**South Carolina General Assembly**

124th Session, 2021-2022

**H. 3849**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. W. Newton

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Introduced in the House on February 9, 2021

Currently residing in the House Committee on **Judiciary**

Summary: Uniform Unclaimed Property Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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**VERSIONS OF THIS BILL**

[2/9/2021](file:///p:\pprever\2021-22\3849_20210209.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 17 TO TITLE 27 SO AS TO ENACT THE “REVISED UNIFORM UNCLAIMED PROPERTY ACT OF 2021”; TO PROVIDE FOR THE MANNER IN WHICH AND PROCEDURES AND REQUIREMENTS UNDER WHICH ABANDONED AND UNCLAIMED PROPERTY, AS DEFINED IN THE ACT, MAY BE ESCHEATED BY THE STATE FOR SALE OR OTHER DISPOSITION, AND TO PROVIDE CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS; AND TO REPEAL CHAPTER 18 OF TITLE 27 RELATING TO THE 1988 UNIFORM UNCLAIMED PROPERTY ACT, INCLUDING SUBSEQUENT AMENDMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 27 of the 1976 Code is amended by adding:

“CHAPTER 17

Revised Uniform Unclaimed Property Act of 2021

Article 1

General Provisions

Section 27‑17‑101. Short title.

This act may be cited as the ‘Revised Uniform Unclaimed Property Act of 2021’.

Section 27‑17‑102. Definitions.

In this act:

(1) ‘Administrator’ means the South Carolina State Treasurer and any employees of the Office of the South Carolina State Treasurer responsible for administering the act.

(2) ‘Administrator’s agent’ means a person with which the administrator contracts. The term includes an independent contractor of the person and each individual performing work on behalf of the administrator.

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

(4) ‘Business association’ means a corporation, joint stock company, investment company, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit.

(5) ‘Confidential information’ means information including personal information as defined herein, the disclosure of which may constitute an unreasonable invasion of privacy as determined by the administrator, with consideration of the definitions contained in the South Carolina Family and Personal Identifying Information Privacy Protection Act and the South Carolina Freedom of Information Act.

(6) ‘Domicile’ means:

(A) for a corporation, the state of its incorporation;

(B) for a business association whose formation requires a filing with a state, other than a corporation, the state of its filing;

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

(D) for any other holder, the state of its principal place of business.

(7) ‘Electronic’ means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(8) ‘Electronic mail’ means a communication by electronic means which is automatically retained and stored and may be readily accessed or retrieved.

(9) ‘Financial organization’ means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union.

(10) ‘Game‑related digital content’ means digital content that exists only in an electronic game or electronic‑game platform. The term:

(A) includes:

(i) game‑play currency such as a virtual wallet, even if denominated in United States currency; and

(ii) the following if for use or redemption only within the game or platform or another electronic game or electronic‑game platform:

(I) points sometimes referred to as gems, tokens, gold, and similar names; and

(II) digital codes; and

(B) does not include an item that the issuer:

(i) permits to be redeemed for use outside a game or platform for:

(I) money; or

(II) goods or services that have more than minimal value; or

(ii) otherwise monetizes for use outside a game or platform.

(11) ‘Gift card’ means:

(A) a stored‑value card:

(i) the value of which does not expire;

(ii) that is not subject to a dormancy, inactivity, or post‑sale service fee;

(iii) issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount;

(iv) that may be decreased in value only by redemption for merchandise, goods, or services; and

(v) that, unless required by law, may not be redeemed for or converted into money or otherwise monetized by the issuer; and

(B) includes a prepaid commercial mobile radio service, as defined in 47 C.F.R. 20.3, as amended.

(12) ‘Holder’ means a person obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this act.

(13) ‘Insurance company’ means an association, corporation, or fraternal or mutual‑benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit‑life, contract‑performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage‑protection, and worker‑compensation insurance.

(14) ‘Loyalty card’ means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program which may be used or redeemed only to obtain goods or services or a discount on goods or services. The term does not include a record that may be redeemed for money or otherwise monetized by the issuer.

(15) ‘Mineral’ means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by law of this State other than this act.

(16) ‘Mineral proceeds’ means an amount payable for extraction, production, or sale of minerals, or, on the abandonment of the amount, an amount that becomes payable after abandonment. The term includes an amount payable:

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

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

(C) under an agreement or option, including a joint‑operating agreement, unit agreement, pooling agreement, and farm‑out agreement.

(17) ‘Money order’ means a payment order for a specified amount of money. The term includes an express money order and a personal money order on which the remitter is the purchaser.

(18) ‘Municipal bond” means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

(19) ‘Net card value’ means the original purchase price or original issued value of a stored‑value card, plus amounts added to the original price or value, minus amounts used and any service charge, fee, or dormancy charge permitted by law.

(20) ‘Nonfreely transferable security” means a security that cannot be delivered to the administrator by the Depository Trust Clearing Corporation or similar custodian of securities providing post‑trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. The term includes a worthless security.

(21) ‘Owner’ means a person that has a legal, beneficial, or equitable interest in property subject to this act or the person’s legal representative when acting on behalf of the owner. The term includes:

(A) a depositor, for a deposit;

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

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

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

(22) ‘Payroll card’ means a record that evidences a payroll‑card account as defined in Regulation E, 12 C.F.R. Part 1005, as amended.

(23) ‘Person’ means a human being, an entity such as a corporation created by law and given such rights and duties of a human being, an entity that is recognized by law as having most of the rights and duties of a human being. This term includes an individual, estate, legal representative, trustee, business association, public corporation, partnership, government or governmental subdivision, agency, instrumentality, other legal entity whether or not for profit, and other associations whether incorporated or unincorporated. ‘Person’ specifically includes holders as defined hereunder.

(24) ‘Personal information’ means information that identifies or describes an individual including, but not limited to, an individual’s photograph or digitized image, social security number, date of birth, driver’s identification number, name, home address, telephone number, email address, medical or disability information, education level, financial status, bank account numbers, account or identification number issued by or used, or both, by any federal or state governmental agency or private financial institution, employment history, height, weight, race, other physical details, signature, biometric identifiers, and any credit records or reports.

(25) ‘Property’ means tangible property described in Section 27‑17‑205 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder’s business or by a government, governmental subdivision, agency, or instrumentality. The term:

(A) includes all income from or increments to the property;

(B) includes property referred to as or evidenced by:

(i) money, virtual currency, interest, or a dividend, check, draft, deposit, or payroll card;

(ii) a credit balance, customer’s overpayment, stored‑value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;

(iii) a security except for:

(I) a worthless security; or

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

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

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

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

(vii) an amount distributable, specifically including, but not limited to, any issued and uncashed checks, 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 a similar benefit; and

(C) does not include:

(i) property held in a plan described in Section 529A of the Internal Revenue Code, as amended, 26 U.S.C. Section 529A; or

(ii) game‑related digital content; or

(iii) a loyalty card; or

(iv) a gift card; or

(v) unclaimed patronage credits from South Carolina electric cooperatives and South Carolina telephone cooperatives.

(26) ‘Putative holder’ means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to this act or the administrator or a court makes a final determination that the person is or is not a holder.

(27) ‘Record’ means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. Records of the holder include records maintained by a third party that has contracted with the holder.

(28) ‘Security’ means:

(A) a security as defined in Section 36‑8‑102;

(B) a security entitlement as defined in Section 36‑8‑102, including a customer security account held by a registered broker‑dealer, to the extent the financial assets held in the security account are not:

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

(ii) payable to the order of the person; or

(iii) specifically endorsed to the person; or

(C) an equity interest in a business association not included in subitem (A) or (B).

(29) ‘Sign’ means, with present intent to authenticate or adopt a record:

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

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

(30) ‘State’ means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(31) ‘Stored‑value card’ means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services, or money will be provided to the owner of the record to the value or amount shown in the record. The term:

(A) includes:

(i) a record that contains or consists of a microprocessor chip, magnetic strip, or other means for the storage of information, which is prefunded and whose value or amount is decreased on each use and increased by payment of additional consideration; and

(ii) a gift card and payroll card; and

(B) does not include a loyalty card or game‑related digital content.

(32) ‘Utility’ means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:

(A) transmission of communications or information;

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

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

(33) ‘Virtual currency’ means a digital representation of value used as a medium of exchange, unit of account, or store of value, which does not have legal tender status recognized by the United States. The term does not include:

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

(B) game‑related digital content; or

(C) a loyalty card.

(34) ‘Worthless security’ means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this act.

Section 27‑17‑103. Inapplicability to foreign transaction.

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

Section 27‑17‑104. Regulations.

The administrator may adopt necessary regulations to carry out the provisions of this act.

Article 2

Presumption of Abandonment

Section 27‑17‑201. When property presumed abandoned.

Subject to Section 27‑17‑209, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified below:

(1) a traveler’s check, fifteen years after issuance;

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

(3) funds represented by a nonactivated stored‑value card or other nonactivated electronic payment medium that require activation for use, including amounts held in a payroll card, one year after the funds would have otherwise first been available to the owner;

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

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

(6) a demand, savings, or time deposit, three years after the later of initial maturity, or the date of the last indication of interest in the property by the apparent owner. For a time deposit that is automatically renewable, three years after the maturity date of the first renewal unless the apparent owner consented in a record on file with the holder to a subsequent renewal at or about the time of the subsequent renewal, except as otherwise provided in Section 27‑17‑603(b);

(7) money or a credit owed to a customer as a result of a retail business transaction, including an in‑store credit for returned merchandise, three years after the obligation arose;

(8) an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated:

(i) three years after the obligation to pay arose, which in the case of a policy or annuity payable upon death shall be the date of death of the insured or annuitant; or

(ii) one year after the date the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based in the case of a policy or annuity payable upon death where the insurer does not know whether the insured is deceased as of the time the limiting age is reached;

(9) funds on deposit or held in trust for the prepayment of a funeral or other funeral‑related expenses, the earliest of:

(A) two years after the date of death of the beneficiary;

(B) one year after the date the beneficiary has attained, or would have attained if living, the age of one hundred five where the holder does not know whether the beneficiary is deceased;

(C) forty years after the contract for prepayment was executed;

(10) property distributable by a business association in the course of dissolution or distributions from the termination of a retirement plan, one year after the property becomes distributable;

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

(12) property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, three years after the property becomes distributable;

(13) irrespective of Section 11‑1‑260, payments processed by the South Carolina Office of Comptroller General and issued by the South Carolina Office of State Treasurer, except for specific entitlement benefit programs as determined by the administrator, two years after the property becomes distributable;

(14) wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, including amounts held on a payroll card, one year after the amount becomes payable;

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

(16) uncashed checks of any nature whatsoever not otherwise referenced in this chapter, three years after the original issue date; and

(17) property not specified in this chapter, the earlier of three years after the owner first has a right to demand the property, or the obligation to pay or distribute the property arises.

Section 27‑17‑202. When tax advantaged retirement account presumed abandoned.

(a) Subject to Section 27‑17‑209, property held in a pension account or retirement account that qualifies for tax‑advantaged treatment under the income‑tax laws of the United States, except for uncashed checks presumed abandoned pursuant to Section 27‑17‑201(16), is presumed abandoned if it is unclaimed by the apparent owner after the later of:

(1) three years after the following dates:

(A) except as provided in subitem (B), the date a communication sent by the holder by first‑class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or

(B) if such communication is resent within thirty days after the date the first communication is returned undelivered, the date the second communication was returned undelivered by the United States Postal Service; or

(2) the earlier of the following dates:

(A) three years after the date the apparent owner becomes seventy and one half years of age, if determinable by the holder; or

(B) one year after the date of mandatory distribution following death if the Internal Revenue Code requires distribution to avoid a tax penalty and the holder:

(i) receives confirmation of the death of the apparent owner in the ordinary course of its business; or

(ii) confirms the death of the apparent owner under subsection (b).

(b) If a holder, in the ordinary course of its business, receives notice or an indication of the death of an apparent owner and subsection (a)(2) applies, the holder shall either accept the notice and indication as proof of death, or shall attempt, not later than ninety days after receipt of the notice or indication, to confirm whether the apparent owner is living or deceased.

(c) If the holder does not send communications to the apparent owner of an account described in subsection (a) by first‑class United States mail on at least an annual basis, the holder shall attempt to confirm the apparent owner’s interest in the property by sending the apparent owner an electronic mail communication not later than two years after the apparent owner’s last indication of interest in the property. However, the holder promptly shall attempt to contact the apparent owner by first class United States mail if:

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

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

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

(d) If first‑class United States mail sent under subsection (c) is returned to the holder undelivered by the United States Postal Service, the property is presumed abandoned three years after the later of:

(1) except as provided in item (2), the date a communication to contact the apparent owner sent by first‑class United States mail is returned to the holder undelivered;

(2) if such communication is resent within thirty days after the date the first communication is returned undelivered, the date the second communication was returned undelivered; or

(3) the date established by subsection (a)(2).

Section 27‑17‑203. When other tax‑advantaged account presumed abandoned.

Subject to Section 27‑17‑209 and except for property described in Section 27‑17‑202, property held in an account or plan, including a health savings account, that qualifies for tax‑advantaged treatment under the income‑tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner three years after the earlier of:

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

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

Section 27‑17‑204. When custodial account for minor presumed abandoned.

(a) Subject to Section 27‑17‑209, property held in an account established under a State’s Uniform Gifts to Minors Act or Uniform Transfers to Minors Act is presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account was opened three years after the later of:

(1) except as provided in item (2), the date of a communication sent by the holder by first‑class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States Postal Service;

(2) if a communication is resent within thirty days after the date the first communication is returned undelivered, the date the second communication was returned undelivered; or

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

(b) If the holder does not send communications to the custodian of the minor on whose behalf an account described in subsection (a) was opened by first class United States mail on at least an annual basis, the holder shall attempt to confirm the custodian’s interest in the property by sending the custodian an electronic mail communication not later than two years after the custodian’s last indication of interest in the property. However, the holder promptly shall attempt to contact the custodian by first‑class United States mail if:

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

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

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

(c) If first‑class United States mail sent under subsection (b) is returned undelivered to the holder by the United States Postal Service, the property is presumed abandoned three years after the later of:

(1) the date a communication to contact the custodian by first‑class United States mail is returned to the holder undelivered by the United States Postal Service; or

(2) the date established by subsection (a)(3).

(d) When the property in the account described in subsection (a) is transferred to the minor on whose behalf an account was opened or to the minor’s estate, the property in the account is no longer subject to this section.

Section 27‑17‑205. When contents of safe‑deposit box presumed abandoned.

(a) Subject to Section 27‑17‑212, proceeds from a sale of other tangible property held in a safe deposit box by the holder are presumed abandoned if the property remains unclaimed by the apparent owner two years after the later of the:

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

(2) date when the lessor of the box enters the box to remove or dispose of the contents without the consent or authorization of the lessee as authorized by law of this State other than this act.

(b) Notwithstanding Section 34‑19‑100, if the administrator, in its discretion, considers it to be in the best interest of the State, the administrator may instruct the holder to report and deliver to the administrator any documents having perceived material value.

Section 27‑17‑206. When stored‑value card presumed abandoned.

(a) Subject to Section 27‑17‑209, the net‑card value of a stored‑value card, other than a payroll card or a gift card, is presumed abandoned on the latest of three years after:

(1) December thirty‑first of the year in which the card is issued or additional funds are deposited into it;

(2) the most recent indication of interest in the card by the apparent owner; or

(3) a verification or review of the balance by or on behalf of the apparent owner.

(b) The amount presumed abandoned in a stored‑value card is the net card value at the time it is presumed abandoned.

Section 27‑17‑207. When security presumed abandoned.

(a) Subject to Section 27‑17‑209, a security is presumed abandoned upon the later of the following:

(1) three years after the date a communication sent by the holder by first‑class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or

(2) if such communication is resent within thirty days after the date the first communication is returned undelivered, three years after the date the second communication was returned undelivered by the United States Postal Service.

(b) If the holder does not send communications to the apparent owner of a security by first‑class United States mail on at least an annual basis, the holder shall attempt to confirm the apparent owner’s interest in the security by sending the apparent owner an electronic mail communication not later than three years after the apparent owner’s last indication of interest in the security. However, the holder promptly shall attempt to contact the apparent owner by first‑class United States mail if:

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

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

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

(c) If first‑class United States mail sent under subsection (b) is returned to the holder undelivered by the United States Postal Service, the security is presumed abandoned three years after the last date of owner interest.

Section 27‑17‑208. When related property presumed abandoned.

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

Section 27‑17‑209. Indication of apparent owner interest in property.

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

(1) the date the property is presumed abandoned under this act; or

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

(b) Under this act, an indication of an apparent owner’s interest in property includes:

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

(2) an oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner’s communication;

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

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

(5) a deposit into or withdrawal from an account at a financial organization, including an Automated Clearing House (ACH) debit or credit previously authorized by the apparent owner or an automatic reinvestment of dividends or interest;

(6) subject to subsection (e), payment of a premium on an insurance policy; and

(7) any other action by the apparent owner which, to a reasonable person, evidences the apparent owner’s actual knowledge of the property’s existence.

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

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

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

Section 27‑17‑210. Knowledge of death of insured or annuitant.

(a) In this section, ‘death master file’ means the United States Social Security Administration Death Master File or other database or service that is at least as comprehensive as the United States Social Security Administration Death Master File for determining that an individual reportedly has died.

(b) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, the holder has knowledge of the death of an insured or annuitant for purposes of this act when:

(1) the holder receives a death certificate or court order determining that the insured or annuitant has died;

(2) the holder:

(A) receives notice of the death of the insured or annuitant from the administrator or an unclaimed property administrator of another state, a beneficiary, a policy owner, a relative of the insured, a representative of the estate of the owner, or from an executor or other legal representative of the insured’s or annuitant’s estate; and

(B) validates the death of the insured or annuitant;

(3) the holder conducts a comparison for any purpose between a death master file and the names of some or all of the holder’s insureds or annuitants, finds a match that provides notice that the insured or annuitant has died;

(4) the administrator or the administrator’s agent conducts a comparison for the purpose of finding matches during an examination conducted under Article 10 between a death master file and the names of some or all of the holder’s insureds or annuitants, finds a match that provides notice that the insured or annuitant has died; or

(5) the holder’s books or records otherwise establish that the insured or annuitant is deceased.

(c) For purposes of this act:

(1) A death master file match does not constitute proof of death for the purpose of submission to an insurance company of a claim by a beneficiary, annuitant, or owner of the policy or contract for an amount due under an insurance policy or annuity contract.

(2) A death master file match or validation of the insured’s or annuitant’s death does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract.

(d) This act does not affect the determination of the extent to which an insurance company, before the effective date of this act, had knowledge of the death of an insured or annuitant or was required to conduct a death master file comparison to determine whether amounts owed by the insurance company on a life or endowment insurance policy or annuity contract were presumed abandoned or unclaimed.

Section 27‑17‑211. Deposit account for proceeds of insurance policy or annuity contract.

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

Section 27‑17‑212. 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 United States savings bond is located in a safe deposit box, the financial institution or other holder must report and remit the United States 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.

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

(c) The following apply to civil actions and service of process:

(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) The following apply to the nonfiling or filing of a claim:

(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 United States 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 Article 8.

(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 Article 8.

(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) A person claiming a United States savings bond escheated to the State under this section, 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 United States 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.

Article 3

Rules for Taking Custody of Property Presumed Abandoned

Section 27‑17‑301. Address of apparent owner to establish priority.

In this article, the following rules apply:

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

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

(3) If the address under item (2) is in another state, the other state is deemed to be the state of the last‑known address of the apparent owner.

(4) The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined pursuant to Section 27‑17‑302. The address of the apparent owner of other property where ownership vests in a beneficiary upon the death of the owner is presumed to be the address of the now‑deceased owner if the address of the beneficiary is not known by the holder and cannot be determined pursuant to Section 27‑17‑302.

Section 27‑17‑302. Address of apparent owner in this State.

The administrator may take custody of property that is presumed abandoned, whether located in this State, another state, or a foreign country if:

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

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

Section 27‑17‑303. If records show multiple addresses of apparent owner.

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

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

Section 27‑17‑304. Holder domiciled in this State.

(a) Except as provided in subsection (b), Section 27‑17‑302, or 27‑17‑303, the administrator may take custody of property presumed abandoned, whether located in this State, another state, or a foreign country, if the holder is domiciled in this State or is this State or a governmental subdivision, agency, or instrumentality of this State, and

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

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

(b) property is not subject to custody of the administrator under subsection (a) if the property is specifically exempt from custodial taking under the law of this State or the state or foreign country of the last known address of the apparent owner.

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

Section 27‑17‑305. Custody if transaction took place in this State.

Except as provided in Section 27‑17‑302, 27‑17‑303, or 27‑17‑304, the administrator may take custody of property presumed abandoned whether located in this State or another state if:

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

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

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

Section 27‑17‑306. Traveler’s check, money order, or similar instrument.

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

Article 4

Report by Holder

Section 27‑17‑401. Report required by holder.

(a) A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property. A holder shall electronically report in a mode and format approved by the administrator unless the administrator gives a holder specific permission to file a report in an alternative medium.

(b) A holder may contract with a third party to make the report required under subsection (a).

(c) Whether or not a holder contracts with a third party under subsection (b), the holder is responsible:

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

(2) for the complete, accurate, and timely paying or delivering to the administrator property described in the report.

(d) The administrator, in the exercise of the administrator’s discretion, may require a report from any other person conducting business in South Carolina.

Section 27‑17‑402. Content of report.

(a) The report required pursuant to Section 27‑17‑401 must:

(1) be signed by or on behalf of the holder and verified as to its completeness and accuracy;

(2) be in a secure format approved by the administrator which protects confidential information of the apparent owner;

(3) describe the property;

(4) except for a traveler’s check, money order, or similar instrument, contain the name, if known, last address, if known, and Social Security number or taxpayer identification number, if known or readily ascertainable, of the apparent owner of property with a value of twenty‑five dollars or more;

(5) for an amount held or owing under a life or endowment insurance policy, annuity contract, or other property where ownership vests in a beneficiary upon the death of the owner, contain the name and last address, if known, of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;

(6) for proceeds from the sale of property removed from a safe‑deposit box, and other property referenced in Section 27‑17‑205(b), indicate the name and last known address of the box owner and net proceeds remitted; for United States savings bonds removed from a safe‑deposit box, indicate the name of the box owner and the name and last known address of the bond owner.

(7) contain the commencement date for determining abandonment under Article 2;

(8) state that the holder has complied with the notice requirements of Section 27‑17‑501;

(9) contain other information the administrator prescribes.

(b) A report pursuant to Section 27‑17‑401 may include in the aggregate items valued under twenty‑five dollars each. If the report includes items in the aggregate valued under twenty‑five dollars each, the administrator may not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.

(c) A report pursuant to Section 27‑17‑401 may include personal information as defined in Section 27‑17‑102 about the apparent owner or the apparent owner’s property.

(d) If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder must include in the report pursuant to Section 27‑17‑401 its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.

Section 27‑17‑403. When report to be filed.

(a) Subject to subsection (b), the report pursuant to Section 27‑17‑401 must be filed before November first of each year and cover the twelve months preceding July first of that year.

(b) Before the date for filing the report pursuant to Section 27‑17‑401, the holder of property presumed abandoned may request the administrator to extend the time for filing. The administrator may grant an extension.

Section 27‑17‑404. Retention of records by holder.

A holder required to file a report pursuant to Section 27‑17‑401 shall retain records for ten years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by the administrator. The holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

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

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

(3) the amount or value of the property;

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

(5) sufficient records of items which were not reported as unclaimed, to allow examination to determine whether the holder has complied with the act; and

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

Section 27‑17‑405. Property reportable and payable or deliverable absent owner demand.

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

Article 5

Notice to Apparent Owner of Property Presumed Abandoned

Section 27‑17‑501. Notice to apparent owner by holder.

(a) Subject to subsection (b), the holder of property presumed abandoned shall send to the apparent owner notice by first‑class United States mail that complies with Section 27‑17‑502 in a format acceptable to the administrator not more than one year nor less than sixty days before filing the report pursuant to Section 27‑17‑401 if:

(1) the holder has in its records an address for the apparent owner which the holder’s records do not disclose to be invalid and is sufficient to direct the delivery of first‑class United States mail to the apparent owner; and

(2) the value of the property is fifty dollars or more.

(b) If an apparent owner has consented to receive electronic mail delivery from the holder, the holder shall send the notice described in subsection (a) both by first‑class United States mail to the apparent owner’s last‑known mailing address and by electronic mail, unless the holder believes that the apparent owner’s electronic mail address is invalid.

Section 27‑17‑502. Contents of notice by holder.

(a) Notice pursuant to Section 27‑17‑501 must contain a heading that reads substantially as follows: “Notice. The State of South Carolina requires us to notify you that your property may be transferred to the custody of the South Carolina State Treasurer’s Office if you do not contact us before (insert date that is at least thirty days after the date of this notice).”

(b) The notice pursuant to Section 27‑17‑501 must:

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

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

(3) state that after the property is turned over to the administrator an apparent owner that seeks return of the property may file a claim with the administrator;

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

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

(6) provide the name, address, and e‑mail address or telephone number to contact the holder.

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

Section 27‑17‑503. Notice by administrator.

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

(b) Satisfactory notice under subsection (a) may include the administrator maintaining a website or database accessible by the public and electronically searchable, which contains the names reported to the administrator of apparent owners for whom property is being held by the administrator. The administrator need not list property on such website when:

(1) no owner name was reported;

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

(3) the administrator has made direct contact with the apparent owner of the property; or

(4) in other instances where the administrator reasonably believes exclusion of the property is in the best interest of the state. The website must include instructions for filing a claim to property with the administrator and the ability to obtain a claim form with instructions for its use.

(c) The administrator may request, and the following departments or state agencies shall provide to the administrator any information necessary for the administration and enforcement of this act: the South Carolina Department of Revenue, the Department of Health and Environmental Control, the Department of Motor Vehicles, and the Office of the Secretary of State. This information is referred to as the ‘requested information’.

(1) The administrator determines what information is necessary for the administration and enforcement of this act.

(2) The Department of Revenue may disclose the requested information to the administrator pursuant to Section 12‑54‑240(B)(27). The Department of Health and Environmental Control may disclose death certificates and statements of death to the administrator pursuant to Section 44‑63‑84 and other requested information to the administrator notwithstanding any nondisclosure laws applicable to the Department of Health and Environmental Control. The Department of Motor Vehicles and the Office of the Secretary of State may provide the requested information to the administrator notwithstanding any nondisclosure laws applicable to the Department of Motor Vehicles or the Office of the Secretary of State.

(3) The administrator will make reasonable requests, and, notwithstanding any other provision, the departments and state agencies included in subsection (c) will not impose a fee or cost upon the administrator for the requested information.

(4) The administrator is responsible to protect all requested information that it receives under subsection (c) above. The administrator and each applicable department or state agency may enter into a reasonable interagency agreement concerning the protection of requested information, data‑matching rules, and other matters.

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

(e) The administrator may use other printed publication, telecommunication, digital, or other media to inform the public of the existence of unclaimed property held by the administrator.

(f) The administrator may deduct costs associated with this section from the unclaimed property fund.

Section 27‑17‑504. Cooperation among state officers and agencies to locate apparent owner.

Unless prohibited by law of this State other than this act, upon request of the administrator, each officer, agency, board, commission, division, and department of this State, any body politic and corporate created by this State for a public purpose, and each political subdivision of this State shall make its books and records available to the administrator and cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator under this act or to otherwise assist the administrator in the administration of this act. The administrator also may enter into data sharing agreements to enable such other governmental agencies to provide an additional notice to apparent owners of property held by the administrator.

Article 6

Taking Custody of Property by Administrator

Section 27‑17‑601. Definition of good faith.

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

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

(b) made payment or delivery:

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

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

Section 27‑17‑602. Dormancy charge.

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

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

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

(b) The amount of the deduction under subsection (a) is limited to an amount that is not unconscionable considering all relevant factors, including the marginal transactional costs incurred by the holder in maintaining the apparent owner’s property and any services received by the apparent owner.

(c) A holder may not deduct an escheat fee or other charges imposed solely by virtue of property becoming or being reported as presumed abandoned.

Section 27‑17‑603. Payment or delivery of property to administrator.

(a) On filing a report pursuant to Section 27‑17‑401, the holder shall pay or deliver to the administrator the property described in the report.

(b) If property in a report pursuant to Section 27‑17‑401 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.

(c) If property reported to the administrator pursuant to Section 27‑17‑401 is a security, the administrator may:

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

(2) dispose of the security pursuant to Section 27‑17‑702.

(d) If the holder of property reported to the administrator pursuant to Section 27‑17‑401 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book‑entry form pursuant to Section 36‑8‑405. An indemnity bond is not required.

(e) The administrator shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the administrator by a holder. If the holder does not deliver the property in the form and manner prescribed by the administrator, the property will not be deemed delivered and the holder shall be subject to interest and penalties as described in Article 12.

(f) An issuer, holder, and transfer agent or other person acting in good faith under this section under instructions of and on behalf of the issuer or holder is not liable to the apparent owner for, and must be indemnified by the State against, a claim arising with respect to property after the property has been delivered to the administrator.

(g) A holder is not required to report or deliver to the administrator a security identified by the holder as a nonfreely transferable security. If the administrator or holder determines that a security is no longer a nonfreely transferable security, the holder shall report and deliver the security on the next regular date prescribed for delivery of securities under this act. The holder shall make a determination annually whether a security previously identified as a nonfreely transferable security is no longer a nonfreely transferable security and subject to reporting and delivery.

Section 27‑17‑604. Effect of payment or delivery of property to administrator.

(a) On payment or delivery of property to the administrator under this act, the administrator as agent for the state assumes custody and responsibility for safekeeping the property. A holder that pays or delivers property to the administrator in good faith and substantially complies with Sections 27‑17‑501 and 27‑17‑502 is relieved of all liability which thereafter may arise or be made in respect to the property to the extent of the value of the property so paid or delivered.

(b) This State shall defend and indemnify a holder against liability on a claim against the holder resulting from the payment or delivery of property to the administrator made in good faith and after the holder substantially complied with Sections 27‑17‑501 and 27‑17‑502.

Section 27‑17‑605. Recovery of property by holder from administrator.

(a) Subject to subsection (h) a holder that under this act pays money to the administrator may file a claim for reimbursement from the administrator of the amount paid if the holder:

(1) paid the money in error; or

(2) after paying the money to the administrator, paid money to the apparent owner.

(b) If a claim for reimbursement under subsection (a) is made for a payment made on a negotiable instrument, including a traveler’s check, money order, or similar instrument, the holder must submit proof that the instrument was presented, and payment was made to a person the holder reasonably believed to be entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner’s right to receive or recover property, whether specified by contract, statute, or court order.

(c) If a holder is reimbursed by the administrator under subsection (a)(2), the holder also may recover from the administrator income or gain pursuant to Section 27‑17‑606 that would have been paid to the owner if the money had been claimed from the administrator by the owner to the extent the income or gain was paid by the holder to the owner.

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

(1) the holder delivered the property in error; or

(2) the apparent owner has claimed the property from the holder.

(e) If a claim for return of property under subsection (d) is made, the holder shall include with the claim evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the administrator in error.

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

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

(h) The holder shall be responsible for contacting the administrator before making the payment of property previously remitted to the administrator to the apparent owner or another person believed by the holder to be entitled, to ensure that the property has not already been claimed. The administrator shall not be required to allow a holder’s claim for reimbursement where the administrator has previously paid the property to another claimant.

(i) Unless extended for reasonable cause, not later than one hundred twenty days after a holder’s claim is complete the administrator shall allow or deny the claim and give the holder notice in a record of the decision. If a holder fails to provide all the information and documentation requested by the administrator as necessary to establish legal ownership of the property and the claim is inactive for at least ninety days, then the administrator may close the claim without issuing a final decision. However, if the claimant makes a request in writing for a final decision prior to the administrator’s closing of the claim, the administrator shall issue a final decision. A claim will be considered complete when a holder has provided all the information and documentation requested by the administrator as necessary to establish legal ownership and such information or documentation is entered into the administrator’s unclaimed property system.

(j) A person aggrieved by a decision of the administrator, under this section, or whose claim has not been acted upon within one hundred twenty days after its filing of a complete claim may bring an action to establish the claim in the Richland County Circuit 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 complete claim if the administrator failed to act.

Section 27‑17‑606. Crediting income or gain to owner’s account.

If property other than money is delivered to the administrator, the owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold. Interest on money is not payable to an owner for periods where the property is in the possession of the administrator.

Section 27‑17‑607. Administrator’s options as to custody.

(a) The administrator may decline to take custody of property reported pursuant to Section 27‑17‑401 if the administrator determines that:

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

(2) taking custody of the property would be unlawful.

(b) A holder may pay or deliver property to the administrator before the property is presumed abandoned under this act if the holder:

(1) provides the apparent owner of the property any notice required by Section 27‑17‑501 and provides the administrator evidence of the holder’s compliance with this item;

(2) includes with the payment or delivery a report regarding the property conforming to Section 27‑17‑402; and

(3) first obtains the administrator’s consent in a record to accept payment or delivery.

(c) A holder’s request for the administrator’s consent under subsection (b)(3) must be in a record. If the administrator fails to respond to the request not later than thirty days after receipt of the request, the administrator is deemed to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.

(d) On payment or delivery of property under subsection (b), the property is presumed abandoned.

Section 27‑17‑608. Disposition of property having no substantial value; immunity from liability.

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

(b) An action or proceeding may not be commenced against the State, an agency of the State, the administrator, another officer, employee, or agent of the State, or a holder for or because of an act of the administrator under this section, except for intentional misconduct or malfeasance.

Section 27‑17‑609. Periods of limitation and repose.

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

(b) Except as otherwise permitted in Section 27‑17‑1201, an action or proceeding may not be maintained by the administrator to enforce this act in regard to the reporting, delivery, or payment of property more than ten years after the holder gave express notice to the administrator of a dispute regarding specific property not reported or remitted by the holder. In the absence of such express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

Article 7

Sale of Property by Administrator

Section 27‑17‑701. Public sale of property.

(a) Except as provided in subsection (b), the administrator may not sell property presumed abandoned earlier than three years after receipt of property.

(b) Before selling property under subsection (a), the administrator shall give notice to the public of:

(1) the date of the sale; and

(2) a reasonable description of the property.

(c) A sale under subsection (a) must be to the highest bidder:

(1) at public sale at a location in this State which the administrator determines to be the most favorable market for the property;

(2) on the Internet; or

(3) on another forum the administrator determines is likely to yield the highest net proceeds of sale.

(d) The administrator may decline the highest bid at a sale under this section and reoffer the property for sale if the administrator determines the highest bid is insufficient.

(e) If a sale held under this section is to be conducted other than on the Internet, the administrator must cause to be published at least one notice of the sale, at least two weeks but not more than five weeks before the sale, in a newspaper of general circulation in the county in which the property is to be sold.

(f) The administrator may deduct costs associated with the sale of property from the unclaimed property fund.

Section 27‑17‑702. Disposal of securities.

(a) The administrator may not sell or otherwise liquidate a security until three years after the administrator receives the security unless the administrator determines it would be in the best interest of the State, subject to Section 27‑17‑703, for the sale to occur prior to the expiration of the three‑year period after the administrator receives the security.

(b) The administrator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any commercially reasonable method.

(c) The administrator shall deduct costs associated with the sale of property from the unclaimed property fund.

Section 27‑17‑703. Recovery of securities or value by owner.

(a) If the administrator sells a security before the expiration of three years after delivery of the security to the administrator, an apparent owner that files a valid claim under this act of ownership of the security before the three‑year period expires is entitled to receive the greater of:

(1) the net proceeds of the sale of the security, plus dividends, interest, and other increments on the security up to the time the security was sold; or

(2) the market value of the security at the time the claim is filed, plus dividends, interest, and other increments on the security up to the time the claim is paid.

(b) A person that makes a valid claim under this act of ownership of a security after expiration of three years after delivery of the security to the administrator is entitled to receive:

(1) the security the holder delivered to the administrator, if it is in the custody of the administrator, plus dividends, interest, and other increments on the security up to the time the administrator delivers the security to the person; or

(2) the net proceeds of the sale of the security, plus dividends, interest, and other increments on the security up to the time the security was sold.

(c) Securities eligible for sale will not be sold during the pendency of an active claim with the administrator. However, upon approval of a claim, the owner may request the administrator to dispose of the securities by sale and remit the net proceeds to the owner. Upon disapproval of a claim, the administrator may dispose of the securities by sale.

Section 27‑17‑704. Purchaser owns property after sale.

A purchaser of property at a sale conducted by the administrator under this act takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or holder. The administrator may execute documents necessary to complete the transfer of ownership to the purchaser.

Section 27‑17‑705. Exceptions to the sale of tangible property.

(a) The administrator may not sell a medal or decoration awarded for military service in the armed forces of the United States. Instead, the administrator, with the consent of the respective organization under item (1), agency under item (2), or entity under item (3), may deliver a medal or decoration to be held in custody for the owner, to:

(1) a military veterans organization qualified pursuant to Section 501(c)(19) of the Internal Revenue Code;

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

(3) a governmental entity.

On such delivery the administrator is not responsible for safekeeping the medal or decoration.

(b) Property which the administrator reasonably believes may have historical value may be, at his or her discretion, loaned to an accredited museum in the United States where it will be kept until such time as the administrator orders it to be returned to his or her custody.

Article 8

Administration of Property

Section 27‑17‑801. Deposit of funds by administrator.

Except as otherwise provided by this section, the administrator shall promptly deposit in the unclaimed property fund all funds received under this act, including the proceeds from the sale of abandoned property as described in this chapter. The administrator shall maintain in a separate trust fund an amount equal to the actuarially determined liability of the State.

Section 27‑17‑802. Administrator to retain records of property.

The administrator shall:

(1) record and retain the name and last‑known address of each person shown on a report filed pursuant to Section 27‑17‑401 to be the apparent owner of property delivered to the administrator;

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

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

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

(5) maintain records sufficient to indicate the filing of reports required pursuant to Section 27‑17‑401 and the payment or delivery of property to the administrator pursuant to Section 27‑17‑603.

Section 27‑17‑803. Expenses and service charges of administrator.

Before making a deposit of funds received under this act to the unclaimed property trust fund, the administrator may exercise its discretion in deducting any reasonable and customary costs to administer the act.

Section 27‑17‑804. Administrator holds property as custodian for owner.

Upon the payment or delivery of unclaimed property to the administrator, the state shall assume custody and shall be responsible for the safekeeping thereof.

Article 9

Claim to Recover Property from Administrator

Section 27‑17‑901. Claim of another state to recover property.

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

(1) report and pay or deliver the property to the other state; or

(2) return the property to the holder so that the holder may pay or deliver the property to the other state.

(b) The administrator is not required to enter into an agreement to transfer property to the other state under subsection (a).

Section 27‑17‑902. When property is subject to recovery by another state.

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

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

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

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

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

(3) the property was subject to the custody of the administrator of this State pursuant to Section 27‑17‑305 and, under the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or

(4) the property:

(A) is a sum payable on a traveler’s check, money order, or similar instrument that was purchased in the other state and delivered to the administrator pursuant to Section 27‑17‑306; and

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

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

(c) The administrator shall decide a claim under this section not later than ninety days after it is presented. If the administrator determines that the other state is entitled under subsection (a) to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.

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

Section 27‑17‑903. Claim for property by person claiming to be owner.

A person claiming to be the owner of property held under this act by the administrator or to the proceeds from the sale thereof may file a claim for the property on a form prescribed by the administrator. The claimant must verify the claim as to its completeness and accuracy.

Section 27‑17‑904. When administrator must honor claim for property.

(a) The administrator shall pay or deliver property to a claimant under Section 27‑17‑903 if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property.

(b) A claim will be considered complete when a claimant has provided all the information and documentation requested by the administrator as necessary to establish legal ownership and such information or documentation is entered into the administrator’s unclaimed property system. Unless extended for reasonable cause, not later than ninety days after a claim is complete the administrator shall allow or deny the claim and give the claimant notice of the decision.

(c) If the claim is denied or there is insufficient evidence to allow the claim under subsection (b):

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

(2) the claimant may file an amended claim with the administrator or commence an action pursuant to Section 27‑17‑906; and

(3) the administrator shall consider an amended claim filed under item (2) as an initial claim.

Section 27‑17‑905. Allowance of claim for property.

After a claim is allowed pursuant to Section 27‑17‑904(b), the administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property, together with income or gain to which the owner is entitled pursuant to Section 27‑17‑606.

Section 27‑17‑906. Action by person whose claim is denied.

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 Richland County Circuit 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.

Article 10

Verified Report of Property; Examinations of Records

Section 27‑17‑1001. Verified report of property.

If a person does not file a report required by Section 27‑17‑401 or the administrator believes that a person may have filed an inaccurate, incomplete, or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator. The verified report must:

(1) state whether the person is holding property reportable under this act;

(2) describe property not previously reported or about which the administrator has inquired;

(3) specifically identify property described under item (2) about which there is a dispute whether it is reportable under this act; and

(4) state the amount or value of the property.

Section 27‑17‑1002. Examination of records to determine compliance.

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

(1) examine the records of any person to determine whether the person has complied with this act even if the person believes it is not in possession of any property that must be reported, paid, or delivered under this act;

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

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

The administrator shall be entitled to attorney’s fees, court fees or any other related fees or costs associated with enforcing the act.

Section 27‑17‑1003. Regulations for conducting examination.

(a) The administrator may adopt policies governing procedures and standards for an examination.

(b) If a person subject to examination has filed the reports required under this chapter and has retained the records required by Section 27‑17‑404, the following policies apply:

(1) The examination must include a review of the person’s records.

(2) The examination may not be based on an estimate unless the person expressly consents in a record to the use of an estimate.

(3) The examiner shall consider the evidence presented in good faith by the person subject to examination in preparing the findings of the examination pursuant to Section 27‑17‑1007.

Section 27‑17‑1004. Records obtained in examination.

Records obtained and records, including work papers, status reports, work product and any documents relating to an examination or potential examination, compiled by the administrator or the administrator’s agent in the course of conducting an examination pursuant to Section 27‑17‑1002:

(1) are subject to the confidentiality and security provisions of Article 14 and are exempt from disclosure under the South Carolina Freedom of Information Act;

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

(3) may be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity;

(4) may be disclosed, on request, to the person that administers the unclaimed property law of another state for that state’s use in circumstances equivalent to circumstances described in this article;

(5) must be produced by the administrator or administrator’s agent under a judicial subpoena or court order; and

(6) must be produced by the administrator or administrator’s agent upon request of the person subject to the examination in a judicial proceeding relating to the property.

Section 27‑17‑1005. Evidence of unpaid debt or undischarged obligation.

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

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

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

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

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

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

(4) paid, satisfied, or discharged;

(5) issued in error;

(6) issued without consideration;

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

(8) voided not later than ninety days after issuance for a valid business reason set forth in a contemporaneous record; or

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

(d) In asserting a defense under this section, and subject to the records retention requirements of Section 27‑17‑404, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner.

Section 27‑17‑1006. Failure of person examined to retain records.

If a person subject to examination pursuant to Section 27‑17‑1002 does not retain the records required by Section 27‑17‑404, the administrator may determine the value of property due to the State of South Carolina using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary.

Section 27‑17‑1007. Report to person whose records were examined.

At the conclusion of an examination pursuant to Section 27‑17‑1002, unless waived in writing by the person being examined, the administrator, or administrator’s agent, shall provide to the person whose records were examined a report that specifies:

(1) the work performed;

(2) the property types reviewed;

(3) the methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;

(4) each calculation showing the value of property determined to be due; and

(5) the findings of the person conducting the examination.

Section 27‑17‑1008. Informal conference during examination.

(a) If a person subject to examination pursuant to Section 27‑17‑1002 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may request an informal conference with the administrator.

(b) If a person in a record requests an informal conference with the administrator, the administrator shall hold the informal conference not later than thirty days after receiving the request. For good cause, and after notice in a record to the person requesting an informal conference, the administrator may extend the time for the holding of an informal conference. The administrator may hold the informal conference in person, by telephone, or by electronic means.

(c) If an informal conference is held under subsection (b), not later than thirty days after the conference ends, the administrator shall provide a response to the person that requested the conference.

(d) The administrator may deny a request for an informal conference under this section if the administrator reasonably believes that the request was made in bad faith or primarily to delay the examination. If the administrator denies a request for an informal conference the denial shall be in a record provided to the person requesting the informal conference.

Section 27‑17‑1009. Administrator’s contract with another to conduct examination.

(a) The administrator may contract with a person to conduct an examination under this article. The contract shall be awarded pursuant to the South Carolina State Procurement Code or any exemptions applicable thereto as determined by the administrator in the exercise of its commercially reasonable judgment. A copy of the contract is available upon request pursuant to the South Carolina Freedom of Information Act.

(b) If the administrator contracts with a person under subsection (a):

(1) Except as provided in item (2), the administrator may initiate or participate in multistate examinations, and the administrator may expend funds to retain third‑party agents, private‑sector auditors, or auditing firms to fulfill its duties under the act on a fixed‑fee, hourly fee, or contingent‑fee basis;

(2) The administrator may not initiate a contingent‑fee examination with a contractor for companies whose parent company is headquartered or incorporated in South Carolina. The administrator, however, may participate in another state’s contingent‑fee examination when there is a reason to believe that those companies being examined are holding funds belonging to South Carolina citizens. The administrator shall retain the greater of two hundred thousand dollars annually or one half of one percent of annual funds received under this act during the prior fiscal year from unclaimed property funds for the purposes of employing internal audit and compliance staff to enforce the act; and

(3) a contingent‑fee arrangement may not provide for a payment that exceeds fifteen percent of the amount or value of property paid or delivered as a result of the examination.

Section 27‑17‑1010. Determination of liability for unreported reportable property.

If the administrator determines from an examination conducted pursuant to Section 27‑17‑1002 that a putative holder failed or refused to pay or deliver to the administrator property which is reportable under this act, the administrator shall issue a determination of the putative holder’s liability to pay or deliver and give notice in a record to the putative holder of the determination. Absent any action taken by the putative holder, as set forth in Article 11, the administrator’s determination is legally binding and bears the weight of a final judgment, and the putative holder shall report and remit property identified in the notice of determination by the deadline prescribed by the administrator or administrator’s agent.

Article 11

Determination of Liability; Putative Holder Remedies

Section 27‑17‑1101. Informal conference.

(a) Not later than thirty days after receipt of a notice pursuant to Section 27‑17‑1010, the putative holder may request an informal conference with the administrator to review the determination. Except as otherwise provided in this section, the administrator may designate an employee to act on behalf of the administrator.

(b) If a putative holder makes a timely request under subsection (a) for an informal conference:

(1) not later than thirty days after the date of the request, the administrator shall set the time and place of the conference;

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

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

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

(5) the administrator or administrator’s designee with the approval of the administrator may modify a determination made pursuant to Section 27‑17‑1010 or withdraw it; and

(6) the administrator shall issue a final, binding determination in a record and provide a copy of the record to the putative holder and examiner not later than thirty days after the conference ends. Absent any action taken by the putative holder, as set forth in Section 27‑17‑1102, this determination is legally binding and bears the weight of a final judgment.

(c) At a conference under subsection (b), the putative holder must be given an opportunity to confer informally with the administrator and the person that examined the records of the putative holder to:

(1) discuss the determination made pursuant to Section 27‑17‑1010; and

(2) present any issue concerning the validity of the determination.

(d) If the administrator fails to act within the period prescribed in subsection (b)(1) or (6), the failure does not affect a right of the administrator, except that interest does not accrue on the amount for which the putative holder was determined to be liable pursuant to Section 27‑17‑1010 during the period in which the administrator failed to act.

(e) Interest and penalties pursuant to Section 27‑17‑1204 continue to accrue on property not reported, paid, or delivered as required by this act after the initiation, and during the pendency, of an informal conference under this section.

(f) The failure to timely request an informal conference with the administrator under this section precludes judicial remedy pursuant to Section 27‑17‑1102.

Section 27‑17‑1102. Judicial remedy.

(a) Not later than thirty days after receiving notice of the administrator’s determination pursuant to Section 27‑17‑1101, the putative holder may:

(1) file an action against the administrator in the Richland County Circuit Court challenging the administrator’s determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or

(2) pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than ninety days after payment or delivery, file an action against the administrator in the Richland County Circuit Court for a refund of all or part of the amount paid or return of all or part of the property delivered.

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

(c) On the final determination of an action filed under subsection (a), the Richland County Circuit Court may, on application, award to the prevailing party its reasonable attorney’s fees, costs, and expenses, of litigation.

(d) A putative holder that is the prevailing party in an action under subsection (a)(2) for refund of money paid to the administrator is entitled to interest on the amount refunded, consistent with the amount earned by the State while the funds were in the possession of the administrator, from the date paid to the administrator until the date of the refund.

Article 12

Enforcement by Administrator

Section 27‑17‑1201. Judicial action to enforce liability.

(a) If a putative holder fails to report and remit property pursuant to a legally binding determination issued pursuant to Section 27‑17‑1010, 27‑17‑1101 or 27‑17‑1102, the administrator may commence an action in the Richland County Circuit Court, federal court, or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property. The action must be brought not later than three years after the determination becomes final.

(b) In an action under subsection (a), if no court in this State has jurisdiction over the defendant, the administrator may commence an action in any court having jurisdiction over the defendant.

(c) In any action referenced above, the administrator shall be entitled to the recoupment of any associated costs and fees, including, but not limited to, court costs and attorney’s fees.

Section 27‑17‑1202. Interstate and international agreement; cooperation.

The administrator may:

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

(b) authorize in a record another state or foreign country or a person acting on behalf of the other state or country to examine its records of a putative holder as provided in Article 10.

Section 27‑17‑1203. Action involving another state or foreign country.

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

(b) On request of another state or foreign country, the administrator may commence an action on behalf of the other state or country to enforce, in this State, the law of the other state or country against a putative holder subject to a claim by the other state or country.

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

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

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

(f) Expenses incurred by this State in an action under this section may be paid from property received under this act or the net proceeds of the property. Expenses paid to recover property may not be deducted from the amount that is subject to a claim under this act by the owner.

Section 27‑17‑1204. Interest and penalty for failure to act in timely manner.

(a) A holder must report, pay, and deliver property as instructed by the administrator within the time prescribed by this act. If the holder fails to comply, the administrator shall assess, and the holder shall pay, compounded interest at a rate of one percent per month on the property or value of the property from the date the property should have been reported, paid, and delivered to the administrator until the date reported, paid, and delivered.

(b) The administrator may require a holder that fails to report, pay, and deliver property as instructed by the administrator within the time prescribed by this act to pay to the administrator, in addition to interest included under subsection (a), a civil penalty of two hundred dollars for each day the duty is not performed.

Section 27‑17‑1205. Other civil penalties.

(a) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this act or otherwise wilfully fails to perform a duty imposed on the holder under this act, the holder shall pay the administrator, in addition to compounded interest as provided in Section 27‑17‑1204(a), a civil penalty of one thousand dollars for each day the obligation is evaded or the duty is not performed, plus twenty‑five percent of the amount or value of property that should have been but was not reported, paid, and delivered as a result of the evasion or failure to perform.

(b) If a holder makes a fraudulent report under this act, the holder shall pay to the administrator all civil penalties referenced above, and an additional civil penalty of twenty‑five thousand dollars, and is guilty of a misdemeanor, upon conviction, and must be punished by imprisonment for not more than one year.

Section 27‑17‑1206. Waiver of interest and penalty.

The administrator may waive, in whole or in part, interest and penalties under this chapter if the administrator determines that the holder acted in good faith and without negligence.

Article 13

Agreement to Locate Property of Apparent Owner Held by Administrator

Section 27‑17‑1301. When agreement to locate property is enforceable.

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

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

(2) is signed by the apparent owner; and

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

Section 27‑17‑1302. When agreement to locate property void.

(a) Subject to subsection (b), an agreement pursuant to Section 27‑17‑1301 is void if it is entered into during the period beginning on the date the property became payable or deliverable by a holder to the administrator under this act and ending twenty‑four months after the payment or delivery of the property to the administrator.

(b) If a provision in an agreement described in Section 27‑17‑1301 applies to mineral proceeds for which compensation is to be paid to the other person based in whole or in part on a part of the underlying minerals or mineral proceeds not then presumed abandoned, the provision is void regardless of when the agreement was entered into.

(c) 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.

(d) This section does not apply to an apparent owner’s agreement with an attorney to pursue a claim for recovery of specifically identified property for which a claim was previously denied by the administrator.

Article 14

Confidentiality and Security of Information

Section 27‑17‑1401. Confidential information.

(a) Except as otherwise provided in this section, confidential information as defined in Section 27‑17‑102 continues to be confidential when disclosed or delivered under this act to the administrator or administrator’s agent.

(b) Information provided in reports filed pursuant to Section 27‑17‑401, information obtained in the course of an examination pursuant to Section 27‑17‑1002, and information located on the website or in the database required by Section 27‑17‑503(b) shall be exempt from disclosure under the South Carolina Freedom of Information Act.

(c) When reasonably necessary to enforce or implement this act, the administrator or the administrator’s agent may disclose, at the administrator’s discretion, confidential information concerning property held by the administrator or the administrator’s agent to:

(1) an apparent owner or apparent owner’s attorney, authorized representative or relative;

(2) legal representative or relative of a deceased apparent owner;

(3) elected or appointed officials, or governmental agencies of this State or the United States;

(4) the person that administers the unclaimed property law of another state; and

(5) any other person or entity as determined by the administrator in the exercise of its discretion hereunder.

(d) The administrator may include on the website or its media platforms the names and addresses of apparent owners of property held by the administrator as provided in Section 27‑17‑503. The administrator, in the exercise of its discretion, may include in published notices, printed publications, or other digital or traditional media additional information concerning the apparent owner’s property if the administrator believes the information will assist in identifying and returning property to the owner.

(e) The administrator and the administrator’s agent may use confidential information provided to them or in their possession to administer the act unless expressly prohibited hereunder.

Section 27‑17‑1402. No confidential information in notice.

Except as otherwise provided in Sections 27‑17‑501 and 27‑17‑502, a holder is not required under this act to include confidential information in the notice to an apparent owner.

Section 27‑17‑1403. Security of information.

(a) If a holder is required to include confidential information in a report to the administrator, the information must be provided by a secure means as defined, instructed, or approved in writing by the administrator.

(b) If confidential information in a record is provided to and maintained by the administrator or administrator’s agent as required by this act, the administrator or administrator’s agent shall implement and maintain reasonable security measures to protect those records containing confidential information from unauthorized access, acquisition, destruction, use, modification, or disclosure.

Section 27‑17‑1404. Security breach.

Except as to the extent prohibited by law, the administrator or the administrator’s agent shall notify a holder as soon as reasonably practicable of unauthorized access or disclosure of confidential information obtained from the holder while in the possession of the administrator or administrator’s agent.

Article 15

Miscellaneous Provisions

Section 27‑17‑1501. Uniformity of application and construction.

In applying and construing this act, consideration may be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 27‑17‑1502. Relation to Electronic Signatures in Global and National Commerce Act.

This act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Section 27‑17‑1503. Transitional provision.

(a) An initial report filed under this act for property that was not required to be reported before the effective date of this act, but that is required to be reported under this act, must include all items of property that would have been presumed abandoned during the ten‑year period preceding the effective date of this act as if this act had been in effect during that period.

(b) This act does not relieve a holder of a duty that arose before the effective date of this act to report, pay, or deliver property. Subject to the periods of limitation and repose provided in Section 27‑17‑609, a holder that did not comply with the law governing unclaimed property before the effective date of this act is subject to applicable provisions for enforcement and penalties in effect before the effective date of this act.

Section 27‑17‑1504. Severability.

If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.”

SECTION 2. Chapter 18, Title 27 of the 1976 Code is repealed.

SECTION 3. The captions appearing after each article and section of Chapter 17, Title 27 of the 1976 Code, as contained in SECTION 1 of this act, are considered to be for informational purposes only and are not part of the statutory language of the articles or sections themselves.

SECTION 4. This act takes effect on July 1, 2021.

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