

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2109

H. P. 2043

House of Representatives, January 26, 1978

Filed by the Joint Standing Committee on State Government under Joint Rule 17.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT Relating to Abandoned Property.

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

Sec. 1. 9-B MRSA § 365, sub-§ 9, as enacted by PL 1975, c. 500, § 1, is repealed and the following enacted in its place:

9. **Unknown depositors.** When it appears upon the settlement of the account of the receiver of a financial institution pursuant to this section that there are remaining in his hands funds due depositors who cannot be found and whose heirs or legal representatives are unknown, the unclaimed funds shall be disposed of according to Title 33, chapter 27.

Sec. 2. 9-B MRSA § 428, as enacted by PL 1975, c. 500, § 1, and as amended by 1975, c. 771, § 112, is repealed and the following enacted in its place:

§ 428. **Inactive deposits or accounts**

All moneys in inactive accounts in each financial institution authorized to do business in this State shall be disposed of according to Title 33, chapter 27.

Sec. 3. 10 MRSA § 3751, last 3 ¶¶, as enacted by PL 1977, c. 257, are repealed and the following enacted in their place:

The contents of an opened safe or box, if unclaimed, shall be disposed of according to Title 33, chapter 27.

Sec. 4. 13-A MRSA § 525, as enacted by PL 1971, c. 439, § 1, is repealed and the following enacted in its place:

§ 525. Unclaimed dividends

All unclaimed dividends or other distributions to share holders declared by a corporation shall be disposed of according to Title 33, chapter 27.

Sec. 5. 13-A MRSA § 1121, as enacted by PL 1971, c. 439, § 1, is repealed and the following enacted in its place:

§ 1121. Undistributed assets

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder who:

1. Unknown. Is unknown or cannot be found;
2. Disability. Is under disability and for whom there is no person legally competent to receive the distributive portion; or
3. Refused distribution. Fails or refuses to accept his distribution shall be disposed of according to Title 33, chapter 27.

Sec. 6. 18 MRSA § 851, first ¶, 2nd sentence, is amended to read:

The residue shall be distributed or shall escheat ~~by the rules provided for the distribution of real estate, be disposed of according to Title 33, chapter 27, except that in the case of intestate estates and it having if it has been determined by the probate court that the deceased and the surviving widow were living together at the time of his decease and that he left no issue, there the residue shall be distributed to the widow.~~

Sec. 7. 24-A MRSA c. 61, as enacted by PL 1969, c. 132, § 1, and as amended, is repealed and the following enacted in its place:

CHAPTER 61

UNCLAIMED FUNDS OF LIFE INSURERS

§ 4551. Disposition of unclaimed funds

All unclaimed moneys held and owing by any life insurer doing business in this State shall be disposed of according to Title 33, chapter 27.

Sec. 8. 33 MRSA c. 27 is enacted to read:

CHAPTER 27**ABANDONED PROPERTY****SUBCHAPTER I****GENERAL PROVISIONS AND TERMS FOR ABANDONMENT****§ 1301. Purpose**

The purpose of this chapter is to provide 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 insure 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 Maine'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.

§ 1302. Definitions

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

1. **Business association.** "Business association" means any private corporation, joint stock company, business trust, partnership or association, 2 or more individuals having joint or common interest, or any other legal or commercial entity engaged in business.

2. **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.

3. **Holder.** "Holder" means any person in possession of property belonging to another which is subject to this chapter, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

4. **Life insurer.** "Life insurer" means any business association transacting insurance business in this State, or any business defined as insurance under Title 24-A, section 3.

5. **Owner.** "Owner" means a depositor in the case of a deposit, a beneficiary

in the case of a trust, a creditor, claimant or payee in the case of other choses in action, or any person having a legal or equitable interest in property subject to this chapter, or his legal representative.

6. **Person.** “Person” means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

7. **Terminate.** “Terminate” means to end in any manner, including lapse, expire or cease under its terms or otherwise.

8. **Utility.** “Utility” means any person who owns or operates, for public use, any plant, equipment, property, franchise or license, for transportation of the public, the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas.

9. **Written instrument.** “Written instrument” means a document in writing that evidences a legal right, obligation or interest.

§ 1303. Property subject to custody and control of the State

Any property that is deemed unclaimed or abandoned under this chapter is subject to the custody and control of the State if it is:

1. **Tangible.** Tangible and physically located within the State; or

2. **Intangible.** Intangible and:

A. The last known address of the owner, as shown by the records of the holder, is within the State;

B. The last known address of the owner as shown by the records of the holder is within a jurisdiction, the laws of which do not provide for the escheat or custodial taking of the property, and the domicile of the holder is within the State;

C. No address of the owner appears on the records of the holder and the domicile of the holder is within the State; or

D. No address of the owner appears on the records of the holder and the domicile of the holder is not within the State, but it is proved that the last known address of the owner is in the State.

§ 1304. Property held by financial institutions

1. **Deposits and funds.** Any demand, savings or matured time deposit in a financial institution, or any funds paid toward the purchase of shares or other

interest in a financial institution shall be presumed abandoned if, within the preceding 10 years the owner has not:

A. Increased or decreased the amount of the deposit, shares or claim, or presented to the holder the passbook, evidence of deposit or other appropriate record for the crediting of interest or dividends;

B. Corresponded in writing with the holder concerning the deposit, shares or claim; nor

C. Otherwise indicated an interest in the deposit, shares or claim as evidenced by a writing on file with the holder. A record of the sending of a Bureau of Internal Revenue Form 1099, or its equivalent, to the owner and a record of its not being returned by the post office department shall be an indication of interest.

2. Written instruments. Any sum payable on a check certified in the State or on any written instrument issued in the State on which a financial institution or other business association is directly liable shall be presumed abandoned if, within 10 years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

A. Negotiated the instrument;

B. Corresponded in writing with the financial institution concerning it; nor

C. Otherwise indicated an interest as indicated by a writing on file with the financial institution.

3. Safe deposit box. Any funds or other personal property, tangible or intangible, contained in or removed from a safe deposit box or other safekeeping repository shall be presumed abandoned if the owner has not claimed the property within 10 years of the expiration of the lease, rental or other agreement.

4. Charges, interest or dividends on abandoned property.

A. Reasonable service charges may be levied against deposits or accounts presumed to be abandoned, provided those charges shall not exceed the charges levied against similar active deposits or accounts or the actual cost of administering the account or deposit.

B. Interest or dividends due on any deposits, accounts, funds or shares presumed to be abandoned shall not be discontinued or diverted because of the inactivity or during the period prior to abandonment.

§ 1305. Property held by life insurers

1. Funds owed under a policy or contract. Any funds held or owing by a life

insurer that are due and payable under any life or endowment insurance policy or annuity contract which has matured or terminated shall be presumed abandoned if they have not been claimed or paid within 10 years after becoming due or payable as established from the insurer's records. Funds payable according to the insurer's records are deemed due and payable although the policy or contract has not been surrendered as required.

2. **Presumption of address of beneficiary.** If a person other than the insured or annuitant is entitled to the funds and no address of the person is known to the insurer or if it is not definite and certain from the records of the insurer which person 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 insurer.

3. **Presumption of maturity.** A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds are deemed to be due and payable if the policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based; unless the person appearing entitled thereto has, within the preceding 10 years, assigned, readjusted or paid premiums on the policy, made payments on a loan, or corresponded in writing with the life insurer concerning the policy.

§ 1306. Property held by other insurers

1. **Funds owned under a policy or contract.** Any funds held or owing by a fire, casualty, surety or any other insurer that are due and payable, as established from the records of the insurer, either to an insured, a principal or other claimant under any insurance policy or contract shall be presumed abandoned if they have not been claimed or paid within 10 years after becoming due or payable. Funds payable according to the insurer's records are deemed due and payable although the policy or contract has not been surrendered as required.

2. **Presumption of address of beneficiary.** If a person other than the insured, the principal or the claimant is entitled to the funds and no address of the person is known to the insurer or if it is not definite and certain from the records of the insurer which person 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, the principal or the claimant according to the records of the insurer.

§ 1307. Property held by utilities

1. **Deposits.** Any deposit, advance, toll, collateral, security or other property held by a utility to secure payment or for furnishing services shall be presumed abandoned if it has not been claimed or returned within 10 years after:

A. It was due to or demandable by the owner under the terms of the agreement; or

B. The termination of services to the owner.

2. Refunds. Any funds which a utility has been ordered to refund shall be presumed abandoned if they have not been claimed or paid within 10 years after the date they became payable in accordance with the final determination or order providing for the refund.

§ 1308. Property held by business associations

1. Dividends. Any dividend, profit, distribution, interest, payment on principal or other funds held or owing by a business association for or to its share holder, certificate holder, member, bondholder or other security holder, or a participating patron of a cooperative, shall be presumed abandoned if, within 10 years after the date prescribed for delivery or payment, they have not been claimed or the owner has not corresponded in writing with the holder concerning these funds.

2. Stocks. Any intangible interest in a business association, as evidenced by stock records or membership records of the association, shall be presumed abandoned if, for 10 years:

A. The owner of the interest has not claimed a dividend or other sum referred to in subsection 1; or

B. The owner of the interest has not corresponded in writing with the association or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association.

3. Dividends on abandoned stocks. Any dividends or other distributions held for or owing to a person and attached to a stock or security deemed abandoned shall also be presumed abandoned, and shall not be diverted or discontinued during the period prior to the abandonment.

§ 1309. Property held in the course of dissolution

All 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 within 10 years of the date of final dissolution.

§ 1310. Property held by fiduciary

1. Property. All property held in a fiduciary capacity for the benefit of another person shall be presumed abandoned if, within 10 years of it becoming payable or distributable, the owner has not:

- A. Increased or decreased the principal;
- B. Accepted payment of principal or income;
- C. Corresponded in writing with the fiduciary concerning the property; nor
- D. Otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

2. **Income.** Any income or increment due on property deemed abandoned under subsection 1 shall also be presumed abandoned, and shall not be discontinued or diverted during the period prior to the abandonment.

§ 1311. Property held by governmental agents

All property held for the owner by a court, public corporation or authority, or agent or instrumentality of the United States, this State or any other state, or by a public officer or political subdivision thereof shall be presumed abandoned if it is not claimed within 10 years of becoming payable or distributable.

§ 1312. Property held in the ordinary course of business

1. **Property.** All property, not otherwise covered in this section, that is held or owing in the ordinary course of the holder's business shall be presumed abandoned if it has not been claimed within 10 years after becoming payable or distributable.

2. **Income and charges.** Any income or increment due on the property deemed abandoned under subsection 1 shall also be presumed abandoned, and shall not be discontinued or diverted during the period prior to abandonment. Lawful charges may be deducted from property that is presumed to be abandoned, provided the lawful charges are specifically authorized by statute or by a valid enforceable contract.

SUBCHAPTER II

ADMINISTRATION OF ABANDONED PROPERTY

§ 1351. Report of abandoned property

1. **Report.** Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the Treasurer of State with respect to that property.

2. **Contents.** The report shall be verified and shall include:

- A. The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of \$25 or more;

- B. In case of unclaimed funds of a life insurer, the full name of the insured or annuitant and his last known address according to the life insurer's records;
- C. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under \$25 each may be reported in aggregate;
- D. The date when the property became payable, demandable or returnable, and the date of the last transaction with the owner with respect to the property; and
- E. Other information which the Treasurer of State prescribes by rule.

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

4. Time of filing. The report shall be filed before November 1st of each year as of the prior June 30th, but the report of life insurers shall be filed before May 1st of each year as of the prior December 31st. The Treasurer of State may postpone the reporting date upon written request by any person required to file a report.

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

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.

§ 1352. Notice and publication by Treasurer of State

1. Publication. Within 120 days of the filing of the report required by section 1351, the Treasurer of State shall cause to be published in 2 newspapers of general circulation in the State, at least once a week for 2 consecutive weeks, a notice and listing of all abandoned property reported to him.

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 names and address of the holder; and

C. A statement for property to be delivered to the Treasurer of State, 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 2nd published notice, the abandoned property shall be placed not later than 85 days after publication date in the custody of the Treasurer of State to whom all further claims shall thereafter be directed.

3. Notice not required. The Treasurer of State is not required to publish in the notice any item of less than \$25 unless he deems publication to be in the public interest.

4. Mailed notice. Within 120 days from the receipt of the report required by section 1351, the Treasurer of State shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of \$25 or more.

5. Contents. The mailed notice shall contain:

A. A statement that, according to a report filed with the Treasurer of State, 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 Treasurer of State to whom all further claims shall be directed.

§ 1353. 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 Treasurer of State all of that property within 85 days of publication of notice as required under section 1352.

2. Exception for claimed property. If the owner establishes his 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 Treasurer of State, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

3. Tangible personal property. The Treasurer of State 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 Treasurer of State notifies the holder of that property of that determination within 120 days of receipt of the report required under section 1351, he may exclude the property from the notices under section 1352 and may refuse to accept delivery and custody of that property.

§ 1354. Relief from liability by payment or delivery

Upon the payment or delivery of abandoned property to the Treasurer of State, the State shall assume custody of the property and shall be responsible for its safekeeping. Any person who pays or delivers abandoned property to the Treasurer of State under this chapter is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.

§ 1355. Income accruing after payment or delivery

When property is paid or delivered to the Treasurer of State under this chapter, the owner shall only be entitled to receive income or other increments actually received by the Treasurer of State.

§ 1356. Periods of limitation not a bar

The expiration of any period of time specified by statutes or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this chapter or to pay or deliver abandoned property to the Treasurer of State.

§ 1357. Sale retention or disposal of abandoned property

1. Sale by auction. All abandoned property, other than money or securities or other property sold under subsection 2 or tangible property retained under subsection 3, delivered to the Treasurer of State under this chapter shall, within one year after delivery, be sold by him to the highest bidder at public sale in whatever city in the State affords, in his judgment, the most favorable market for the property involved. The Treasurer of State may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

Each sale shall be preceded by a single publication of notice of the sale at least 3 weeks in advance in 2 newspapers of general circulation in the State.

2. Securities and other property.

A. Securities listed on an established stock exchange may be sold at the prevailing prices on the exchange. Other securities may be sold over the counter at prevailing prices or by any other method that the Treasurer of State may determine to be advisable. United States Government Savings Bonds and United States War Bonds shall be presented to the United States for payment.

B. If the property is of a type customarily sold on a recognized market or of a type which is subject to widely distributed standard price quotations, the Treasurer of State may sell the property without notice by publication or otherwise.

3. Retention of tangible property with historic value. The Treasurer of State may retain any tangible property delivered to him, if the property has exceptional historic significance. The historic significance shall be certified by the Treasurer of State, with the advice of the State Historian, State Archivist and the Director of the State Museum; and 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.

4. Destruction of valueless property. The Treasurer of State may destroy or otherwise dispose of any property delivered to him, if the property has no apparent commercial or historic value. The lack of apparent commercial or historic value shall be certified by the Treasurer of State, and a description of the property shall be filed with the certification.

5. Title. The purchaser at any sale conducted by the Treasurer of State pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The Treasurer of State shall execute all documents necessary to complete the transfer of title.

§ 1358. Deposit of funds

1. Deposit of funds; Abandoned Property Fund. The Treasurer of State shall immediately deposit all funds received under this chapter, including the proceeds from the sale of property under section 1357, into the Abandoned Property Fund. The Abandoned Property Fund shall be a permanent account and shall not lapse.

2. Authorized expenditures.

A. The Treasurer of State 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 and costs of auction or sale under this chapter.

B. At the end of each year or more often, the Treasurer of State shall transfer to the General Fund all money in the Abandoned Property Fund that is in excess of \$50,000.

3. Records. Before making a deposit to the Abandoned Property Fund, or retaining or destroying property, the Treasurer of State 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 Treasurer of State finds necessary to protect the interests of the owner, the State and the public welfare.

§ 1359. Claim for abandoned property paid or delivered

1. Filing. Any person claiming an interest in any property delivered to the State under this chapter may file a claim to the property or to the proceeds from its sale. The claim shall be on a form prescribed by the Treasurer of State and shall be signed or otherwise verified by the claimant. The claim shall be made to the person originally holding the property, or to his successor or successors. If the person is satisfied that the claim is valid and that the claimant is the actual and true owner of the property, he shall so certify to the Treasurer of State by written statement attested by him under oath, or in case of a corporation, by 2 principal officers, or one principal officer and an authorized employee thereof. The determination of the holder that the claimant is the actual and true owner shall, in the absence of fraud, be binding upon the Treasurer of State and upon receipt of the certificate of the holder to this effect, the Treasurer of State shall forthwith authorize and make payment of the claim or return of the property, or if the property has been sold, the amount received from the sale to the owner, or to the holder in the event the owner has assigned the claim to the holder and the certificate of the holder is accompanied by the assignment. In the event the person originally holding the property rejects the claim made against him, the claimant may appeal to the Treasurer of State.

2. Determination. The Treasurer of State shall consider each claim and make a determination on it within 90 days after it is filed. He may hold a hearing, which shall be an adjudicatory proceeding and held in the manner required by the Maine Administrative Procedure Act, Title 5, chapter 375. Each determination shall be in writing, shall state the reasons for the decision and shall be given or sent to the claimant. Each determination may be appealed as provided under Title 5, chapter 375.

3. Payment. If the claim is allowed, the Treasurer of State shall make payment forthwith. The claim shall be paid without deduction for costs of notices of sale or for service charges. Payment shall include interest at 5% from the date of receipt by the State to the date of payment, if interest was paid by the holder prior to delivery of the State under this chapter. If no interest was paid prior to delivery, then the State shall pay no interest. Interest payments under this section shall only be paid for a maximum of 10 years after receipt of the property by the State.

4. Payment by holder. Any holder who has paid moneys to the Treasurer of State pursuant to this chapter may make payment to any person appearing to the holder to be entitled thereto, and upon proof of the payment and proof that the payee was entitled thereto, the Treasurer of State shall forthwith reimburse the holder for the payment.

§ 1360. Examination of records

1. Treasurer. The Treasurer of State may at reasonable times and upon reasonable notice cause to be examined the records of any person if he has reason to believe that the person has failed to report property that should have been reported pursuant to this chapter.

2. Other examiner. When requested by the Treasurer of State, 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.

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

§ 1361. Proceeding to allow examination or compel delivery

1. Proceeding. If any person refuses to allow examination of records or to deliver property to the Treasurer of State as required under this chapter, the Treasurer of State may bring an action in a court of appropriate jurisdiction to enforce the examination or delivery.

2. Trustee proceedings. The Attorney General, at the request of the Treasurer of State, may bring an action to secure a judgment for the descent and devolution of property to the State as an escheat. Property and funds escheated to the State under this subsection shall be received and held as provided in this chapter, but the State shall act as a trustee and not a custodian of the property and shall have

all the rights and remedies vested in a fiduciary of a decedent estate by the general laws of the State. The duties or rights of any other persons shall be governed by this chapter as though the State has become custodian of the property.

§ 1362. Penalties

1. Failure to perform duties. Willful failure to render reports or perform other duties required under this chapter shall be a Class E crime for each day the report is withheld.

2. Refusal to deliver property. Willful refusal to pay or deliver abandoned property to the Treasurer of State as required under this chapter shall be a Class D crime.

3. Interest penalty. In addition to any other damages, penalties or fines, any person who willfully fails to render reports, refuses to pay or deliver abandoned property to the Treasurer of State or perform any other duties required under this chapter shall be charged interest at the rate of 12% per year on the property or its value from the date the property should have been reported, paid or delivered.

§ 1363. Regulations

The Treasurer of State may adopt or amend the regulations necessary to carry out the provisions of this chapter. These regulations shall be adopted or amended under the procedures of the Maine Administrative Procedure Act, Title 5, chapter 375.

§ 1364. Restriction on agreement to locate reported property

1. Limit on fees. No agreement entered into within one year after a report is filed under section 1351 is valid if any person thereby undertakes to locate property included in that report for a fee or compensation exceeding 15% of the value of recoverable property, unless the agreement:

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

2. Excessive consideration. Nothing in this section shall be construed to prevent an owner from asserting, at any time, that any agreement to locate property is based on an excessive or unjust consideration.

§ 1356. Effect of laws of other states

This chapter shall not apply to any property that has been presumed abandoned

or escheated under the laws of another state prior to the effective date of this chapter.

§ 1366. Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision of application, and to this end the provisions of this chapter are severable.

Sec. 9. Transition and application. Any person holding property that was not required to be reported, delivered or paid to any state agency as abandoned property under the laws of this State prior to January 1, 1979, and which, on December 31, 1978, has been held for a period greater than the period for abandonment established by this Act, is not required to report that property to the Treasurer of State under this Act. However, that property shall be reported, delivered or paid to the Treasurer of State. The Treasurer of State shall adopt regulations governing the manner and time for the reporting, delivery or payment of that property in order to promote its identification and delivery and the reasonable convenience of the holders.

Any person holding property that was subject to reporting, delivery or payment to a state agency as abandoned property under the laws of this State prior to January 1, 1979, and that is subject to a shorter period for abandonment under this Act, may report and deliver or pay to the Treasurer of State that property between January 1, 1979 and June 30, 1979. The Treasurer of State may grant further extensions of time to any holder of property with a shortened abandonment period of he deems the extension is necessary to an orderly transition.

This Act shall not effect any duty to file a report or deliver or pay to any state agency and abandoned property under the laws of this State prior to January 1, 1979.

On January 1, 1979, the Treasurer of State shall transfer all funds in the Public Administrator's Fund to the Abandoned Property Fund as established by Title 33, section 1358, and shall within 60 days thereafter, transfer all funds in excess of \$50,000 to the General Fund as required by that section.

Sec. 10. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

1978-79

TREASURY DEPARTMENT

Treasurer-Department Operations...2-127

Positions	(3)
Personal Services	\$17,400
All Other	3,400
Capital Expenditures	2,500
	<hr/>
Total	\$23,300

Sec. 11. Effective date. This Act shall become effective January 1, 1979.

Fiscal Note

The effect of this Act is likely to be an increase in state revenues. It is estimated that, after the initial surge in revenues due to the decrease in the periods of abandonment and broadened applicability, the State will receive between \$100,000 to \$200,000 each year in General Fund revenues. This estimate, however, is subject to the efficacy of enforcement of the Act and the response of private holders of abandoned property.

The appropriation in the bill is to meet the expense for 3 positions in the Treasurer of State's office for 6 months, beginning January 1, 1979. These positions will be a paralegal-administrator and 2 governmental auditors. The All Other account covers travel and miscellaneous expenses and the Capital Expenditures account covers the one-time expenses for equipment. The appropriation will be met by the increase in General Fund revenues under this Act.

There will be a nonrecurring transfer of approximately \$500,000 to the General Fund after enactment, because the transition clause requires the discontinuance of the Public Administrator's Fund and the maintenance of only a \$50,000 balance in the Abandoned Property Fund. Approximately \$350,000 is contained in the Public Administrator's Fund, which will be transferred to the Abandoned Property Fund on the effective date of this Act.

STATEMENT OF FACT

This bill is the result of a study conducted by the Joint Standing Committee on State Government of the 108th Legislature pursuant to H. P. 1802. Copies of the report of the committee are available in the committee's hearing room in the State House in Augusta.

This bill establishes an Abandoned Property Act. Abandoned property is property which is being held for another person and which has been unclaimed for

a specific period of years. Present statutes provide for the period of abandonment and the disposition of abandoned property for some specific types of property, such as inactive savings or checking accounts, abandoned safe deposit boxes, unclaimed dividends or shareholder distributions, undistributed assets and unclaimed life insurance funds. The present periods range from 5 to 22 years of inactivity prior to a finding of "abandonment." Present statutes also provide for various procedures to find the owners, to enforce the statutes and to turn over "abandoned property" to the State. This bill enacts provisions that cover all types of property, establishes more uniform periods for abandonment and establishes a uniform procedure for collection and enforcement.

The committee report contains a section by section analysis of the bill.