

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

K. J. Printing
Augusta, Maine
1979

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
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ONE HUNDRED AND EIGHTH LEGISLATURE
January 4, 1978 to April 6, 1978

1. Guidelines for the identification of gifted and talented children. The department shall promulgate guidelines for the identification of gifted and talented children and for special education programs for these children. In addition, the department may provide technical assistance to school administrative units for planning for special education programs for those children.

2. Programs for gifted and talented children. Any school administrative unit desiring funds to undertake a special program for these children shall develop, in accordance with state guidelines, a proposed program of identification and special education of gifted and talented children in that unit.

3. Proposed program. The unit shall, on or before February 1st of each year, submit to the Division of Special Education, Department of Educational and Cultural Services, its proposed program of identification and special education. The division shall, by May 15th of each year, notify those school administrative units, whose proposals have been funded, of the award of funding for the following fiscal year.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act and further it is intended that this be an annual appropriation based on an assessment by the department of the requirements of the local school units.

	1978-79
EDUCATIONAL AND CULTURAL SERVICES,	
DEPARTMENT OF	
Division of Special Education	
Personal Services	(2) \$19,000
All Other	68,000
Capital Expenditures	1,000
	Total \$88,000

Effective July 6, 1978

CHAPTER 707

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 PL 1975, c. 771, § 112, is repealed and the following enacted in its place:

§ 428. Inactive deposits or accounts

All moneys in unclaimed 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 shall be disposed of according to Title 33, chapter 27, whenever the creditor or shareholder is one 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.

Sec. 5-A. 17 MRSA § 2853, 2nd ¶, first 2 sentences are repealed as follows:

~~Personal property located within said nuisance shall be removed upon written notice of the municipal officers sent by certified mail at least 14 days prior to the~~

~~abatement of said nuisance. The notice shall be sent to the owner or owners at their last known address and shall specify that unless said personal property is removed it will be disposed of by the municipality.~~

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. **Property.** "Property" means tangible and intangible personal property, and shall not include real property.

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

9. **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.

10. 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;
 - 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; or
 - E. If the intangible property is a sum payable on a money order, traveler's check or similar written instrument, and
 - (1) The instrument was purchased within the State, as shown by the records of the holder;
 - (2) The place of purchase of the instrument is not shown in the records of the holder and the holder's principal place of business is within the State; or
 - (3) The place of purchase of the instruments, 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 holder's principal place of business is within 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 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. Traveler's checks. Any sum payable on a traveler's check, money order or a similar written instrument on which a financial institution or other business association is directly liable shall be presumed abandoned if, within 15 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 or other business association concerning it; nor

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

4. 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.

5. Charges, interest or dividends on abandoned property.

A. Reasonable service charges may be levied against deposits or accounts during the period of inactivity as determined by the Superintendent of Banking prior to the application of the presumption of abandonment. The Superintendent of Banking shall establish a maximum charge that may be reasonable under this paragraph.

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 owed 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 as an advance for services to be furnished 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 by the date of final dissolution. This property shall be reported, paid over or delivered immediately to the Treasurer of State, but the Treasurer of State shall not sell, destroy or dispose of the property, as provided under section 1357, until 6 months after the date of final dissolution, unless the property is perishable, seasonal or in a condition requiring immediate sale, destruction or disposal.

§ 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, not otherwise covered in this chapter, and 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, with a fair market value of \$1,000 or more, not otherwise covered in this chapter, 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 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 the 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.

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

§ 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 to 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 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 against the holder of any property presumed abandoned under this chapter, for the descent and devolution of that 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.

§ 1365. 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.

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, deliver or pay that property to the Treasurer of State. All other property which was not required to be reported, delivered or paid prior to January 1, 1979, but which became inactive on or after January 1, 1969, or, in the case of traveler's checks, money orders or similar written instruments, January 1, 1964, shall be reported, delivered and paid as required by this Act.

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 if 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 any 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.

Effective January 1, 1979

CHAPTER 708

AN ACT to Increase the Reimbursement for Small-size Boarding Homes and Adult Foster Homes.

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