

**CHAPTER 47-30.1**  
**UNIFORM UNCLAIMED PROPERTY ACT**

**47-30.1-01. Definitions and use of terms.**

As used in this chapter:

1. "Administrator" means the administrator of the state abandoned property office.
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. "Banking organization" means a bank, trust company, savings bank, private banker, or any organization defined by other law as a bank or banking organization.
4. "Business association" means a corporation, limited liability company, 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 or state of organization of a limited liability company and the state of the principal place of business of an unincorporated person.
6. "Financial organization" means a savings and loan association or credit union.
7. "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.
8. "Insurance company" means an insurance company as defined by section 26.1-02-01 and also includes a benevolent society, nonprofit health service corporation, and health maintenance organization.
9. "Intangible property" includes:
  - a. Moneys, checks, drafts, deposits, interest, dividends, and income.
  - b. Credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.
  - 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. Amounts due and payable under the terms of insurance policies.
  - 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.
  - g. Amounts distributable from a mineral interest in land.
10. "Money order" includes an express money order and a personal money order, on which the remitter is the purchaser. The term does not include a cashier's check, bank money order, or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.
11. "Mineral proceeds" means all obligations to pay resulting from the production and sale of minerals, including net revenue interest, royalties, overriding royalties, production payments, and joint operating agreements and all obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties.
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 that person's legal representative.
13. "Person" means an individual, business association, state or other government including the government of the United States, 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. "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

**47-30.1-02. 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 a holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.
2. 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.

**47-30.1-02.1. Uncashed checks.**

1. Except as provided in sections 47-30.1-04 and 47-30.1-05, any checks held, issued, or owing in the ordinary course of the holder's business which remain uncashed by the owner for more than two years after becoming payable are presumed abandoned.
2. Any warrant issued by the state which the payee or legal holder fails to present for payment within two years of issue is considered void and canceled. If the payee or legal holder presents the void or canceled check for payment, the original issuing agency may issue a new warrant and the state treasurer is authorized to pay the new warrant.

**47-30.1-03. 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 section 47-30.1-02 and sections 47-30.1-05 through 47-30.1-16 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;
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. (1) The last known address of the apparent owner or other person entitled to the property is unknown; or

- (2) 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.

**47-30.1-03.1. Property originated or issued by this state, any political subdivision of this state, or any entity incorporated, organized, created, or otherwise located in this state.**

1. All intangible property, including any interest, dividend, or other earnings thereon, less any lawful charges, held by a business association, federal, state, or local government or governmental subdivision, agency, or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within three years after the date prescribed for payment or delivery, is presumed abandoned and subject to the custody of this state as unclaimed property if:
  - a. The address of the owner is unknown; and
  - b. The person or entity originating or issuing the intangible property is this state or any political subdivision of this state, or is incorporated, organized, created, or otherwise located in this state.
2. The provisions of subsection 1 do not apply to property that is or may be presumed abandoned and subject to the custody of this state pursuant to any other provision of law containing a dormancy period different from that prescribed in subsection 1.
3. The provisions of subsection 1 apply to all property held on July 1, 1991, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.

**47-30.1-04. Traveler's checks and money orders.**

1. Subject to subsection 4, any sum payable on a traveler's check that has been outstanding for more than fifteen years after its issuance is presumed abandoned unless the owner, within fifteen years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.
2. Subject to subsection 4, any sum payable on a money order or similar written instrument, other than a third-party bank check, that has been outstanding for more than seven years after its issuance is presumed abandoned unless the owner, within seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.
3. A holder may not deduct from the amount of a traveler's check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel them.
4. No sum payable on a traveler's check, money order, or similar written instrument, other than a third-party bank check, described in subsections 1 and 2 may be subjected to the custody of this state as unclaimed property unless:
  - a. The records of the issuer show that the traveler's check, money order, or similar written instrument was purchased in this state;
  - b. The issuer has its principal place of business in this state and the records of the issuer do not show the state in which the traveler's check, money order, or similar written instrument was purchased; or

- c. The issuer has its principal place of business in this state, the records of the issuer show the state in which the traveler's check, money order, or similar written instrument was purchased and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.
5. Notwithstanding any other provision in this chapter, subsection 4 applies to sums payable on traveler's checks, money orders, and similar written instruments presumed abandoned on or after February 1, 1965, except to the extent that those sums have been paid over to a state before January 1, 1974.

**47-30.1-05. Checks, drafts, and similar instruments issued or certified by banking and financial organizations.**

1. Any sum payable on a check, draft, or similar instrument, except those subject to section 47-30.1-04, on which a banking or financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than three years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within three years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee thereof.
2. A holder may not deduct from the amount of any instrument subject to this section any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge, and the holder regularly imposes those charges and does not regularly reverse or otherwise cancel them.

**47-30.1-06. Bank deposits and funds in financial organizations.**

1. Any demand, savings, or matured time deposit with a banking or financial organization, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking or financial organization is presumed abandoned unless, in the case of a matured time deposit, the banking or financial organization has mailed, at least once every five years certified mail, requesting a return receipt, to the owner and the receipt has been returned and signed by the addressee, or unless the owner, within five years has:
  - a. In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;
  - b. Communicated in writing with the banking or financial organization concerning the property;
  - c. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;
  - d. Owned other property to which subdivision a, b, or c applies and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent; or
  - e. Had another relationship with the banking or financial organization concerning which the owner has:
    - (1) Communicated in writing with the banking or financial organization; or
    - (2) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be

abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

2. For purposes of subsection 1 property includes interest and dividends.
3. A holder may not impose with respect to property described in subsection 1 any charge due to dormancy or inactivity or cease payment of interest unless:
  - a. There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge or cease payment of interest;
  - b. For property in excess of two dollars, the holder, no more than three months before the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease, but the notice provided in this section need not be given with respect to charges imposed or interest ceased before July 1, 1985; and
  - c. The holder regularly imposes those charges or ceases payment of interest and does not regularly reverse or otherwise cancel them or retroactively credit interest with respect to the property.
4. Any property described in subsection 1 that is automatically renewable is matured for purposes of subsection 1 upon the expiration of its initial time period, but in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in section 47-30.1-17, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

**47-30.1-07. Funds owing under life insurance policies.**

1. Except as otherwise provided under this section, funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for one year after the funds became due and payable as established from the records of the insurance company holding or owing the funds. If the policy or annuity contract provides for death benefits and is a policy covered under chapter 26.1-55, the insurance company shall comply with chapter 26.1-55.
2. If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the company.
3. For purposes of this chapter, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the insurance company is matured and the proceeds due and payable if:
  - a. The company knows of the potential death of the insured or annuitant, in which case the company shall comply with subsection 6; or
  - b. (1) The insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based;
  - (2) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in paragraph 1; and
  - (3) Neither the insured nor any other person appearing to have an interest in the policy within the preceding three years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a

memorandum or other record on file prepared by an employee of the company.

4. For purposes of this chapter, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection 1 if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.
5. If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.
6. If the company learns of the death or potential death of the insured or annuitant, within twelve months following the company learning of the death or potential death, the company shall:
  - a. Complete a good-faith effort, which the company shall document, to confirm the death of the insured or annuitant against other available records and information;
  - b. Review the insurer's records to determine whether the individual who has died purchased any other products with the insurer;
  - c. Determine whether benefits are due in accordance with the applicable insurance policy or annuity contract, and if benefits are due in accordance with the applicable policy or contract the company shall:
    - (1) Use good-faith efforts, which the company shall document, to locate the beneficiary or beneficiaries; and
    - (2) Provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract; and
  - d. Report and deliver the unclaimed property to the administrator as abandoned property if the benefits are due in accordance with the applicable insurance policy or annuity contract and the beneficiary has not submitted and completed a claim with the insurer.
7. Every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request the following information:
  - a. The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;
  - b. The address of each beneficiary; and
  - c. The relationship of each beneficiary to the insured.

#### **47-30.1-08. Security deposits.**

A deposit, including any interest thereon, made in advance by a person to secure an agreement for rights or services, less any lawful deductions, that remains unclaimed by the owner for more than one year after termination of the agreement for which the deposit or advance payment was made, is presumed abandoned.

#### **47-30.1-09. Refunds held by business associations.**

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

#### **47-30.1-10. Stock and other intangible interests in business associations.**

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 three years and the owner within three 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 three-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 three dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If three dividends, distributions, or other sums are paid during the three-year period, the period leading to a presumption of abandonment commences on the date payment of the first unclaimed dividend, distribution, or other sum became due and payable. If three dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been three dividends, distributions, or other sums that have not been claimed by the owner.
3. The running of the three-year 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 a subsequent dividend, distribution, or other sum became due and payable.
4. 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.
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 three years communicated in any manner described in subsection 1.

#### **47-30.1-11. Property of business associations held in course of dissolution.**

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

#### **47-30.1-12. 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 three 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 federal Internal Revenue Code are not payable or distributable within the meaning of subsection 1 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 holds the property in a fiduciary capacity for that business association alone, unless the agreement between the person 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.

**47-30.1-13. Property held by courts and public agencies.**

Intangible property held for the owner by a court, state, or other government, governmental subdivision or agency, public corporation, or public authority which remains unclaimed by the owner for more than three years after becoming payable or distributable is presumed abandoned. However, unclaimed intangible property held for the owner by a public employee pension program in this state is not subject to abandonment under this chapter.

**47-30.1-14. Credit memos.**

1. A credit memo issued in the ordinary course of an issuer's business which remains unclaimed by the owner for more than three years after becoming payable or distributable is presumed abandoned.
2. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

**47-30.1-15. Wages.**

Unpaid wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business which remain unclaimed by the owner for more than two years after becoming payable are presumed abandoned.

**47-30.1-16. Contents of safe deposit box or other safekeeping repository.**

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

**47-30.1-16.1. Mineral proceeds.**

1. Any sum payable as mineral proceeds that has remained unclaimed by the owner for more than three years after it became payable or distributable and the owner's underlying right to receive those mineral proceeds are deemed abandoned.
2. At the time an owner's underlying right to receive mineral proceeds is deemed abandoned, any mineral proceeds then owing to the owner and any proceeds accruing after that time are deemed abandoned. The sum deemed abandoned is subject to the custody of the state as unclaimed property if:
  - a. The last known address, as shown on the records of the holder, of the apparent owner is in this state;
  - b. The records of the holder do not reflect the last known address and it is established that the last known address of the apparent owner is in this state;
  - c. The records of the holder do not reflect the last known address, and the holder is domiciled in or is a government or governmental subdivision or agency of this state; or
  - d. The mineral interest is located in this state and:
    - (1) The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or

- custodial taking of the property or is in a state in which that state's escheat or unclaimed property law is not applicable to the property; or
- (2) The last known address of the apparent owner is unknown and the holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or a state in which the state escheat or unclaimed property law is not applicable to the property.
3. A holder may not deduct from mineral proceeds any charge due to dormancy unless:
    - a. There is an enforceable written contract between the holder and the owner of the mineral proceeds under which the holder may impose a charge;
    - b. For mineral proceeds in excess of five dollars, the holder, no more than three months before the initial imposition of those charges, has mailed written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed, provided the notice required in this subdivision need not be given with respect to charges imposed before August 1, 1995; and
    - c. The holder regularly imposes such charges and in no instance reverses or otherwise cancels them.
  4. Charges authorized under subsection 3 may be made and collected monthly, quarterly, or annually. However, beginning August 1, 1995, the cumulative amount of charges may not exceed twelve dollars per year and may only be charged for a maximum of three calendar years.

**47-30.1-17. Report and delivery of abandoned property.**

1. A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report and deliver the property to the administrator as provided in this section.
2. The report must be verified and 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 property of the value of fifty dollars or more presumed abandoned under this chapter.
  - b. 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 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, a description of the property; the place where it is held; where it may be inspected by the administrator; 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 fifty 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.
  - 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 the holder's name while holding the property, the report must include all known names and addresses of each previous holder of the property.
4. The report and property must be delivered by November first of each year for property deemed abandoned as of the preceding June thirtieth. The report and property of any life insurance company must be delivered by May first of each year for property deemed abandoned as of December thirty-first of the previous year. On written request by any person required to file a report, the administrator 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 the owner's last known address informing the owner that the holder is in possession of property subject to this chapter if:
  - a. The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;
  - b. The claim of the apparent owner is not barred by the statute of limitations; and
  - c. The property has a value of fifty dollars or more.
6. The holder of an interest under section 47-30.1-10 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 section 47-30.1-20 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.

**47-30.1-18. Notice and publication of lists of abandoned property.**

1. The administrator shall cause a notice to be published not later than October first of the year immediately following the report required by section 47-30.1-17 at least once a week for two weeks in a newspaper of general circulation in the county of this state in which is located the last-known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in the county in which the holder of the property has its principal place of business within this state.
2. One of the annual notices must be entitled "Notice of Names of Persons Appearing to Be Owners of Abandoned Property" and contain:
  - a. The names in alphabetical order and last-known address, if any, of persons listed in the report and entitled to notice within the county as specified in subsection 1.
  - b. A statement that information concerning the property and the name and last-known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the administrator.
3. One of the annual notices must be a display advertisement that contains information on abandoned property and contact information for making an inquiry.
4. The administrator is not required to publish in the notice any items of less than fifty dollars unless the administrator considers their publication to be in the public interest.
5. This section is not applicable to sums payable on traveler's checks, money orders, and other written instruments for which the holder is not required to report the name of the apparent owner.
6. The administrator may not publish in the notice any property clearly identified as belonging to a state agency. Property presumed to be state agency property that cannot be clearly identified as belonging to a specific agency also is exempt from public notice requirements.

**47-30.1-19. Payment or delivery of abandoned property.**

Repealed by S.L. 1995, ch. 442, § 17.

**47-30.1-19.1. Abandoned property list - Preparation - Contents - Not open records.**

The administrator shall annually prepare a list with information about property paid or delivered to the administrator under section 47-30.1-17.

1. The list must refer to all securities and unclaimed funds valued at fifty dollars or more in the administrator's custody and must contain the following information:

- a. The name and last-known address of each person appearing from the holders' report to be entitled to the property and the name and last-known address of each insured person or annuitant and beneficiary from the report of an insurance company.
  - b. The name of the person who paid or delivered the property to the administrator.
  - c. A general description of the property.
  - d. The date on which the administrator received the property.
  - e. Other information the administrator deems appropriate for inclusion in the list.
2. The list described in this section must be available for public inspection at all reasonable business hours and copies of the list must be available to the public for a fee to be set by the administrator.
  3. Reports filed with the administrator under section 47-30.1-17 are not public records and are not open to public inspection until twenty-four months after the date payment or delivery is made.

**47-30.1-20. Custody by state - Holder relieved from liability - Reimbursement of holder paying claim - Reclaiming for owner - Defense of holder - Payment of safe deposit box or repository charges.**

1. Upon the payment or delivery of property to the administrator, the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the administrator in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.
2. A holder who has paid money to the administrator pursuant to this chapter may make payment to any person appearing to the holder to be entitled to payment and, upon filing proof of payment and proof that the payee was entitled thereto, the administrator shall promptly reimburse the holder for the payment without imposing any fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed under this subsection upon filing proof that the instrument was duly presented and that payment was made to a person who appeared to the holder to be entitled to payment. The holder must be reimbursed for payment made under this subsection even if the payment was made to a person whose claim was barred under section 47-30.1-29.
3. A holder who has delivered property, including a certificate of any interest in a business association, other than money to the administrator pursuant to this chapter may reclaim the property if still in the possession of the administrator, without paying any fee or other charge, upon filing proof that the owner has claimed the property from the holder.
4. The administrator may accept the holder's affidavit as sufficient proof of facts that entitle the holder to recover money and property under this section.
5. If the holder pays or delivers property to the administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.
6. For the purposes of this section, "good faith" means that:
  - a. Payment or delivery was made in a reasonable attempt to comply with this chapter;
  - b. The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to that person, that the property was abandoned for the purposes of this chapter; and
  - c. There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.
7. Property removed from a safe deposit box or other safekeeping repository is received by the administrator subject to the holder's right under this subsection to be

reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The administrator shall reimburse or pay the holder out of the proceeds remaining after deducting the administrator's selling cost.

**47-30.1-21. Crediting of dividends, interest, or increments to owner's account.**

Repealed by S.L. 1995, ch. 442, § 17.

**47-30.1-21.1. Crediting of dividends or increments on stock to owner's account.**

Whenever property in the form of stock is paid or delivered to the administrator under this chapter, the owner is entitled to receive any dividends or other increments realized or accruing on the stock for as long as the stock is held by the administrator, provided the total amount of cash due the owner exceeds five dollars.

**47-30.1-22. Public sale of abandoned property.**

1. Except as provided in subsection 2, the administrator, not less than three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever manner affords in the judgment of the administrator the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property at a public sale if in the judgment of the administrator the bid is insufficient. If in the judgment of the administrator the probable cost of sale exceeds the value of the property, it need not be offered for sale. If any public sale held under this section is held in a physical location, the sale must be preceded by a single publication of notice, at least two weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.
2. Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.
3. The purchaser of property at any sale conducted by the administrator pursuant to this chapter takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

**47-30.1-23. Deposit of funds - Continuing appropriation.**

1. Except as otherwise provided by this section, the administrator shall promptly deposit in the state treasury to the credit of the common schools trust fund all funds received under this chapter, including the proceeds from the sale of abandoned property under section 47-30.1-22.
2. There is appropriated annually the amounts necessary to pay all expense deductions under this section, including:
  - a. Any costs in connection with the sale of abandoned property;
  - b. Costs of mailing, publication, and outreach efforts in connection with any abandoned property;
  - c. Reasonable service charges;
  - d. Costs incurred in examining records of holders of property and in collecting the property from those holders;
  - e. Funds for the payment of claims; and
  - f. Funds for the payment of holder refunds.

**47-30.1-24. Filing of claim with administrator - Exempt from open records law .**

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

2. The administrator shall consider each claim within ninety days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.
3. If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator.
4. Documentation and information submitted by a claimant for the purpose of proving ownership of the property is exempt from the open records law under section 44-04-18.

**47-30.1-24.1. Claims by state agencies - Budget section approval and report.**

Within one year of receipt of state agency property, the administrator shall notify the agency by certified mail. The commissioner of university and school lands shall present a report to the budget section identifying every state agency that has not submitted a claim for property belonging to that agency within one year of the receipt of the date of the certified mail receipt. Upon approval of the budget section, the agency relinquishes its right to recover its property. Any request considered by the budget section must comply with section 54-35-02.9.

**47-30.1-25. Claim of another state to recover property - Procedure.**

1. At any time after property has been paid or delivered to the administrator under this chapter another state may recover the property if:
  - a. The property was subjected to custody by this state because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed abandoned under this chapter, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state;
  - b. The last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state;
  - c. The records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state;
  - d. The property was subjected to custody by this state under subsection 6 of section 47-30.1-03 and under the laws of the state of domicile of the holder the property has escheated to or became subject to a claim of abandonment by that state; or
  - e. The property is the sum payable on a traveler's check, money order, or other similar instrument that was subjected to custody by this state under section 47-30.1-04, and the instrument was purchased in the other state, and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.
2. The claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the administrator, who shall decide the claim within ninety days after it is presented. The administrator shall allow the claim if the administrator determines that the other state is entitled to the abandoned property under subsection 1.
3. The administrator shall require a state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim for the property.

**47-30.1-26. Action to establish claim.**

A person aggrieved by a decision of the administrator or whose claim has not been acted upon within ninety days after its filing may bring an action to establish the claim in the appropriate district court, naming the administrator as a defendant. The action must be brought within ninety days after the decision of the administrator or within one hundred eighty days after the filing of the claim if the administrator has failed to act on it.

**47-30.1-27. Election to take payment or delivery.**

1. The administrator may decline to receive any property reported under this chapter which the administrator considers to have a value less than the expense of giving notice and of sale. If the administrator elects not to receive custody of the property, the holder shall be notified within one hundred twenty days after filing the report required under section 47-30.1-17.
2. A holder, with the written consent of the administrator and upon conditions and terms prescribed by the administrator, may report and deliver property before the property is presumed abandoned. Property delivered under this subsection must be held by the administrator and is not presumed abandoned until such time as it otherwise would be presumed abandoned under this chapter.

**47-30.1-28. Destruction or disposition of property having insubstantial commercial value - Immunity from liability.**

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

**47-30.1-29. Periods of limitation.**

The expiration, before or after July 1, 1985, of any period of time specified by contract, statute, or court order, during which a claim for money or property can be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property, does not prevent the money or property from being presumed abandoned or affect any duty to file a report or to pay or deliver abandoned property to the administrator as required by this chapter.

**47-30.1-30. Requests for reports and examination of records.**

1. The administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.
2. The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this chapter. The administrator may not require a person to provide records for a period exceeding the current year and seven preceding fiscal years. The administrator may conduct the examination even if the person believes that person is not in possession of any property reportable or deliverable under this chapter. The administrator may not contract for an examination done within this state without reasonable cause to believe that a person has failed to comply with this chapter.
3. If a person is treated under section 47-30.1-12 as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection 2, may examine the records of the person if the administrator has given the notice required by subsection 2 to both the person and the business association at least ninety days before the examination.
4. If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter, the administrator may assess the cost of the examination against the holder at the rate of one hundred dollars a day for each

examiner, but in no case may the charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to subsection 3 may be imposed only against the business association.

5. If a holder fails after July 1, 1985, to maintain the records required by section 47-30.1-31 and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay such amounts as may reasonably be estimated from any available records.

**47-30.1-30.1. Confidentiality of audit records - Civil penalty.**

1. Documentation and working papers obtained or compiled by the administrator, or the administrator's agents, employees, or designated representatives, in the course of conducting an audit for unclaimed property under chapter 47-30.1 are confidential and are not public records under section 44-04-18 and section 5 of article XI of the Constitution of North Dakota, except in the following circumstances:
  - a. When used by the administrator to bring an action to collect unclaimed property, to collect any unpaid interest due on unclaimed property, or to otherwise enforce chapter 47-30.1;
  - b. When used in joint audits conducted with or pursuant to agreements with other states, the federal government, or other governmental entities;
  - c. Pursuant to subpoena or court order; or
  - d. By written consent of the person, institution, business, or entity that was audited.
2. The administrator's final, completed audit reports are records open to the public. The final reports may not contain confidential documentation or working papers unless one of the exceptions provided under subsection 1 applies.
3.
  - a. The administrator or any state employee conducting an audit on the administrator's behalf may not disclose confidential information when auditing financial institutions, except as required to perform duties required under this chapter. Any other person or entity performing an audit for unclaimed property may not disclose confidential information concerning a financial institution or other holder to any person or other entity except the administrator.
  - b. Any person or entity, other than the administrator or any state employee conducting an audit on the administrator's behalf, who intentionally discloses information in violation of this section is liable to the person or entity that was audited in an amount equal to the greater of one thousand dollars or the actual damages caused by the disclosure of the information. Any person who discloses information in good faith reliance on this section is not liable for that disclosure.
4. The administrator and any state employee conducting an audit on the administrator's behalf are exempt from chapter 6-08.1.

**47-30.1-31. Retention of records.**

1. Every holder required to file a report under section 47-30.1-17, as to any property for which it has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for ten years after the property becomes reportable, except to the extent that a shorter time is provided in subsection 2 or by rule of the administrator.
2. Any business association that sells in this state its traveler's checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides those instruments to others for sale in this state, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

#### **47-30.1-32. Enforcement - Appeals.**

The administrator may bring an action in a court of competent jurisdiction to enforce this chapter. A person in this state who is aggrieved by an audit that in any form requests the payment of money or a civil penalty is entitled to a hearing before the board of university and school lands. A demand for a hearing must be made within thirty days of the request by the administrator. The request by the administrator must contain notice of the right to a hearing. The board's decision is the final order of the agency and is appealable to the district court. Any amount of money requested by the administrator which may increase over time is tolled at the time of filing an appeal, retroactive to the date of the request.

#### **47-30.1-33. Interstate agreements and cooperation - Joint and reciprocal actions with other states.**

1. The administrator may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise determine unclaimed property that it or another state may be entitled to subject to a claim of custody. The administrator by rule may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.
2. To avoid conflicts between the administrator's procedures and the procedures of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act, the administrator, so far as is consistent with the purposes, policies, and provisions of this chapter, before adopting, amending, or repealing rules, shall advise and consult with administrators in other jurisdictions that enact substantially the Uniform Unclaimed Property Act and take into consideration the rules of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act.
3. The administrator may join with other states to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.
4. At the request of another state, the attorney general of this state may bring an action in the name of the administrator of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in bringing the action.
5. The administrator may request that the attorney general of another state or any other person bring an action in the name of the administrator in the other state. This state shall pay all expenses including attorney's fees in any action under this subsection. The administrator may agree to pay the person bringing the action attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses paid pursuant to this subsection may not be deducted from the amount that is subject to the claim by the owner under this chapter.

#### **47-30.1-34. Penalties.**

1. A person who willfully fails to render any report or perform other duties required under this chapter shall pay a civil penalty of one hundred dollars for each day the report is withheld or the duty is not performed, but not more than the value of the property that should have been paid or delivered.
2. A person who willfully fails to pay or deliver property to the administrator as required under this chapter shall pay a civil penalty equal to twenty-five percent of the value of the property that should have been paid or delivered.
3. A person who willfully refuses after written demand by the administrator to pay or deliver property to the administrator as required under this chapter is guilty of a class B misdemeanor.

**47-30.1-35. Agreements to locate reported and unreported property.**

1. All agreements to pay compensation to recover or assist in the recovery of property reported under section 47-30.1-17, made within twenty-four months after the date payment or delivery is made to the administrator, are unenforceable.
2. An agreement entered into after such twenty-four-month period is enforceable only if the agreement is in writing and the aggregate fee, compensation, or commission charged is not in excess of ten percent of the amount recovered.
3. An agreement entered into on or after August 1, 2009, with an owner under which the owner is to pay a fee for locating, delivering, recovering, or assisting in the recovery of property that has not yet been reported to the unclaimed property office under chapter 47-30.1 is enforceable only if the agreement:
  - a. Is in writing;
  - b. Sets forth the nature of the property for which recovery is sought;
  - c. Describes the services to be rendered in connection with locating, delivering, recovering, or assisting in the recovery of the property;
  - d. States the value of the property;
  - e. Sets forth or describes the amount of the fee;
  - f. Is signed by the apparent owner;
  - g. Discloses that, absent the agreement, the property would otherwise be delivered to a state-administered unclaimed property program for safekeeping on the owner's behalf and that upon such delivery, the owner may be able to recover the property from the state-administered program without charge; and
  - h. Provides the apparent owner with contact information for the state-administered unclaimed property program to which the property would otherwise be reported.
4. Nothing in this section may be construed to prevent an owner from asserting at any time that an agreement to locate, deliver, recover, or assist in the recovery of property is based upon excessive or unjust consideration.

**47-30.1-36. Foreign transactions.**

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

**47-30.1-37. Effect of new provisions - Clarification of application.**

1. This chapter does not relieve a holder of a duty that arose before July 1, 1985, to report, pay, or deliver property. A holder who has not complied with the law in effect before July 1, 1985, is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this subsection.
2. The initial report filed under this chapter for property that was not required to be reported before July 1, 1985, but which is subject to this chapter must include all items of property that would have been presumed abandoned during the ten-year period preceding July 1, 1985, as if this chapter had been in effect during that period.

**47-30.1-38. Rules.**

The administrator may adopt necessary rules to carry out this chapter.