

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2457

H.P. 1793 House of Representatives, March 4, 1988
Reported by Representative ALLEN from the Joint Standing
Committee on Business Legislation. Sent up for concurrence
and ordered printed. Approved by the Legislative Council on
June 19, 1987.

Reference to the Committee on Business Legislation
suggested and printing ordered under Joint Rule 19.
EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 **AN ACT to Replace the Abandoned Property Law.**
2

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

5 Sec. 1. 14 MRSA §6013, first ¶, as repealed and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

7 Any property with a total value of \$100 or more
8 that is abandoned or unclaimed by a tenant following

1 the tenant's vacating the rental unit shall be
2 disposed of according to Title 33, chapter 27 37.

3 Sec. 2. 14 MRSA 6324, as amended by PL 1983, c.
4 447, §5, is further amended to read:

5 §6324. Proceeds of sale

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

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

1 savings bank, industrial bank, savings and loan
2 association, building and loan association, commercial
3 bank, credit union, federal association, investment
4 company or other business association that solicits,
5 receives or accepts money, or its equivalent, on
6 deposit and loans money as a regular business.

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

9 A. In possession of property belonging to another;

10 B. A trustee; or

11 C. Indebted to another on an obligation.

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

21 9. Intangible property. "Intangible property"
22 includes:

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

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

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

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

34 E. Amounts due and payable under the terms of

1 insurance policies;

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

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

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

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

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

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

31 14. Tangible property. "Tangible property" means
32 all personal property which exists physically and has
33 inherent economic value.

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

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

7 §1803. Property presumed abandoned; general rule

8 1. Abandoned. The following property is presumed
9 abandoned:

10 A. Except as otherwise provided by this Act, all
11 intangible property, including any income or
12 increment derived from intangible property, less
13 any lawful charges, that is held, issued or owed
14 in the ordinary course of a holder's business and
15 has remained unclaimed by the owner for more than
16 5 years after it became payable or distributable;
17 and

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

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

28 §1804. General rules for taking custody of unclaimed
29 property

30 Unless otherwise provided by this Act or by any
31 other law of this State, tangible and intangible
32 property is subject to the custody of this State as
33 unclaimed property if the conditions raising a
34 presumption of abandonment under sections 1803 and
35 1806 to 1820 are satisfied and:

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

1 2. Records. The property is intangible property
2 and:

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

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

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

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

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

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

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

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

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

4 (a) Unknown; or

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

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

16 §1805. Traveler's checks and money orders

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

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

35 3. Requirements. No sum payable on a traveler's
36 check, money order or similar written instrument,
37 other than a 3rd-party bank check described in

1 subsections 1 and 2, may be subjected to the custody
2 of this State as unclaimed property, unless:

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

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

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

19 4. Applications. Notwithstanding any other
20 provision of this Act, subsection 3: applies to sums
21 payable on traveler's checks, money orders and similar
22 written instruments presumed abandoned on or after
23 February 1, 1965, except to the extent that those sums
24 have been paid over to a state prior to January 1,
25 1974.

26 §1806. Checks, drafts and similar instruments issued
27 or certified by financial institutions

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

1 §1807. Bank deposits and funds in financial
2 institutions

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

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

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

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

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

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

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

31 (2) Otherwise indicated an interest as
32 evidenced by a memorandum or other record on
33 file prepared by an employee of the financial
34 institution and if the financial institution
35 communicates in writing with the owner, with
36 regard to the property that would otherwise
37 be abandoned under this subsection, at the

1 address to which communications regarding the
2 other relationship regularly are sent.

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

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

12 A. Such charges are consistent with regulations
13 of the Bureau of Banking in effect at the time the
14 change was levied;

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

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

21 4. Property automatically renewable. Any
22 property described in subsection 1, that is
23 automatically renewable, is matured for purposes of
24 subsection 1 upon the expiration of its initial time
25 period. In the case of any renewal to which the owner
26 consents, at or about the time of renewal, by
27 communicating in writing with the financial
28 institution or otherwise indicating consent as
29 evidenced by a memorandum or other record on file
30 prepared by an employee of the financial institution,
31 including a notation in the record by an employee
32 evidencing consent by the owner resulting from a
33 telephone conversation or personal contact, the
34 property is matured upon the expiration of the last
35 time period for which consent was given. If, at the
36 time provided for delivery in section 1853, a penalty
37 or forfeiture in the payment of interest results from
38 the delivery of the property, the time for delivery is
39 extended until the time when no penalty or forfeiture

1 results.

2 §1808. Funds owed under life insurance policies

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

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

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

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

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

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

34 (2) Neither the insured nor any other person
35 appearing to have an interest in the policy
36 within the preceding 2 years, according to
37 the records of the company, has assigned,

1 readjusted or paid premiums on the policy,
2 subjected the policy to a loan, corresponded
3 in writing with the company concerning the
4 policy, otherwise indicated an interest as
5 evidenced by a memorandum or other record on
6 file prepared by an employee of the company.

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

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

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

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

40 A. The name of each beneficiary or, if a class of

1 beneficiaries is named, the name of each current
2 beneficiary in the class;

3 B. The address of each beneficiary; and

4 C. The relationship of each beneficiary to the
5 insured.

6 §1809. Deposits held by utilities

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

14 §1810. Refunds held by business associations

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

25 §1811. Stock and other intangible interests in
26 business associations

27 1. Presumed abandoned. Except as provided in
28 subsections 2 and 5, stock or other intangible
29 ownership interest in a business association, the
30 existence of which is evidenced by records available
31 to the association, is presumed abandoned and, with
32 respect to the interest, the association is the holder
33 if a dividend, distribution or other sum payable as a
34 result of the interest has remained unclaimed by the
35 owner for 5 years and the owner within 5 years has not:

36 A. Communicated in writing with the association

1 regarding the interest or a dividend, distribution
2 or other sum payable as a result of the interest;
3 or

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

10 2. Presumptive period. At the expiration of a
11 5-year period following the failure of the owner to
12 claim a dividend, distribution or other sum payable to
13 the owner as a result of the interest, the interest is
14 not presumed abandoned unless there have been at least
15 5 dividends, distributions or other sums paid during
16 the period, none of which has been claimed by the
17 owner. If 5 dividends, distributions or other sums
18 are paid during the 5-year period, the period leading
19 to a presumption of abandonment commences on the date
20 that the payment of the first unclaimed dividend,
21 distribution or other sum became due and payable. If
22 5 dividends, distributions or other sums are not paid
23 during the presumptive period, the period continues to
24 run until there have been 5 dividends, distributions
25 or other sums that have not been claimed by the owner.

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

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

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

11 §1812. Property held in the course of dissolution

12 All tangible and intangible property distributable
13 in the course of a voluntary or involuntary
14 dissolution of a business association, financial
15 institution, insurer or utility shall be presumed
16 abandoned if it is unclaimed by the date of final
17 dissolution. This property shall be reported, paid
18 over or delivered immediately to the administrator,
19 but the administrator shall not sell, destroy or
20 dispose of the property, as provided under section
21 1856, until 6 months after the date of final
22 dissolution, unless the property is perishable,
23 seasonal or in a condition requiring immediate sale,
24 destruction or disposal.

25 §1813. Property held by agents and fiduciaries

26 1. Property presumed abandoned. Tangible and
27 intangible property and any income or increment
28 derived from the property held in a fiduciary capacity
29 for the benefit of another person is presumed
30 abandoned unless the owner, within 5 years after it
31 has become payable or distributable, has increased or
32 decreased the principal, accepted payment of principal
33 or income, communicated with the person holding the
34 property in a fiduciary capacity concerning the
35 property or otherwise indicated an interest as
36 evidenced by a memorandum or other record on file
37 prepared by the fiduciary.

38 2. Retirement accounts. Funds in an individual
39 retirement account or a retirement plan for

1 self-employed individuals or similar account or plan
2 established pursuant to the United States Internal
3 Revenue Code are not payable or distributable within
4 the meaning of subsection 1, unless under the terms of
5 the account or plan distribution of all or part of the
6 funds is mandatory.

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

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

22 §1814. Property held by courts and public agencies

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

32 §1815. Gift certificates and credit memos

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

38 2. Amount. In the case of a gift certificate,

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

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

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

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

17 §1816. Wages

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

23 §1817. Contents of safe deposit box or other safe-
24 keeping repository

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

33 §1818. Property held by landlords

34 1. Presumption of abandonment. Tangible and
35 intangible property, held by a landlord, that has been
36 left on the premises after a tenant has terminated

1 tenancy or vacated the premises shall be presumed
2 abandoned if it has not been claimed within 14 days
3 after written notice has been sent by first class mail
4 with proof of mailing to the last known address of the
5 tenant.

6 2. Reducing tangible property to cash. Tangible
7 property presumed to be abandoned under this section
8 may be sold by the landlord at public auction if the
9 fair market value of all property left by a tenant is
10 \$100 or more, but less than \$1,000.

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

13 (1) Either personally or by certified mail;
14 or

15 (2) If that notice cannot be given after 3
16 reasonable attempts to do so, by publication
17 in a newspaper of general circulation in the
18 county in which the premises are located.

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

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

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

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

31 (1) The expenses of notice and sale;

32 (2) The amount of rent unpaid and due; and

33 (3) The expense of damages to the premises
34 by the tenant for which the landlord has not

1 been compensated.

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

6 3. Sale of property by landlord. Tangible
7 property presumed to be abandoned under this section
8 may be sold by the landlord in accordance with Title
9 14, section 6013, if the fair market value of the
10 property left by the tenant is less than \$100.

11 §1819. Property held by state institutions

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

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

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

28 (1) Either personally or by certified mail;
29 or

30 (2) If that notice cannot be given after one
31 reasonable attempt to do so, by publication
32 in a newspaper of general circulation in the
33 county in which the institution is located.

34 The notice shall give a description of the
35 property, the institution at which it was
36 left, the time and place of sale and the

1 right to claim the property.

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

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

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

12 §1820. Property held by public administrators

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

19
20 SUBCHAPTER II

21 ADMINISTRATION

22 §1851. Report of abandoned property

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

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

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

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

7 C. In the case of the contents of a safe deposit
8 box or other safekeeping repository or of other
9 tangible property, a description of the property,
10 the place where it is held and may be inspected by
11 the administrator and any amounts owing to the
12 holder;

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

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

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

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

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

1 administrator may postpone the reporting date.

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

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

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

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

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

21 §1852. Notice and publication by administrator

22 1. Publication. Within 120 days of the filing of
23 the report required by section 1851, the administrator
24 shall cause to be published in at least 2 newspapers
25 of general circulation in this State, at least once, a
26 notice and listing of all abandoned property reported
27 to the administrator.

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

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

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

1 C. A statement for property to be delivered to
2 the administrator, that if proof of claim is not
3 presented by the owner to the holder and if the
4 owner's right to receive the property is not
5 established to the holder's satisfaction within 65
6 days from the date of the published notice, the
7 abandoned property shall be placed not later than
8 85 days after the publication date in the custody
9 of the administrator to whom all further claims
10 shall thereafter be directed.

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

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

20 5. Contents. The mailed notice shall contain:

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

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

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

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

37 §1853. Payment or delivery of abandoned property

1 1. Payment or delivery. Every person holding
2 funds or other property, tangible or intangible,
3 presumed abandoned under this chapter, shall pay or
4 deliver to the administrator all of that property
5 within 85 days of publication of notice as required
6 under section 1852. Property reported under section
7 1852 for which the holder is not required or is not
8 able to report the name of the apparent owner must be
9 paid or delivered to the administrator at the time of
10 filing the report.

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

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

36 4. Tangible personal property. The administrator
37 may determine that notice and delivery of specific
38 personal property is not in the best interest of the
39 State, either because the sum or value is too small or
40 for other good reason. If the administrator notifies
41 the holder of that property of that determination

1 within 120 days of receipt of the report required
2 under section 1851, the administrator may exclude the
3 property from the notices under section 1852 and may
4 refuse to accept delivery and custody of that property.

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

23 6. Property refused by the administrator. If the
24 administrator refuses to accept tangible personal
25 property presumed abandoned under section 1818, and
26 that property cannot be reasonably sold under section
27 1818, subsection 2, then the landlord, after notice to
28 the owner or tenant as provided in section 1818,
29 subsection 2, paragraph A, subparagraphs (1) and (2),
30 shall hold that property for the owner to claim for 60
31 days. If that property is unclaimed after that
32 period, then the landlord shall be relieved of all
33 liability for delivering that property and the
34 landlord may dispose of it as the landlord wishes.

35 7. Property refused by the administrator. If the
36 administrator refuses to accept tangible personal
37 property presumed abandoned under section 1819 and
38 that property cannot be reasonably sold under section
39 1819, subsection 2, then the head of an institution,
40 after notice to the owner as provided in section 1819,
41 subsection 2, paragraph A, subparagraphs (1) and (2),
42 shall hold that property for the owner to claim for 60

1 days. If that property is unclaimed after that
2 period, then the head of the institution shall be
3 relieved of all liability for delivering that property
4 and it may be disposed of as the head of the
5 institution wishes.

6 §1854. Custody by State; holder relieved from
7 liability; reimbursement of holder paying
8 claim; reclaiming for owner; defense of
9 holder; payment of safe deposit box or
10 repository charges

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

20 2. Reimbursement. A holder who has paid money to
21 the administrator pursuant to this Act may make
22 payment to any person appearing to the holder to be
23 entitled to payment and, upon filing proof of payment
24 and proof that the payee was entitled to payment, the
25 administrator shall promptly reimburse the holder for
26 the payment without imposing any fee or other charge.
27 If reimbursement is sought for a payment made on a
28 negotiable instrument, including a traveler's check
29 or money order, the holder must be reimbursed under
30 this subsection upon filing proof that the instrument
31 was duly presented and that payment was made to a
32 person who appeared to the holder to be entitled to
33 payment. The holder must be reimbursed for payment
34 made under this subsection even if the payment was
35 made to a person whose claim was barred under section
36 1863.

37 3. Reclaim of property. A holder who has
38 delivered property, including a certificate of any
39 interest in a business association, other than money
40 to the administrator pursuant to this Act may reclaim
41 the property if it is still in the possession of the

1 administrator without paying any fee or other charge,
2 upon filing proof that the owner has claimed the
3 property from the holder.

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

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

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

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

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

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

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

1 remaining after deducting the administrator's selling
2 cost.

3 §1855. Crediting of dividends, interest or increments
4 to owner's account

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

11 §1856. Public sale of abandoned property

12 1. Highest bidder. Except as provided in
13 subsections 2 and 3, the administrator, within 3 years
14 after the receipt of abandoned property, shall sell it
15 to the highest bidder at public sale in whatever city
16 in the State affords, in the judgment of the
17 administrator, the most favorable market for the
18 property involved. The administrator may decline the
19 highest bid and reoffer the property for sale if, in
20 the judgment of the administrator, the bid is
21 insufficient. If, in the judgment of the
22 administrator, the probable cost of the sale exceeds
23 the value of the property, it need not be offered for
24 sale. Any sale held under this section must be
25 preceded by a single publication of notice, at least 3
26 weeks in advance of the sale, in a newspaper of
27 general circulation in the county in which the
28 property is to be sold.

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

35 3. Securities not presumed abandoned. Unless the
36 administrator considers it to be in the best interest
37 of the State to do otherwise, all securities, other
38 than those presumed abandoned under section 1811,
39 delivered to the administrator must be held for at

1 least one year before the administrator may sell them.

2 4. Securities presumed abandoned under section
3 1811. Unless the administrator considers it to be in
4 the best interest of the State to do otherwise, all
5 securities presumed abandoned under section 1811 and
6 delivered to the administrator must be held for at
7 least 3 years before the administrator may sell them.
8 If the administrator sells any securities delivered
9 pursuant to section 1811 before the expiration of the
10 3-year period, any person making a claim pursuant to
11 this Act before the end of the 3-year period is
12 entitled to either the proceeds of the sale of the
13 securities or the market value of the securities at
14 the time the claim is made, whichever amount is
15 greater, less any deduction for fees pursuant to
16 section 1857, subsection 2. A person making a claim
17 under this Act after the expiration of this period is
18 entitled to receive either the securities delivered to
19 the administrator by the holder, if they still remain
20 in the hands of the administrator, or the proceeds
21 received from the sale, less any amounts deducted
22 pursuant to section 1857, subsection 2, but no person
23 has any claim under this Act against the State, the
24 holder, any transfer agent, registrar or other person
25 acting for or on behalf of a holder for any
26 appreciation in the value of the property occurring
27 after delivery by the holder to the administrator.

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

35 §1857. Deposit of funds

36 1. Deposit of funds; Abandoned Property Fund.
37 The administrator shall immediately deposit all funds
38 received under this chapter, including the proceeds
39 from the sale of property under section 1856 into the
40 Abandoned Property Fund. The Abandoned Property Fund
41 shall be a permanent account and shall not lapse.

1 2. Authorized expenditures. The following
2 expenditures are authorized.

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

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

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

32 §1858. Filing of claim with the administrator

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

38 2. Notice. The administrator shall consider each

1 claim within 90 days after it is filed and give
2 written notice to the claimant if the claim is denied
3 in whole or in part. The notice may be given by
4 mailing it to the last address, if any, stated in the
5 claim as the address to which notices are to be sent.
6 If no address for notices is stated in the claim, the
7 notice may be mailed to the last address, if any, of
8 the claimant as stated in the claim. No notice of
9 denial need be given if the claim fails to state
10 either the last address to which notices are to be
11 sent or the address of the claimant.

12 3. Amount payable to claimant. If a claim is
13 allowed, the administrator shall pay or deliver to the
14 claimant the property or the amount the administrator
15 actually received or the net proceeds, if it has been
16 sold by the administrator, together with any
17 additional amount required by section 1855. If the
18 claim is for property presumed abandoned under section
19 1811 which was sold by the administrator within 3
20 years after the date of delivery, the amount payable
21 for that claim is the value of the property at the
22 time the claim was made or the net proceeds of the
23 sale, whichever is greater. If the property claimed
24 was interest-bearing to the owner on the date of
25 surrender by the holder, the administrator shall pay
26 interest at the current rate or any lesser rate the
27 property earned while in the possession of the
28 holder. Interest begins to accrue when the property
29 is delivered to the administrator and ceases at the
30 expiration of 10 years after delivery or the date on
31 which payment is made to the owner, whichever is
32 earlier. No interest on interest-bearing property is
33 payable for any period before January 1, 1979.

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

41 §1859. Claim of another state to recover property;
42 procedure

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

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

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

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

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

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

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

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

13 §1860. Action to establish claim

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

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

26 §1861. Election to take payment or delivery

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

34 2. Delivery before property presumed abandoned.
35 A holder, with the written consent of the
36 administrator and upon conditions and terms prescribed
37 by the administrator, may report and deliver property

1 before the property is presumed abandoned. Property
2 delivered under this subsection must be held by the
3 administrator and is not presumed abandoned until such
4 time as it otherwise would be presumed abandoned under
5 this Act.

6 §1862. Destruction or disposition of property having
7 insubstantial commercial value; immunity from
8 liability

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

17 §1863. Periods of limitation

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

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

34 §1864. Requests for reports and examination of records

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

1 this Act.

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

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

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

28 5. Insufficient records. If a holder fails after
29 the effective date of this Act to maintain the records
30 required by section 1851 and the records of the holder
31 available for the periods subject to this Act are
32 insufficient to permit the preparation of a report,
33 the administrator may require the holder to report and
34 pay such amounts as may be reasonably estimated from
35 any available records.

36 6. Confidentiality of records. Information
37 derived by any examination of records or otherwise
38 communicated to the administrator or the
39 administrator's representative concerning abandoned
40 property shall be confidential and not available for

1 public inspection to the extent the administrator
2 finds necessary to protect the interests of the
3 holder, the owner, this State and the public welfare.

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

15 §1865. Retention of records

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

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

34 §1866. Enforcement

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

37 §1867. Interstate agreements and cooperation; joint
38 and reciprocal actions with other states

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

11 2. Conflicts. To avoid conflicts between the
12 administrator's procedures and the procedures of
13 administrators in other jurisdictions that enact the
14 Abandoned Property Act, the administrator, as far as
15 is consistent with the purposes, policies and
16 provisions of this Act, before adopting, amending or
17 repealing rules, shall advise and consult with
18 administrators in other jurisdictions that enact
19 substantially the Abandoned Property Act and take into
20 consideration the rules of administrators in other
21 jurisdictions that enact the Abandoned Property Act.

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

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

35 5. Actions in other states. The administrator
36 may request that the attorney general of another state
37 or any other person bring an action in the name of the
38 administrator in the other state. This State shall
39 pay all expenses including attorney fees in any action
40 under this subsection. The administrator may agree to

1 pay attorney fees to the person bringing the action,
2 based in whole or in part on a percentage of the value
3 of any property recovered in the action Any expenses
4 paid pursuant to this subsection may not be deducted
5 from the amount that is subject to the claim by the
6 owner under this Act.

7 §1868. Interest and penalties

8 1. Interest; penalty. A person who fails to pay
9 or deliver property within the time prescribed by this
10 Act shall pay, after written notice, to the
11 administrator interest either at the annual rate of
12 18% or 10% above the annual rate of discount in effect
13 on the date the property should have been paid or
14 delivered, or for the most recent issue of 52-week
15 United States Treasury bills, whichever is greater, on
16 the property or value thereof from a date 30 days
17 after the date that the administrator, after
18 examination, has made a determination that the
19 property should have been paid or delivered and has
20 notified the holder of the determination. The
21 administrator may waive the payment of interest for an
22 additional period for good cause shown.

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

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

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

37 §1869. Agreement to locate reported property

38 1. All agreements to pay compensation to recover

1 or assist in the recovery of property reported under
2 section 1851 made 24 months or less after the date
3 payment or delivery is made under section 1853, are
4 unenforceable.

5 2. Agreements to pay compensation to recover or
6 assist in the recovery of property reported under
7 section 1851, made more than 24 months, but less than
8 36 months after the date payment or delivery is made
9 under section 1853, may not exceed 15%.

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

15 A. Is in writing and signed by the owner;

16 B. Discloses the nature and value of the
17 property; and

18 C. Discloses the name and address of the holder
19 and the administrator.

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

25 §1870. Foreign transactions

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

29 §1871. Transition and application

30 1. Applicable provisions. This Act does not
31 relieve a holder of a duty that arose before the
32 effective date of this Act to report, pay or deliver
33 property. A holder who did not comply with the law
34 before the effective date of this Act is subject to
35 the applicable enforcement and penalty provisions that

1 then existed and are continued in effect for the
2 purpose of this subsection, subject to section 1863.

3 2. Property not covered by prior laws. The
4 initial report filed under this Act for property that
5 was not required to be reported before the effective
6 date of this Act but which is subject to this Act must
7 include all items of property that would have been
8 presumed abandoned during the 10-year period preceding
9 the effective date of this Act as if this Act had been
10 in effect during that period.

11 §1872. Rules

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

14 §1873. Uniformity of application and construction

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

19 §1874. Agreements with other states

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

24 §1875. Retention of tangible property with historic
25 value

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

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

4 STATEMENT OF FACT

5 The changes to the Maine Revised Statutes, Title
6 14, sections 6013 and 6324 corrects a cross reference
7 and makes the provisions which the Clerk of Court must
8 follow to conform to this Act.

9 Thirty-one states and the District of Columbia
10 have enacted either the original 1954 version of the
11 Uniform Disposition of Unclaimed Property Act or the
12 1966 revision of that Act. Of the remaining 19
13 states, all but one have some form of escheat or
14 abandoned property laws. The 1954 uniform Act was
15 drafted as a response to conflicting legislation among
16 the various states and in response to a series of
17 United States Supreme Court decisions in the late
18 1940's and early 1950's. The 1954 and 1966 Acts
19 served well as evidenced by their numerous adoptions.
20 However, the era of stability was ended with the
21 decision in Texas v. New Jersey, 179 United States
22 674, (1965). That decision established a set of
23 priorities for claimant states which were, in some
24 instances, inconsistent with those established by the
25 uniform Act. A few states which previously had
26 enacted the uniform Act have changed their laws to
27 reflect the holding in Texas v. New Jersey.

28 In the last decade, states have become
29 increasingly aware of the opportunities for collecting
30 and returning unclaimed money to their residents and
31 using "windfall" unreturned funds as general fund
32 receipts for the benefit of citizens of the state.
33 Accordingly, several states have sought to enforce
34 their unclaimed property laws with enhanced vigor.
35 They have found, however, that obtaining compliance
36 with the law has been extremely difficult. In some
37 instances, the uncertain status of unclaimed property
38 laws in the wake of Texas v. New Jersey accounts for
39 the high degree of noncompliance; many holders feel

1 they do not know what is required of them. In
2 addition, the enforcement provisions of the uniform
3 Act are inadequate and have not served to encourage
4 compliance with the Act.

5 The 1954 and 1966 uniform Acts responded to the
6 need for symmetry in the law for the benefit of
7 persons doing business in more than one state.
8 Widespread enactment of the uniform Act by the states
9 indicates their recognition of the need for uniformity.

10 Since the 1954 Act is inconsistent with Texas v.
11 New Jersey and the 1966 Act does not address all of
12 the pertinent issues, the Conference of Commissioners
13 on Uniform State Laws, after receiving the report of a
14 study committee, decided to revise the uniform Act
15 once again.

16 Maine's Abandoned Property Law, the Maine Revised
17 Statutes, Title 33, chapter 27, is derived from the
18 1954, 1966 and some provisions of the 1981 Uniform
19 Unclaimed Property Act. Unlike the 1981 Uniform
20 Unclaimed Property Act, it addresses "tangible"
21 property from many types of holders, whereas, the 1981
22 Act covers only "tangible" property found in safe
23 deposit boxes and repositories. For this reason, this
24 bill retains provisions from our current law, Title
25 33, chapter 27, which address our State's particular
26 needs, but also improves and strengthens our law by
27 adopting the provisions of the 1981 Uniform Unclaimed
28 Property Act to derive the best possible Act suitable
29 for this State.

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