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CHAPTER 18

Uniform Unclaimed Property Act

**SECTION 27‑18‑10.** Short title.

 This chapter may be cited as the Uniform Unclaimed Property Act (1981).

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑20.** Definitions.

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

 (1) “Administrator” means the State Treasurer, his agents, or representatives.

 (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.

 (4) “Banking organization” means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization.

 (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.

 (7) “Financial organization” means a savings and loan association, cooperative bank, building and loan association, 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.

 (9) “Insurance company” means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.

 (10) “Intangible property” includes:

 (a) monies, 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 except that intangible property does not include trading stamps and electronic entries representing trading stamps that are awarded to retail customers incident to the purchase of goods;

 (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;

 (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; and

 (g) tax refund checks issued by this State and returned to the Department of Revenue by the post office for an unknown, undeliverable, or insufficient address.

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

 (12) “Lawful charge” means a charge for which there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose the charge and the issuer regularly imposes the charge and does not regularly reverse or otherwise cancel the charge.

 (13) “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.

 (14) “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.

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

 (16) “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.

 (17) “Unclaimed” property includes:

 (a) checks or drafts mailed to an owner and returned as undeliverable; or

 (b) checks or drafts mailed to an owner and not presented for payment.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 1992 Act No. 361, Section 30(A); 1993 Act No. 181, Section 487; 1996 Act No. 377, Section 1; 1999 Act No. 14, Section 1; 2001 Act No. 43, Section 1; 2005 Act No. 161, Section 26.B; 2011 Act No. 44, Section 3, eff June 7, 2011.

Editor’s Note

2011 Act No. 44, Sections 1, 4, and 7, provide as follows:

“SECTION 1. The General Assembly determines it is in the best interest of South Carolina, the electric cooperatives, and their members to advocate energy efficiency and renewable energy initiatives in South Carolina.

“The General Assembly determines it is prudent to update and clarify procedures for South Carolina’s electric cooperatives to contribute, allocate, and retire patronage capital.

“The General Assembly determines it is prudent to clarify that South Carolina’s electric cooperatives may utilize the defense known as the “business judgment rule”.

“The General Assembly determines it is in the best interest of South Carolina’s electric cooperatives and their members that unclaimed patronage credits are hereafter exempt from the Uniform Unclaimed Property Act.”

“SECTION 4. The General Assembly determines it is in the best interests of South Carolina, the telephone cooperatives, and their members to assist with educational, charitable, and economic development efforts in the rural areas of South Carolina.

“The General Assembly determines it is prudent to update and clarify the procedures for South Carolina’s telephone cooperatives to contribute, allocate, and retire patronage capital.

“The General Assembly determines it is prudent to clarify that the “business judgment rule” applies to South Carolina’s telephone cooperatives.

“The General Assembly determines it is in the best interest of South Carolina’s telephone cooperatives and their members that unclaimed patronage credits are hereafter exempt from the Uniform Unclaimed Property Act.”

“SECTION 7. This act takes effect upon approval by the Governor and applies to patronage capital determined to be unclaimed as of the effective date of the act.”

Effect of Amendment

The 2011 amendment in subsection (3) substituted “General” for “general”; deleted subsection (14) relating to patronage allocations; and renumbered subsections (15) through (18) as subsections (14) through (17) accordingly.

**SECTION 27‑18‑30.** Property presumed abandoned; demand for payment not required.

 (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.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 2011 Act No. 44, Section 6, eff June 7, 2011.

Editor’s Note

2011 Act No. 44, Sections 1, 4, and 7, provide as follows:

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Effect of Amendment

The 2011 amendment deleted subsection (C) relating to patronage allocations.

**SECTION 27‑18‑40.** Conditions 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 27‑18‑30 and 27‑18‑60 through 27‑18‑170 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)(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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑50.** Travelers checks, money orders, or similar written instruments.

 (A) Subject to subsection (D), any sum payable on a travelers 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.

 (B) Subject to subsection (D), 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.

 (C) A holder may not deduct from the amount of a travelers 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 such charges and does not regularly reverse or otherwise cancel them.

 (D) No sum payable on a travelers check, money order, or similar written instrument, other than a third‑party bank check, described in subsections (A) and (B) may be subjected to the custody of this State as unclaimed property unless:

 (1) the records of the issuer show that the travelers check, money order, or similar written instrument was purchased in this State;

 (2) the issuer has its principal place of business in his State and the records of the issuer do not show the state in which the travelers check, money order, or similar written instrument was purchased; or

 (3) the issuer has it principal place of business in this State, the records of the issuer show the state in which the travelers 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.

 (E) Notwithstanding any other provision of this chapter, subsection (D) applies to sums payable on travelers 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 prior to January 1, 1974.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑60.** Checks, drafts, or similar instruments on which banking or financial institution is liable.

 (A) Any sum payable on a check, draft, or similar instruments, except those subject to Section 27‑18‑50, 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 five years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within five 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.

 (B) 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 such charges and does not regularly reverse or otherwise cancel them.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑70.** Demand, savings, or matured time deposits with banking or financial organizations.

 (A) 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 the owner, within five years has:

 (1) 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;

 (2) communicated in writing with the banking or financial organization concerning the property;

 (3) 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;

 (4) owned other property to which item (1), (2), or (3) 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

 (5) had another relationship with the banking or financial organization concerning which the owner has:

 (a) communicated in writing with the banking or financial organization; or

 (b) 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.

 (B) For purposes of subsection (A) property includes interest and dividends.

 (C) A holder may not impose with respect to property described in this section any charge in excess of one dollar a month due to dormancy or inactivity or cease payment of interest unless 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.

 (D) Any property described in this section that is automatically renewable is matured for purposes of this section 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. In the absence of such consent or memo, one automatic renewal is allowed for a period equal to the initial time period before the property is considered matured. If, at the time provided for delivery in Section 27‑18‑200, 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑75.** Escheatment of United States savings bonds.

 (A) Notwithstanding any other provisions of law, a United States savings bond in the possession of the administrator or registered to a person with a last known address in this State, including a bond that is lost, stolen, or destroyed, is presumed abandoned and unclaimed five years after the bond reaches final maturity and no longer earns interest. This United States savings bond must be reported and remitted to the administrator by the financial institution or other holder in accordance with the provisions of this chapter if the administrator is not in possession of the bond. If the savings bond is located in a safe deposit box, the financial institution or other holder must report and remit the savings bond to the administrator whether or not the administrator chooses to accept the other contents of the safe deposit box in the manner provided by law.

 (B) As used in this section:

 (1) “book‑entry bond” means a savings bond maintained by the United States Treasury in electronic or paperless form as a computer record;

 (2) “definitive bond” means a savings bond issued by the United States Treasury in paper form;

 (3) “final maturity” means the date a United States savings bond ceases to earn interest; and

 (4) “United States savings bond” means a book‑entry bond or definitive bond issued by the United States Treasury.

 (C)(1) After a United States savings bond is abandoned and unclaimed in accordance with subsection (A), the administrator may commence a civil action in the court of common pleas in Richland County for a determination that the bond shall escheat to the State. Upon determination of escheatment, all property rights to the bond or proceeds from the bond, including all rights, powers, and privileges or survivorship of an owner, co‑owner, or beneficiary, shall vest solely in the State.

 (2) Service of process by publication may be made on a party in a civil action pursuant to this section. The notice of action must state the name of any known owner of the bond, the nature of the action or proceeding, the name of the court in which the action or proceeding is instituted, and an abbreviated title of the case.

 (3) The notice of action must require a person claiming an interest in the bond to file a written response with the court and serve a copy of the response by the date fixed in the notice. This date must be no later than thirty days from the date the last newspaper notice required by this section was or will be published.

 (4) The administrator shall cause the notice of action to be published once a week for three consecutive weeks in a newspaper of general circulation published in Richland County. Proof of publication must be filed with the court.

 (5)(a) If no person files a claim with the court for the bond and if the administrator has substantially complied with the provisions of this section and of law, the court shall enter a default judgment that the bond, or proceeds from the bond, has escheated to the State.

 (b) If a person files a claim for one or more bonds and, after notice and hearing, the court determines that the claimant is not entitled to the bonds claimed by the claimant, the court shall enter a judgment that the bonds, or proceeds from the bonds, have escheated to the State.

 (c) If a person files a claim for one or more bonds and, after notice and hearing, the court determines that the claimant is entitled to the bonds claimed by the claimant, the court shall enter a judgment in favor of the claimant.

 (D) The administrator may be reimbursed for the costs of the civil action required by this section from the proceeds of the savings bonds which have escheated to the State under the action and which have been redeemed. To the extent the proceeds, if any, are insufficient to cover the costs of a civil action required by this section, the administrator may deduct the costs from other unclaimed funds received under this chapter before depositing the funds to the credit of the general fund in the manner provided in Section 27‑18‑240(B).

 (E) The administrator may redeem a United States savings bond escheated to the State pursuant to this section or, in the event that the administrator is not in possession of the bond, seek to obtain the proceeds from the bond. Proceeds received by the administrator must be deposited in accordance with Section 27‑18‑240.

 (F) Nothing in this section prohibits the inclusion in a single civil action of multiple United States savings bonds subject to escheatment to the State of South Carolina, and the administrator may postpone the bringing of any such civil action until sufficient United States savings bonds have accumulated in the administrator’s custody to justify the expense of the proceeding.

 (G) The provisions of this section and Section 27‑18‑76 supersede any other provisions of this chapter in regard to United States savings bonds to the extent the provisions conflict.

HISTORY: 2015 Act No. 81 (H.3852), Section 1, eff June 11, 2015.

Editor’s Note

2015 Act No. 81, Section 3, provides as follows:

“SECTION 3. This act applies to any United States savings bond that reaches maturity on, before, or after the effective date of this act.”

**SECTION 27‑18‑76.** Claims for escheated United States savings bonds or proceeds from bond.

 A person claiming a United States savings bond escheated to the State under Section 27‑18‑75, or for the proceeds from the bond, may file a claim with the administrator. The administrator may approve the claim if the person is able to provide sufficient proof of the validity of the person’s claim. No costs of prior court action regarding the savings bond or bonds which are the subject of the person’s claim may be taxed against that person. Once a bond, or the proceeds from the bond, are remitted to a claimant, no action thereafter may be maintained by any other person against the administrator, the State, or any officer of the State, for or on account of the funds. The person’s sole remedy, if any, must be against the claimant who received the bond or proceeds from the bond.

HISTORY: 2015 Act No. 81 (H.3852), Section 2, eff June 11, 2015.

Editor’s Note

2015 Act No. 81, Section 3, provides as follows:

“SECTION 3. This act applies to any United States savings bond that reaches maturity on, before, or after the effective date of this act.”

**SECTION 27‑18‑80.** Funds held or owing under life or endowment insurance policies or annuity contracts that have matured or terminated.

 (A) 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 more than five years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection (C)(2) is presumed abandoned if unclaimed for more than two years.

 (B) 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.

 (C) 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 company is matured and the proceeds due and payable if:

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

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

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

 (iii) neither the insured nor any other person appearing to have an interest in the policy within the preceding two 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.

 (D) 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 (A) 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.

 (E) 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.

 (F) Notwithstanding any other provisions of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

 (G) Commencing two years after the effective date of this chapter, 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:

 (1) the name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;

 (2) the address of each beneficiary; and

 (3) the relationship of each beneficiary to the insured.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑85.** Property payable or distributable in the course of demutualization of insurance company; abandonment.

 Unclaimed property payable or distributable in the course of a demutualization of an insurance company is presumed abandoned five years after the earlier of the date:

 (1) of last contact with the policyholder; or

 (2) the property became payable or distributable.

 This section does not apply to amounts due and owing to the State or a political subdivision of the State.

HISTORY: 2003 Act No. 58, Section 1.

**SECTION 27‑18‑90.** Utility service deposits, advance payments, or ordered refunds.

 (A) A deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one year after termination of the services for which the deposit or advance payment was made is presumed abandoned.

 (B) Any sum which a utility has been ordered to refund and which was received for utility services rendered in this State, together with any interest thereon, less any lawful charges, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than five years after the date it became payable in accordance with the final determination or order providing for the refund is presumed abandoned.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑100.** Business associations; refunds ordered by court or administrative agency.

 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 one year 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑110.** Dormancy period for stock or other equity interest in business association and certain debts; calculating whether stock or security interest is unclaimed.

 (A) Stock or other equity interest in a business association is presumed unclaimed three years after the earliest of:

 (1) the date of the most recent dividend, stock split, or other distribution unclaimed by the apparent owner;

 (2) the date of a statement of account or other notification or communication that was returned as undeliverable; or

 (3) the date the holder discontinued mailings, notifications, or communications to the apparent owner.

 (B) Unmatured or unredeemed debt, other than a bearer bond or an original‑issue discount bond, is presumed unclaimed three years after the date of the most recent interest payment unclaimed by the owner.

 (C) Matured or redeemed debt is presumed unclaimed three years after the date of maturity or redemption.

 (D) At the time property is presumed unclaimed pursuant to subsection (A) or (B), any other property right accrued or accruing to the owner as a result of the property interest and not previously presumed unclaimed is also presumed unclaimed.

 (E) The running of the three‑year period ceases if the person:

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

 (b) otherwise communicates 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 or its agent; or

 (2) presents an instrument issued to pay interest or a dividend or other cash distribution. If a 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 in which the property is presumed unclaimed commences and relates back only to the time a subsequent dividend, distribution, or other sum became due and payable.

 (F) At the same time any interest is presumed unclaimed under this section, a dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, is presumed unclaimed.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 2008 Act No. 197, Section 1, eff April 15, 2008.

Effect of Amendment

The 2008 amendment rewrote this section.

**SECTION 27‑18‑120.** Intangible property distributable in course of dissolution of business association.

 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑130.** Intangible property held in fiduciary capacity for benefit of another; funds in individual retirement account or retirement plan for self‑employed individuals or similar plan or account.

 (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 considered 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 considered 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑140.** Unclaimed intangible property presumed abandoned; tax refund checks.

 (A) 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 five years after becoming payable or distributable is presumed abandoned.

 (B) Notwithstanding the provisions of subsection (A), tax refund checks as defined in Chapter 54 of Title 12 are presumed abandoned if unclaimed for a period of three months from the date the tax refund check was issued by the Department of Revenue.

 (C) This chapter does not apply to tax refund checks mailed to an owner, and not presented for payment, but not returned to the Department of Revenue by the Post Office for an unknown, undeliverable, or insufficient address.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 1992 Act No. 264, Section 1; 2005 Act No. 161, Section 26.C.

**SECTION 27‑18‑150.** Credit memo.

 (A) A credit memo issued in the ordinary course of an issuer’s business which remains unclaimed by the owner for more than five years after becoming payable or distributable is presumed abandoned.

 (B) In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 2001 Act No. 43, Section 2.

**SECTION 27‑18‑160.** Unpaid wages and unpresented payroll checks.

 Unpaid wages, including wages represented by unpresented payroll checks, owing in the ordinary course of the holder’s business which remain unclaimed by the owner for more than one year after becoming payable are presumed abandoned.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑170.** Contents of safe deposit boxes or other safekeeping repositories.

 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 five years after the lease or rental period on the box or other repository has expired, are presumed abandoned.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑175.** Application of chapter.

 This chapter does not apply to forfeited reservation deposits. For purposes of this chapter, the term “reservation deposit” means an amount of money paid to a business association to guarantee that the business association holds a specific service including, but not limited to, a room accommodation at a hotel, a vacation rental, seating at a restaurant, or an appointment with a doctor, for a specified date and place. The term “reservation deposit” does not include an application fee, a utility deposit, or a deposit made toward the purchase of real property.

HISTORY: 2001 Act No. 43, Section 3.

**SECTION 27‑18‑180.** Report of unclaimed property; notice to apparent owner.

 (A) A person holding tangible or intangible property, that is presumed abandoned and subject to custody as unclaimed property pursuant to this chapter, shall report to the administrator concerning the property as provided in this section. The action taken to report an unclaimed tax refund check to the administrator is not a violation of disclosure prohibitions described in Section 12‑54‑240.

 (B) The report must be verified and must 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 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 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;

 (3) 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;

 (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 fifty dollars 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 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. On written request by any person required to file a report, the administrator may postpone the reporting date.

 (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 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 fifty dollars or more.

 (F) Notwithstanding Section 27‑18‑190, the State Treasurer shall only be required to publish a notice not later than April thirtieth of the year immediately following the report required by this section by electronic means or at least once in a newspaper of general circulation in the county in this State which is the last known address of any person named in the notice.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 1996 Act No. 248, Section 2; 2005 Act No. 161, Section 26.D; 2008 Act No. 353, Section 2, Pt 29A.1, eff July 1, 2008.

Effect of Amendment

The 2008 amendment added subsection (F) relating to publication annual reports.

**SECTION 27‑18‑190.** Administrator’s notice of abandoned property; publication; contents; exceptions.

 (A) The administrator shall publish a notice not later than April 30 of the year immediately following the report required by Section 27‑18‑180 at least once in a newspaper of general circulation in the county of this State in which is located the last known address of any person named in the notice. If a holder does not report an address for the apparent owner, or the address is outside this State, the notice must be published in the county in which the holder has its principal place of business within this State or another county that the administrator reasonably selects.

 (B) The notice must be in a form that, in the judgment of the administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The form must contain:

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

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

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

 (4) a statement that information about the property and its return to the owner is available to a person having a legal or beneficial interest in the property upon request to the administrator.

 (C) The administrator is not required to publish the name and address or location of property having a total value of less than fifty dollars or information concerning a traveler’s check, money order, or similar instrument.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 1996 Act No. 248, Section 3; 1998 Act No. 377, Section 1.

**SECTION 27‑18‑200.** Payment or delivery of abandoned property to administrator; exceptions; holder of stocks or similar intangible ownership interests relieved of liability upon delivery.

 (A) A person who is required to file a report under Section 27‑18‑180 shall pay or deliver to the administrator all abandoned property required to be reported.

 (B) The holder of an interest under Section 27‑18‑110 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 Section 27‑18‑210 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 1996 Act No. 248, Section 4.

**SECTION 27‑18‑210.** Liability of holder after payment or delivery to administrator; payments to owners of property turned over to administrator; recovery of property turned over to administrator; administrator to defend holder against claims for property paid or delivered to administrator; “good faith” defined; payment of costs of safe deposit box or other safekeeping repository.

 (A) 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.

 (B) 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 travelers 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 27‑18‑300(A).

 (C) 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.

 (D) The administrator may accept the holder’s affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

 (E) 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.

 (F) For the purposes of this section, “good faith” means that:

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

 (2) 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 him, that the property was abandoned for the purposes of this chapter; and

 (3) 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.

 (G) 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑220.** Dividends, interest, or other increments realized on property in hands of administrator.

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

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑230.** Sale of property by administrator.

 (A) Except as provided in subsections (B) and (C), the administrator, within three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever municipality in the State 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 for 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. Any sale held under this section must be preceded by a single publication of notice, at least three weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

 (B) 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.

 (C) Unless the administrator considers it to be in the best interest of the State to do otherwise, all securities other than those presumed abandoned under Section 27‑18‑110, delivered to the administrator must be held for at least one year before he may sell them.

 (D) Unless the administrator considers it to be in the best interest of the State to do otherwise, all securities presumed abandoned under Section 27‑18‑110 and delivered to the administrator must be held for at least three years before he may sell them. If the administrator sells any securities delivered pursuant to Section 27‑18‑110 before the expiration of the three‑year period, any person making a claim pursuant to this chapter before the end of the three‑year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to Section 27‑18‑240(B). A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from sale, less any amounts deducted pursuant to Section 27‑18‑240(B), but no person has any claim under this chapter against the State, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

 (E) 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑240.** Deposit into General Fund of funds received by administrator; deductions before deposit of funds.

 (A) Except as otherwise provided by this section, the administrator shall promptly deposit in the general fund of this State all funds received under this chapter, including the proceeds from the sale of abandoned property under Section 27‑18‑230. The administrator shall retain in a separate trust fund an amount not less than one hundred thousand dollars from which prompt payment of claims duly allowed must be made by him. Before making the deposit, the administrator shall record the name and last known address of each person appearing from the holders’ reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or contract listed in the report of an insurance company its number, the name of the company, and the amount due. The record must be available for public inspection at all reasonable business hours.

 (B) Before making any deposit to the credit of the general fund, the administrator may deduct:

 (1) any costs in connection with the sale of abandoned property;

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

 (3) reasonable service charges; and

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

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑250.** Claims to property paid or delivered to administrator; recovery of interest on property.

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

 (B) 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.

 (C) 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 together with any additional amount required by Section 27‑18‑220. If the claim is for property presumed abandoned under Section 27‑18‑110 which was sold by the administrator within three years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater. If the property claimed was interest‑bearing to the owner on the date of surrender by the holder, the administrator also shall pay interest at a rate provided in Section 12‑54‑25 or any lesser rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the administrator and ceases on the earlier of the expiration of ten years after delivery or the date on which payment is made to the owner. No interest on interest‑bearing property is payable for any period before the effective date of this chapter.

 (D) Any holder who pays the owner for property that has been delivered to the State and which, if claimed from the administrator, would be subject to subsection (C) shall add interest as provided in subsection (C). The added interest must be repaid to the holder by the administrator in the same manner as the principal.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 2008 Act No. 197, Section 2, eff April 15, 2008.

Effect of Amendment

The 2008 amendment, in subsection (C), in the third sentence substituted “12‑54‑25” for “12‑54‑20”.

**SECTION 27‑18‑260.** Recovery by another state of property paid or delivered to administrator.

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

 (1) 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 was subject to a claim of abandonment by that state;

 (2) 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 has escheated to or become subject to a claim of abandonment by that state;

 (3) 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 was subject to a claim of abandonment by that state;

 (4) the property was subjected to custody by this State under Section 27‑18‑40(6) and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or

 (5) the property is the sum payable on a travelers check, money order, or other similar instrument that was subjected to custody by this State under Section 27‑18‑50, 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.

 (B) 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 he determines that the other state is entitled to the abandoned property under subsection (A).

 (C) 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑270.** Appeal of decision of administrator, court action to establish claim to property.

 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 court of common pleas of Richland County 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 he has failed to act on it.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑280.** Election of administrator not to accept property; report and delivery of property before property presumed abandoned.

 (A) The administrator may decline to receive any property reported under this chapter which he 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 must be notified within one hundred twenty days after filing the report required under Section 27‑18‑180.

 (B) A holder, with the written consent of the administrator and upon conditions and terms prescribed by him, 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑290.** Destruction or disposal by administrator of property with 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑300.** Periods of limitation.

 (A) The expiration, after the effective date of this chapter, 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.

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

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑310.** Requests for reports; examination of records; demand for payment; estimated amount of abandoned property.

 (A) 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.

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

 (C) If a person is treated under Section 27‑18‑130 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 (B), may examine the records of the person if the administrator has given the notice required by subsection (B) to both the person and the business association at least ninety days before the examination.

 (D) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter the administrator shall give notice to the holder stating the amount due plus applicable interest and penalties and his demand for payment. Payment or written formal protest must be made within sixty days from the receipt of the notice or the holder is subject to penalties as provided under Section 27‑18‑350(B) or criminal prosecution as provided in Section 27‑18‑350(D).

 (E) If a holder fails after the effective date of this chapter to maintain the records required by Section 27‑18‑320 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑320.** Length of time holders must retain records.

 (A) Every holder required to file a report under Section 27‑18‑180 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 (B) or by rule of the administrator.

 (B) Any business association that sells in this State its travelers 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 such 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑330.** Authority of administrator to enforce chapter.

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

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑340.** Cooperation with other states concerning sharing of information, changing of rules, and enforcement of chapter.

 (A) 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.

 (B) 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.

 (C) 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.

 (D) 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.

 (E) 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.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑350.** Interest and penalties for violations of chapter.

 (A) A person who fails to pay or deliver property within the time prescribed by this chapter may be required to pay to the administrator interest at the rate provided in Section 12‑54‑25 on the property or value thereof from the date the property should have been paid or delivered.

 (B) A person who fails to render any report or perform other duties required pursuant to this chapter may be required to 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 five thousand dollars.

 (C) A person who fails to pay or deliver property to the administrator as required pursuant to this chapter may be required to pay a civil penalty equal to twenty‑five percent of the value of the property that should have been paid or delivered.

 (D) A person who wilfully refuses after written demand by the administrator to pay or deliver property to the administrator as required under this chapter is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than ten thousand dollars or imprisonment for not more than one year, or both.

HISTORY: 1988 Act No. 658, Part II, Section 34A; 1995 Act No. 60, Section 4.J; 2008 Act No. 197, Section 3, eff April 15, 2008.

Effect of Amendment

The 2008 amendment, in subsections (B) and (C), substituted “pursuant to this chapter may be required to” for “under this chapter shall”.

**SECTION 27‑18‑360.** Restrictions on agreements to recover or assist in recovery of reported property; penalties.

 All agreements to pay compensation to recover or assist in the recovery of property reported under Section 27‑18‑180, made within twenty‑four months after the date payment or delivery is made under Section 27‑18‑200 are unenforceable. It is unlawful for any person to seek or receive from any person or contract with any person for any fee or compensation for locating or purporting to locate any property which he knows has been reported or paid or delivered to the administrator pursuant to this chapter, in excess of fifteen percent of the value thereof returned to the owner. Any person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than the amount of the fee or charge he has sought or received or contracted for, nor more than ten times the amount, or imprisoned for not more than thirty days, or both.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑370.** Application of chapter to foreign property or transactions.

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

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑380.** Duties which arose prior to effective date of chapter unaffected; enforcement and penalties of prior laws unaffected; initial report under this chapter of property not previously required to be reported.

 (A) This chapter does not relieve a holder of a duty that arose before the effective date of this chapter to report, pay, or deliver property. A holder who did not comply with the law in effect before the effective date of this chapter is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this subsection, subject to Section 27‑18‑300(B).

 (B) The initial report filed under this chapter for property that was not required to be reported before the effective date of this chapter 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 the effective date of this chapter as if this chapter had been in effect during that period.

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑390.** Authority of administrator to adopt rules.

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

HISTORY: 1988 Act No. 658, Part II, Section 34A.

**SECTION 27‑18‑400.** Application and construction of chapter.

 This chapter must be applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

HISTORY: 1988 Act No. 658, Part II, Section 34A.