) Other information the department prescribes by rule as necessary for the administration of this chapter.

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

(4) The report must be filed before November 1 of each year as of June 30, next preceding, but the report of any life insurance company must be filed before May 1 of each year as of December 31 next preceding. On writ-

ten request by any person required to file a report, the department may postpone the reporting date.

(5) Not more than one hundred twenty days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at his last known address informing him that the holder is in possession of property subject to this chapter if:

(i) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate,

(ii) The claim of the apparent owner is not barred by the statute of limitations, and

(iii) The property has a value of seventy-five dollars or more.

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§ 63.29.190. Payment or delivery of abandoned property.

(1) Except as otherwise provided in subsections (2) and (3) of this section, a person who is required to file a report under RCW 63.29.170, within six months after the final date for filing the report as required by RCW 63.29.170, shall pay or deliver to the department all abandoned property required to be reported.

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

(3) Property reported under RCW 63.29.170 for which the holder is not required to report the name of the apparent owner must be delivered to the department at the time of filing the report.

(4) The holder of an interest under RCW 63.29.100 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the department. Upon delivery of a duplicate certificate to the department, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with RCW 63.29.200 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the department, for any losses or damages resulting to any person by the issuance and delivery to the department of the duplicate certificate.

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