

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Twin City Printery  
Lewiston, Maine  
1988

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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Sec. 8. 12 MRSA §6256, sub-§6, as enacted by PL 1985, c. 703, §5, is repealed and the following enacted in its place:

6. Recreational fishing provision. A person engaged in recreational fishing in the coastal waters, other than those identified in section 6255, subsection 2, who takes an Atlantic salmon, shall affix to each fish an identification tag designating the date, location and name of the person who caught the fish. The person shall notify the commission or its agents within 24 hours of that person's first landfall providing all information as the commission may require.

Sec. 9. 12 MRSA §6553, sub-§§1 to 3, as enacted by PL 1977, c. 661, §5, is amended to read:

1. Minimum length. It shall be unlawful to take or possess Atlantic salmon which are less than 14 inches total length.

2. Method of taking. From ~~July 16th~~ May 1st to October 15th, both days inclusive, it shall be unlawful to take Atlantic salmon from the coastal waters by means other than hook and line with a single hook. Any Atlantic salmon taken by any other means shall be immediately released.

3. Closed season. From October 16th to ~~March 31st~~ April 30th, both days inclusive, it shall be unlawful to take Atlantic salmon from the coastal waters by any means.

Sec. 10. 12 MRSA §6553, sub-§6, as amended by PL 1983, c. 680, §5, is further amended to read:

6. Bag limit. It is unlawful to take more than one Atlantic salmon in one day from inland waters or coastal waters ~~designated in section 6255, subsection 2.~~ No more than 5 Atlantic salmon per person may be taken annually from all waters of the State.

Sec. 11. 12 MRSA §6553, sub-§8 is enacted to read:

8. Disposition. It is unlawful to sell or offer for sale any Atlantic salmon taken from the inland or coastal waters of the State, except Atlantic salmon lawfully raised by means of aquaculture.

Effective August 4, 1988.

## CHAPTER 691

H.P. 1793 — L.D. 2457

### AN ACT to Replace the Abandoned Property Law.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §6013, first ¶, as repealed and replaced by PL 1981, c. 428, §7, is amended to read:

Any property with a total value of \$100 or more that is abandoned or unclaimed by a tenant following the tenant's vacating the rental unit shall be disposed of according to Title 33, chapter ~~27~~ 37.

Sec. 2. 14 MRSA §6324, as amended by PL 1983, c. 447, §5, is further amended to read:

#### §6324. Proceeds of sale

After first deducting the expenses incurred in making the sale, the mortgagee shall disburse the remaining proceeds in accordance with the provisions of the judgment. The mortgagee shall file a report of the sale and the disbursement of the proceeds therefrom with the court and shall mail a copy to the mortgagor at his last known address. This report need not be accepted or approved by the court, provided that the mortgagor or any other party in interest may contest the accounting by motion filed within 30 days of receipt of the report, but any such challenge shall be for money only and shall not affect the title to the real estate purchased by the highest bidder at the public sale. Any deficiency shall be assessed against the mortgagor and an execution shall be issued by the court therefor. In the event the mortgagee has been the purchaser at the public sale, any deficiency shall be limited to the difference between the fair market value of the premises at the time of the public sale, as established by an independent appraisal, and the sum due the mortgagee as established by the court with interest plus the expenses incurred in making the sale. Any surplus shall be paid to the mortgagor, his successors, heirs or assigns in the proceeding. If the mortgagor has not appeared personally or by an attorney, the surplus shall be paid to the clerk of courts, who shall hold the surplus in escrow for 6 months for the benefit of the mortgagor, his successors, heirs or assigns and, if the surplus remains unclaimed after 6 months, the clerk shall pay the surplus to the Treasurer of State to be credited to the General Fund until it becomes abandoned under the Unclaimed Property Act, and report and pay it to the State in accordance with that Act.

Sec. 3. 33 MRSA c. 27, as amended, is repealed.

Sec. 4. 33 MRSA c. 37 is enacted to read:

### CHAPTER 37

#### UNCLAIMED PROPERTY ACT

#### SUBCHAPTER I

#### GENERAL PROVISIONS AND TERMS OF ABANDONMENT

§1801. Short title; purpose

1. Short title. This chapter shall be known and may be cited as the "Unclaimed Property Act."

2. Purpose. The purpose of this chapter is to pro-

vide for the disposition of all personal property that is being held for another person and has been unclaimed or abandoned for a substantial period. This chapter is intended to protect the interests of the owner of the property while also relieving the holder from the annoyance, expense and potential liability of an unlimited responsibility. The State's interest is to ensure the protection of the rights and interests of its citizens and persons doing business in the State, and, until the abandoned property is claimed, to use the considerable sums of money for the benefit of the State's citizens that would otherwise become windfalls to the holders. The policy of this chapter is first, to actively seek the owners of the property and then to make use of funds temporarily in the State's hands.

### §1802. Definitions

For the purposes of this chapter, the following terms have the following meanings, unless a different meaning is required by the context.

1. Administrator. "Administrator" means the Treasurer of State.

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

3. Attorney General. "Attorney General" means the chief legal officer of this State.

4. Business association. "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership or association of 2 or more individuals for business purposes, whether or not for profit, including a financial institution, insurance company or utility.

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

6. Financial institution. "Financial institution" means any federal or state trust company, savings bank, industrial bank, savings and loan association, building and loan association, commercial bank, credit union, federal association, investment company or other business association that solicits, receives or accepts money, or its equivalent, on deposit and loans money as a regular business.

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

- A. In possession of property belonging to another;
- B. A trustee; or
- C. Indebted to another on an obligation.

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

9. Intangible property. "Intangible property" includes:

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

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

C. Stocks and other intangible ownership interests in business associations;

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

E. Amounts due and payable under the terms of insurance policies;

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

G. All other property which does not exist physically but has economic value.

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

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

12. Person. "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, 2 or more persons having a joint or common interest or any other legal or commercial entity.

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

14. Tangible property. "Tangible property" means

all personal property which exists physically and has inherent economic value.

15. Terminate. "Terminate" means to end in any manner, including lapse, expire or cease under its terms or otherwise.

16. Utility. "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise or license for the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas.

#### §1803. Property presumed abandoned; general rule

1. Abandoned. The following property is presumed abandoned:

A. Except as otherwise provided by this Act, all intangible property, including any income or increment derived from intangible property, less any lawful charges, that is held, issued or owed in the ordinary course of a holder's business and has remained unclaimed by the owner for more than 5 years after it became payable or distributable; and

B. Except as otherwise provided by this Act, all tangible property that is held in the ordinary course of a holder's business and has remained unclaimed by the owner for more than 5 years after it became returnable.

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

#### §1804. General rules for taking custody of unclaimed property

Unless otherwise provided by this Act or by any other law of this State, tangible and intangible property is subject to the custody of this State as unclaimed property if the conditions raising a presumption of abandonment under sections 1803 and 1806 to 1820 are satisfied and:

1. Location. The property is tangible property physically located in this State.

2. Records. The property is intangible property and:

A. The last known address of the apparent owner, as shown on the records of the holder is in this State;

B. The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;

C. The records of the holder do not reflect the last known address of the apparent owner and it is established that:

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

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

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

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

F. The transaction out of which the property arose occurred in this State and:

(1) The last known address of the apparent owner or other person entitled to the property is:

(a) Unknown; or

(b) In a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property; and

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

#### §1805. Traveler's checks and money orders

1. Traveler's check. Subject to subsection 3, any sum payable on a traveler's check that has been outstanding for more than 15 years after its issuance is presumed abandoned unless the owner, within 15 years, has communicated in writing with the issuer concerning that check or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

2. Money order. Subject to subsection 3, any sum payable on a money order or similar written instrument, other than a 3rd-party bank check, that has been outstanding for more than 7 years after its issuance is presumed abandoned unless the owner, within 7 years, has communicated in writing with the issuer concerning that money order or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

3. Requirements. No sum payable on a traveler's check, money order or similar written instrument, other than a 3rd-party bank check described in subsections 1 and 2, may be subjected to the custody of this State as unclaimed property, unless:

A. The records of the issuer show that the traveler's check, money order or similar written instrument was purchased in this State;

B. The issuer has its principal place of business in this State and the records of the issuer do not show the state in which the traveler's check, money order or similar written instrument was purchased; or

C. The issuer has its principal place of business in this State, the records of the issuer show the state in which the traveler's check, money order or similar written instrument was purchased and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or that state's escheat or unclaimed property law is not applicable to the property.

4. Applications. Notwithstanding any other provision of this Act, subsection 3 applies to sums payable on traveler's checks, money orders and similar written instruments presumed abandoned on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

§1806. Checks, drafts and similar instruments issued or certified by financial institutions

Any sum payable on a check, draft or similar instrument, except those subject to section 1805, on which a financial institution is directly liable, including a cashier's check and a certified check, which has been outstanding for more than 5 years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within 5 years, has communicated in writing with the financial institution concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee.

§1807. Bank deposits and funds in financial institutions

1. Presumed abandoned. Any demand, savings or matured time deposit with a financial institution, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual investment certificate or any other interest in a financial institution is presumed abandoned, unless the owner, within 5 years has:

A. In the case of a deposit, increased or decreased its amount or presented the pass book or other similar evidence of the deposit for the crediting of interest or dividends;

B. Communicated in writing with the financial institution concerning the property;

C. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the financial institution;

D. Owned other property to which paragraph A, B or C applies and if the financial institution communicates in writing with the owner, with regard to the property that would otherwise be presumed abandoned under this subsection, at the address to which communications regarding the other property regularly are sent; or

E. Had another relationship with the financial institution concerning which the owner has:

(1) Communicated in writing with the financial institution; or

(2) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the financial institution and if the financial institution communicates in writing with the owner, with regard to the property that would otherwise be abandoned under this subsection, at the address to which communications regarding the other relationship regularly are sent.

2. Interest and dividends. For the purpose of subsection 1, property includes interest or dividends due on any deposits, accounts, funds or shares shall not be discontinued or diverted because of inactivity of the account during the period prior to abandonment.

3. Reasonable service charges. Reasonable service charges may be levied against inactive deposits or accounts prior to abandonment, provided that:

A. Such charges are consistent with regulations of the Bureau of Banking in effect at the time the charge was levied;

B. The holder had a contract with the owner or the owner continued to use the account after receiving notice of the charges before the deposit or account became abandoned; and

C. The holder does not regularly waive such charges for owners of such deposits and accounts.

4. Property automatically renewable. Any property described in subsection 1, that is automatically renewable, is matured for purposes of subsection 1 upon the expiration of its initial time period. In the case of any renewal to which the owner consents, at or about the time of renewal, by communicating in writing with the financial institution or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the financial institution, including a notation in the record by an employee evidencing consent by the owner resulting from a telephone conversation or personal contact, the property is matured upon the expiration of the last time period for which con-

sent was given. If, at the time provided for delivery in section 1853, a penalty or forfeiture in the payment of interest results from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture results.

#### §1808. Funds owed under life insurance policies

1. Presumed abandoned. Funds held or owed under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than 5 years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection 3 is presumed abandoned if unclaimed for more than 2 years.

2. Last known address. If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the company.

3. Policy or contract not matured. For purposes of this Act, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the company is matured and the proceeds due and payable if:

A. The company knows that the insured or annuitant has died; or

B. The insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based.

(1) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in this paragraph.

(2) Neither the insured nor any other person appearing to have an interest in the policy within the preceding 2 years, according to the records of the company, has assigned, readjusted or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

4. Automatic premium loan provision. For purposes of this Act, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection 1, if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds of the policy before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Notice. If the laws of this State or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last known address according to the records of the company is in this State, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

6. Death of insured. Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within 4 months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

7. Change of beneficiary form. Commencing 2 years after the effective date of this Act, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this State must request the following information:

A. The name of each beneficiary or, if a class of beneficiaries is named, the name of each current beneficiary in the class;

B. The address of each beneficiary; and

C. The relationship of each beneficiary to the insured.

#### §1809. Deposits held by utilities

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

#### §1810. Refunds held by business associations

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

#### §1811. Stock and other intangible interests in business associations

1. Presumed abandoned. Except as provided in subsections 2 and 5, stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is

presumed abandoned and, with respect to the interest, the association is the holder if a dividend, distribution or other sum payable as a result of the interest has remained unclaimed by the owner for 5 years and the owner within 5 years has not:

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

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

2. Presumptive period. At the expiration of a 5-year period following the failure of the owner to claim a dividend, distribution or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least 5 dividends, distributions or other sums paid during the period, none of which has been claimed by the owner. If 5 dividends, distributions or other sums are paid during the 5-year period, the period leading to a presumption of abandonment commences on the date that the payment of the first such unclaimed dividend, distribution or other sum became due and payable. If 5 dividends, distributions or other sums are not paid during the presumptive period, the period continues to run until there have been 5 dividends, distributions or other sums that have not been claimed by the owner.

3. Running of period of abandonment ceases. The running of the 5-year period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection 1. If any future dividend, distribution or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution or other sum became due and payable.

4. Dividend; distribution; presumed abandoned. At the time an interest is presumed abandoned under this section, any dividend, distribution or other sum then held for or owed to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned and shall not be diverted or discontinued during the period prior to abandonment.

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

#### §1812. Property held in the course of dissolution

All tangible and intangible property distributable in the course of a voluntary or involuntary dissolution of a business association, financial institution, insurer or utility shall be presumed abandoned if it is unclaimed by the date of final dissolution. This property shall be reported, paid over or delivered immediately to the administrator, but the administrator shall not sell, destroy or dispose of the property, as provided under section 1856, until 6 months after the date of final dissolution, unless the property is perishable, seasonal or in a condition requiring immediate sale, destruction or disposal.

#### §1813. Property held by agents and fiduciaries

1. Property presumed abandoned. Tangible and intangible property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within 5 years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by the fiduciary.

2. Retirement accounts. Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the United States Internal Revenue Code are not payable or distributable within the meaning of subsection 1, unless under the terms of the account or plan, distribution of all or part of the funds is mandatory.

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

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

#### §1814. Property held by courts and public agencies

Tangible and intangible property, other than property covered by section 1819 or 1820, which is held for the owner by a court, state or other government, governmental subdivision or agency, public corporation or public authority and which remains unclaimed by the owner for more than one year after becoming payable or distributable, in the case of intangible property, or after becoming returnable in the case of tangible property, is presumed abandoned.

§1815. Gift certificates and credit memos

1. Presumed abandoned. A gift certificate or a credit memo, issued in the ordinary course of an issuer's business, which remains unclaimed by the owner for more than 5 years after becoming payable or distributable is presumed abandoned.

2. Amount. In the case of a gift certificate, the amount presumed abandoned is the price paid by the purchaser for the gift certificate. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

3. Requirements. Issuers of gift certificates or credit memos shall be subject to the following requirements.

A. All issuers of gift certificates or credit memos shall obtain the name and address of the purchaser.

B. In the event the amount of the gift certificate or the credit memo is less than \$25, the issuer shall not be required to obtain such information, provided that it adopts a system for identifying the last known address of the purchaser acceptable to the administrator.

§1816. Wages

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

§1817. Contents of safe deposit box or other safekeeping repository

All tangible and intangible property held in a safe deposit box or any other safekeeping repository in this State in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remain unclaimed by the owner for more than 5 years after the lease or rental period on the box or other repository has expired, are presumed abandoned.

§1818. Property held by landlords

1. Presumption of abandonment. Tangible and intangible property, held by a landlord, that has been left on the premises after a tenant has terminated tenancy or vacated the premises shall be presumed abandoned if it has not been claimed within 14 days after written notice has been sent by first class mail with proof of mailing to the last known address of the tenant.

2. Reducing tangible property to cash. Tangible property presumed to be abandoned under this section may be sold by the landlord at public auction if the fair market value of all property left by a tenant is \$100 or more, but less than \$1,000.

A. At least 14 days prior to sale, the landlord shall give notice to the owner or tenant:

- (1) Either personally or by certified mail; or
- (2) If that notice cannot be given after 3 reasonable attempts to do so, by publication in a newspaper of general circulation in the county in which the premises are located.

The notice shall give a description of the property, the time and place of sale and the right to claim the property.

B. The owner or tenant may claim this property at any time prior to actual sale.

C. After sale, the landlord shall record the name of the owner prior to the sale, a description of the property, the proceeds of the sale, any deductions authorized under paragraph D and the balance remaining.

D. The landlord may apply any proceeds from the sale to:

- (1) The expenses of notice and sale;
- (2) The amount of rent unpaid and due; and
- (3) The expense of damages to the premises by the tenant for which the landlord has not been compensated.

E. The balance from the sale and the records of the sale shall be reported and delivered to the administrator as if they were the property presumed abandoned.

3. Sale of property by landlord. Tangible property presumed to be abandoned under this section may be sold by the landlord in accordance with Title 14, section 6013, if the fair market value of the property left by the tenant is less than \$100.

§1819. Property held by state institutions

1. Presumption of abandonment. Tangible and intangible property held by an institution under the control of the Department of Mental Health and Mental Retardation and the Department of Corrections that has been left by a patient or inmate shall be presumed abandoned if it has not been claimed within 2 years after the patient's or inmate's discharge from, or death while residing in, the institution.

2. Reducing tangible property to cash. Tangible property presumed to be abandoned under this section may be sold by the head of the institution at public auction if the fair market value of all property left at that institution by the patient or inmate is less than \$1,000.

A. At least 14 days prior to sale, the head of the institution shall give notice to the owner:

- (1) Either personally or by certified mail; or
- (2) If that notice cannot be given after one reasonable attempt to do so, by publication in a newspaper of general circulation in the county in which the institution is located.

The notice shall give a description of the property, the institution at which it was left, the time and place of sale and the right to claim the property.

B. The owner may claim this property at any time prior to actual sale.

C. After sale, the head of the institution shall record the name of the owner prior to the sale, a description of the property, the institution at which it was left and the proceeds of the sale.

D. The proceeds of the sale and the records of the sale shall be reported and delivered to the administrator as if they were the property presumed abandoned.

#### §1820. Property held by public administrators

Money held by a public administrator which is to be disposed of under Title 18-A, section 3-619, subsection (e) shall be presumed abandoned when the judge, pursuant to that section, orders the public administrator to deposit those assets with the administrator.

### SUBCHAPTER II ADMINISTRATION

#### §1851. Report of abandoned property

1. Report to the administrator. A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this Act shall report to the administrator concerning the property as provided in this section.

2. Verification. The report must be verified and must include:

A. Except with respect to traveler's checks, money orders and gift certificates, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of \$25 or more presumed abandoned under this Act;

B. In the case of unclaimed funds of \$25 or more held or owed under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

C. In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible

property, a description of the property, the place where it is held and may be inspected by the administrator and any amounts owing to the holder;

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

E. The date that the property became payable, demandable or returnable, and the date of the last transaction with the apparent owner with respect to the property; and

F. Other information which the administrator prescribes by rule as necessary for the administration of this Act.

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

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

5. Notice. Not more than 120 days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this Act shall send written notice to the apparent owner at the owner's last known address informing the owner that the holder is in possession of property subject to this Act, if:

A. The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

B. The claim of the apparent owner is not barred by the statute of limitations; and

C. The property has a value of \$50 or more.

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

#### §1852. Notice and publication by administrator

1. Publication. Within 120 days of the filing of the report required by section 1851, the administrator shall

cause to be published in at least 2 newspapers of general circulation in this State, at least once, a notice and listing of all abandoned property reported to the administrator.

2. Contents. The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property," and shall contain:

A. The names in alphabetical order and last known addresses, if any, of owners of abandoned property;

B. The amount or description of the property and the name and address of the holder; and

C. A statement for property to be delivered to the administrator, that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within 65 days from the date of the published notice, the abandoned property shall be placed not later than 85 days after the publication date in the custody of the administrator to whom all further claims shall thereafter be directed.

3. Notice not required. The administrator is not required to publish in the notice any item of less than \$50, unless the administrator deems publication to be in the public interest.

4. Mailed notice. Within 120 days from the receipt of the report required by section 1851, the administrator shall mail a notice to each person having an address listed in the report who appears to be entitled to property of the value of \$50 or more.

5. Contents. The mailed notice shall contain:

A. A statement, according to a report filed with the administrator, that property is being held to which the addressee appears entitled and the amount or description of the property;

B. The name and address of the person holding the property and any necessary information regarding change of name and address of the holder; and

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

6. Application. This section is not applicable to sums payable on traveler's checks and money orders presumed abandoned under section 1805.

#### \$1853. Payment or delivery of abandoned property

1. Payment or delivery. Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter, shall pay or deliver to the

administrator all of that property within 85 days of publication of notice as required under section 1852. Property reported under section 1852 for which the holder is not required or is not able to report the name of the apparent owner must be paid or delivered to the administrator at the time of filing the report.

2. Exception for claimed property. If the owner establishes the right to receive the abandoned property to the satisfaction of the holder, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which shall no longer be presumed abandoned, to the administrator, but in lieu of such payment or delivery, shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

3. Evidence of ownership. The holder of an interest under section 1811 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the administrator. Upon delivery of a duplicate certificate to the administrator, the holder and any transfer agent, registrar or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability in accordance with section 1854 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the administrator, for any losses or damages resulting to any person by the issuance and delivery to the administrator of the duplicate certificate.

4. Tangible personal property. The administrator may determine that notice and delivery of specific personal property is not in the best interest of the State, either because the sum or value is too small or for other good reason. If the administrator notifies the holder of that property of that determination within 120 days of receipt of the report required under section 1851, the administrator may exclude the property from the notices under section 1852 and may refuse to accept delivery and custody of that property.

5. Exception for certain municipally acquired property. This section does not apply to tangible personal property located in real property acquired by a municipality for taxes or tangible personal property located in "dangerous buildings," as described by Title 17, section 2851. Personal property located within real property acquired by a municipality for taxes or within "dangerous buildings" shall be removed by the owner or owners within 21 days after written notice to do so by the municipal officers. The notice shall be sent by certified mail, return receipt requested, to the owner or owners at their last known address. The notice shall specify that unless the tangible personal property is removed it will be disposed of by the municipality. Any municipality which has complied with this subsection shall not be liable for the disposal of tangible personal property under this section.

6. Property refused by the administrator. If the administrator refuses to accept tangible personal property presumed abandoned under section 1818, and that property cannot be reasonably sold under section 1818, subsection 2, then the landlord, after notice to the owner or tenant as provided in section 1818, subsection 2, paragraph A, subparagraphs (1) and (2), shall hold that property for the owner to claim for 60 days. If that property is unclaimed after that period, then the landlord shall be relieved of all liability for delivering that property and the landlord may dispose of it as the landlord wishes.

7. Property refused by the administrator. If the administrator refuses to accept tangible personal property presumed abandoned under section 1819 and that property cannot be reasonably sold under section 1819, subsection 2, then the head of an institution, after notice to the owner as provided in section 1819, subsection 2, paragraph A, subparagraphs (1) and (2), shall hold that property for the owner to claim for 60 days. If that property is unclaimed after that period, then the head of the institution shall be relieved of all liability for delivering that property and it may be disposed of as the head of the institution wishes.

§1854. Custody by State; holder relieved from liability; reimbursement of holder paying claim; reclaiming for owner; defense of holder; payment of safe deposit box or repository charges

1. Custody of property. Upon the payment or delivery of property to the administrator, the State assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the administrator in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which afterward may arise or be made in respect to the property.

2. Reimbursement. A holder who has paid money to the administrator pursuant to this Act may make payment to any person appearing to the holder to be entitled to payment and, upon filing proof of payment and proof that the payee was entitled to payment, the administrator shall promptly reimburse the holder for the payment without imposing any fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed under this subsection upon filing proof that the instrument was duly presented and that payment was made to a person who appeared to the holder to be entitled to payment. The holder must be reimbursed for payment made under this subsection even if the payment was made to a person whose claim was barred under section 1863.

3. Reclaim of property. A holder who has delivered property, including a certificate of any interest in a business association, other than money to the administrator pursuant to this Act may reclaim the property if it is still in the possession of the administrator without pay-

ing any fee or other charge, upon filing proof that the owner has claimed the property from the holder.

4. Proof of facts. The administrator may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

5. Liability on competing claim. If the holder pays or delivers property to the administrator in good faith and another person then claims the property from the holder or another state claims the money or property under its laws relating to escheat, abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the competing claim.

6. Good faith. For the purposes of this section, "good faith" means that:

A. Payment or delivery was made in a reasonable attempt to comply with this Act;

B. The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to that person, that the property was abandoned for the purposes of this Act; and

C. There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

7. Reimbursement of costs. Property removed from a safe deposit box or other safekeeping repository is received by the administrator subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The administrator shall reimburse or pay the holder out of the proceeds remaining after deducting the administrator's selling cost.

§1855. Crediting of dividends, interest or increments to owner's account

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

§1856. Public sale of abandoned property

1. Highest bidder. Except as provided in subsections 2 and 3, the administrator, within 3 years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever city in the State affords, in the judgment of the administrator, the most favora-

ble market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if, in the judgment of the administrator, the bid is insufficient. If, in the judgment of the administrator, the probable cost of the sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section must be preceded by a single publication of notice, at least 3 weeks in advance of the sale, in a newspaper of general circulation in the county in which the property is to be sold.

2. Securities; general. Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method which the administrator considers advisable.

3. Other securities. Unless the administrator considers it to be in the best interest of the State to do otherwise, all securities, other than those presumed abandoned under section 1811, delivered to the administrator must be held for at least one year before the administrator may sell them.

4. Securities presumed abandoned under section 1811. Unless the administrator considers it to be in the best interest of the State to do otherwise, all securities presumed abandoned under section 1811 and delivered to the administrator must be held for at least 3 years before the administrator may sell them. If the administrator sells any securities delivered pursuant to section 1811 before the expiration of the 3-year period, any person making a claim pursuant to this Act before the end of the 3-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to section 1857, subsection 2. A person making a claim under this Act after the expiration of this period is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from the sale, less any amounts deducted pursuant to section 1857, subsection 2, but no person has any claim under this Act against the State, the holder, any transfer agent, registrar or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

5. Property free of claims. The purchaser of property at any sale conducted by the administrator pursuant to this Act takes the property free of all claims of the owner or previous holder of the property and of all persons claiming through or under claims. The administrator shall execute all documents necessary to complete the transfer of ownership.

#### §1857. Deposit of funds

1. Deposit of funds; Abandoned Property Fund. The administrator shall immediately deposit all funds re-

ceived under this chapter, including the proceeds from the sale of property under section 1856 into the Abandoned Property Fund. The Abandoned Property Fund shall be a permanent account and shall not lapse.

2. Authorized expenditures. The following expenditures are authorized.

A. The administrator may expend the funds in the Abandoned Property Fund for the payment of claims or refunds to holders as authorized under this chapter, and for the payment of taxes, costs of maintenance and upkeep of abandoned property, costs of required notice and publication, costs of auction or sale or other administrative costs under this chapter.

B. At the end of each year or more often, the administrator shall transfer to the General Fund all money in the Abandoned Property Fund that is in excess of \$150,000.

3. Records. Before making a deposit to the Abandoned Property Fund, or retaining or destroying property, the administrator shall record the name and address of the holder, the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property, the name and last known address of each insured person or annuitant, the amount or description of the property and, with respect to each policy or contract listed in the report of an insurer, its number and the name of the corporation. The record shall be available for public inspection at all reasonable business hours. All other records, documents or information relating to the abandoned property shall be confidential and not available for public inspection to the extent the administrator finds necessary to protect the interests of the owner, the State and the public welfare.

#### §1858. Filing of claim with the administrator

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

2. Notice. The administrator shall consider each claim within 90 days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

3. Amount payable to claimant. If a claim is allowed, the administrator shall pay or deliver to the claimant the property or the amount the administrator actually received or the net proceeds, if it has been sold by the ad-

ministrator, together with any additional amount required by section 1855. If the claim is for property presumed abandoned under section 1811 which was sold by the administrator within 3 years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of the sale, whichever is greater. If the property claimed was interest-bearing to the owner on the date of surrender by the holder, the administrator shall pay interest at the current rate or any lesser rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the administrator and ceases at the expiration of 10 years after delivery or the date on which payment is made to the owner, whichever is earlier. No interest on interest-bearing property is payable for any period before January 1, 1979.

4. Interest. Any holder who pays the owner for property that has been delivered to the State and which, if claimed from the administrator, would be subject to subsection 3 shall add interest as provided in subsection 3. The added interest must be repaid to the holder by the administrator in the same manner as the principal.

§1859. Claim of another state to recover property; procedure

1. Requirements. At any time after property has been paid or delivered to the administrator under this Act, another state may recover the property if:

A. The property was subjected to custody by this State because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed abandoned under this Act or any escheat or abandoned property act of this State, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and, under the laws of that state, the property escheated to or was subject to a claim of abandonment by that state;

B. The last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and, under the laws of that state, the property has escheated to or become subject to a claim of abandonment by that state;

C. The records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and, under the laws of that state, the property escheated to or was subject to a claim of abandonment by that state;

D. The property was subjected to custody by this State under section 1804, and, under the laws of the state of domicile of the holder, the property has escheated to or become subject to a claim of abandonment by that state; or

E. The property is the sum payable on a traveler's check, money order or other similar instrument that was subjected to custody by this State under section 1805, and the instrument was purchased in the other state and, under the laws of that state, the property escheated to or became subject to a claim of abandonment by that state.

2. Prescribed form. The claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the administrator, who shall decide the claim within 90 days after it is presented. The administrator shall allow the claim if the administrator determines that the other state is entitled to the abandoned property under subsection 1.

3. Liability. The administrator shall require a state, before recovering property under this section, to agree to indemnify this State and its officers and employees against any liability on a claim for the property.

§1860. Action to establish claim

A person aggrieved by a decision of the administrator or whose claim has not been acted upon within 90 days after its filing may bring an action to establish the claim in a court of appropriate jurisdiction, naming the administrator as a defendant. The action must be brought within 90 days after the decision of the administrator or within 180 days after the filing of the claim if the administrator has failed to act on it.

If the aggrieved person establishes the claim in an action against the administrator, the court shall award that person costs and reasonable attorney fees.

§1861. Election to take payment or delivery

1. Value. The administrator may decline to receive any property reported under this Act which the administrator considers to have a value less than the expense of giving notice and of the sale. If the administrator elects not to receive custody of the property, the holder shall be notified within 120 days after filing the report required under section 1851.

2. Delivery before property presumed abandoned. A holder, with the written consent of the administrator and upon conditions and terms prescribed by the administrator, may report and deliver property before the property is presumed abandoned. Property delivered under this subsection must be held by the administrator and is not presumed abandoned until such time as it otherwise would be presumed abandoned under this Act.

§1862. Destruction or disposition of property having insubstantial commercial value; immunity from liability

If the administrator determines after investigation that any property delivered under this Act has insub-

stantial commercial value, the administrator may destroy or otherwise dispose of the property at any time. No action or proceeding may be maintained against the state or any officer or against the holder for or on account of any action taken by the administrator pursuant to this section.

#### §1863. Periods of limitation

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

2. Ten year limitation. Beginning 10 years after the effective date of this Act, no action or proceeding may be commenced by the administrator with respect to any duty of a holder under this Act more than 10 years after the property was reported.

#### §1864. Requests for reports and examination of records

1. Report. The administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this Act.

2. Examination of records. The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this Act. The administrator may conduct the examination notwithstanding a person's belief that the person is not in possession of any property reportable or deliverable under this Act.

3. Examination of business association records. If a person is treated under section 1813, as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection 2, may examine the records of the person if the administrator has given the notice required by subsection 2 to both the person and the business association at least 90 days before the examination.

4. Other examiner. When requested by the administrator, an examination shall be conducted by any licensing or regulating agency otherwise empowered to examine the records of a holder. For the purpose of this section, the Superintendent of Banking is vested with full authority to examine the records of any financial institution doing business within the State, including those not organized under the laws or created in this State.

5. Insufficient records. If a holder fails after the effective date of this Act to maintain the records required

by section 1851 and the records of the holder available for the periods subject to this Act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay such amounts as may be reasonably estimated from any available records.

6. Confidentiality of records. Information derived by any examination of records or otherwise communicated to the administrator or the administrator's representative concerning abandoned property shall be confidential and not available for public inspection to the extent the administrator finds necessary to protect the interests of the holder, the owner, this State and the public welfare.

7. Out-of-state records. If a domiciled holder does not maintain its records in this State and who maintains its records outside this State, the administrator may order that the records be made available for inspection in this State or, under appropriate circumstances, the administrator may order the holder to pay the transportation costs, lodging and other necessary expenses for the examiner or the examiners assigned to perform the scheduled examination if it is to be performed outside this State.

#### §1865. Retention of records

1. Holder of property. Every holder required to file a report under section 1851 as to any property for which it has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for 10 years after the property became or becomes reportable, except to the extent that a shorter time is provided in subsection 2 or by rule of the administrator.

2. Business associations. Any business association that sells in this State traveler's checks, money orders or other similar written instruments, other than 3rd-party bank checks to which the business association is directly liable, or that provides such instruments to others for sale in this State shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue, for 3 years after the date the property is reportable.

#### §1866. Enforcement

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

#### §1867. Interstate agreements and cooperation; joint and reciprocal actions with other states

1. Agreements with other states. The administrator may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise determine unclaimed property that it or another state may be entitled to subject to a claim of custody. The administrator by rule may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

2. Conflicts. To avoid conflicts between the administrator's procedures and the procedures of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act, the administrator, as far as is consistent with the purposes, policies and provisions of this Act, before adopting, amending or repealing rules, shall advise and consult with administrators in other jurisdictions that enact substantially the Uniform Unclaimed Property Act and take into consideration the rules of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act.

3. Enforcement. The administrator may join with other states to seek enforcement of this Act against any person who is or may be holding property reportable under this Act.

4. Actions. At the request of another state, the Attorney General of this State may bring an action in the name of the administrator of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this State of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the Attorney General in bringing the action.

5. Actions in other states. The administrator may request that the attorney general of another state or any other person bring an action in the name of the administrator in the other state. This State shall pay all expenses including attorney fees in any action under this subsection. The administrator may agree to pay attorney fees to the person bringing the action, based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses paid pursuant to this subsection may not be deducted from the amount that is subject to the claim by the owner under this Act.

#### §1868. Interest and penalties

1. Interest; penalty. A person who fails to pay or deliver property within the time prescribed by this Act shall pay, after written notice, to the administrator interest either at the annual rate of 18% or 10% above the annual rate of discount in effect on the date the property should have been paid or delivered, or for the most recent issue of 52-week United States Treasury bills, whichever is greater, on the property or value thereof from a date 30 days after the date that the administrator, after examination, has made a determination that the property should have been paid or delivered and has notified the holder of the determination. The administrator may waive the payment of interest for an additional period for good cause shown.

2. Willful failure to perform duties. A person who willfully fails to render any report or perform other duties required under this Act shall pay a civil penalty of \$100 for each day the report is withheld or the duty is not performed, but not more than \$5,000.

3. Willful failure to deliver property. A person who willfully fails to pay or deliver property to the administrator as required under this Act shall pay a civil penalty equal to 25% of the value of the property that should have been paid or delivered.

4. Refusal after demand. A person who willfully refuses after written demand by the administrator to pay or deliver property to the administrator as required under this Act commits a Class E crime.

#### §1869. Agreement to locate reported property

1. All agreements to pay compensation to recover or assist in the recovery of property reported under section 1851 made 24 months or less after the date payment or delivery is made under section 1853, are unenforceable.

2. Agreements to pay compensation to recover or assist in the recovery of property reported under section 1851, made more than 24 months, but less than 36 months after the date payment or delivery is made under section 1853, may not exceed 15%.

3. Agreements to pay compensation to recover or assist in the recovery of property reported under section 1851 made 36 months or more after the date payment or delivery is made under section 1853 may exceed 15% if the agreement:

- A. Is in writing and signed by the owner;
- B. Discloses the nature and value of the property; and
- C. Discloses the name and address of the holder and the administrator.

4. Excessive consideration. Nothing in this section may be construed to prevent an owner from asserting, at any time, that any agreement to recover or assist in the recovery of property is based on an excessive or unjust consideration.

#### §1870. Foreign transactions

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

#### §1871. Transition and application

1. Applicable provisions. 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. A holder who did not comply with the law before the effective date of this Act is subject to the applicable enforcement and penalty provisions that then existed and are continued in effect for the purpose of this subsection, subject to section 1863, subsection 2.

2. Property not covered by prior laws. The initial

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

#### §1872. Rules

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

#### §1873. Uniformity of application and construction

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

#### §1874. Agreements with other states

The administrator may enter into agreements with other states for administering this chapter, provided the Attorney General has approved the agreements as to its legality.

#### §1875. Retention of tangible property with historic value

1. Historic significance. The administrator may retain any tangible property delivered to him, if the property has exceptional historic significance. The historic significance shall be certified by the administrator with the advice from the State Historian, State Archivist and the Director of the State Museum. A statement of the appraised value of the property shall be filed with the certification. Historic property retained under this subsection may be stored and displayed at the Maine State Museum, the Maine State Library or other suitable locations.

2. Owner's property rights. Nothing in this section affects the right of the owner to recover the property or its value.

Effective August 4, 1988.

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## CHAPTER 692

H.P. 1827 — L.D. 2503

### AN ACT to Amend the Maine Banking Code.

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there may exist in Maine law a loophole that would permit out-of-state financial institutions to establish deposit production offices in Maine, whose primary

purpose would be to solicit and accept deposits on behalf of an out-of-state organization that is not otherwise authorized to conduct banking business in this State; and

Whereas, establishing satellite facilities to solicit deposits for out-of-state financial institutions with no commitment to reinvest that money in Maine could create a considerable outflow of capital and is in direct contravention to the Net New Funds provision of Maine's interstate banking laws; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

**Sec. 1.** 9-B MRSA §131, sub-§18-A is enacted to read:

18-A. Financial institutions not authorized to do business in this State. "Financial institutions not authorized to do business in this State" means any person engaged in the business of banking that does not satisfy the definition of "authorized to do business in this State" found in subsection 2.

**Sec. 2.** 9-B MRSA §131, sub-§35, as enacted by PL 1975, c. 500, §1, is amended to read:

35. Satellite facility. "Satellite facility" or "off-premise facility" means any facility or electronic terminal or facility at which an existing financial institution customer may initiate banking transactions including, but not limited to, cash deposits to and withdrawals from his account, cash advances on a preauthorized credit line, transfers between his checking and savings account or payment transfers from his account to accounts of other financial institution customers. Such a facility is not part of a main office or branch office of a financial institution. Such an off-premise facility may be part of an electronic funds transfer system. Satellite facilities or off-premise facilities include facilities engaged in soliciting, receiving or accepting money or its equivalent on deposit from new and existing customers. The term satellite facilities or off-premise facilities does not include an office or facility engaged solely in the solicitation and origination of loans.

**Sec. 3.** 9-B MRSA §339, sub-§2, as repealed and replaced by PL 1985, c. 577, is repealed.

**Sec. 4.** 9-B MRSA §339-A is enacted to read:

§339-A. Prohibited branches and satellite facilities

1. Branches in other states. Branches are prohibited according to this subsection.