

No. 93. An act relating to unclaimed property.

(H.550)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. REPEAL

27 V.S.A. chapter 14 (unclaimed property) is repealed.

Sec. 2. 27 V.S.A. chapter 18 is added to read:

CHAPTER 18. UNCLAIMED PROPERTY

Subchapter 1. General Provisions

§ 1451. SHORT TITLE

This chapter may be cited as the Revised Uniform Unclaimed Property Act.

§ 1452. DEFINITIONS

As used in this chapter:

(1) “Administrator” means the Vermont State Treasurer.

(2) “Administrator’s agent” means a person with whom the Administrator contracts to conduct an examination pursuant to subchapter 10 of this chapter on behalf of the Administrator. The term includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.

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

(4) “Business association” means a corporation; joint stock company; investment company other than an investment company registered under the Investment Company Act of 1940, as may be amended, 15 U.S.C. Sections 80a-1 through 80a-64; partnership; unincorporated association; joint venture; limited liability company; business trust; trust company; land bank; safe deposit company; safekeeping depository; financial organization; insurance company; federally chartered entity; utility; sole proprietorship; or other business entity, whether or not for profit.

(5) “Confidential information” means records, reports, and information that are confidential under section 1612 of this title.

(6) “Domicile” means:

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

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

(C) for a federally chartered entity or an investment company registered under the Investment Company Act of 1940, as may be amended, 15 U.S.C. Sections 80a-1 through 80a-64, the state of its home office; and

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

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

(8) “Electronic mail” means a communication by electronic means that is automatically retained and stored and may be readily accessed or retrieved.

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

(10) “Game-related digital content” means digital content that exists only in an electronic game or electronic-game platform. The term:

(A) includes:

(i) game-play currency such as a virtual wallet, even if denominated in U.S. currency; and

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

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

(II) digital codes; and

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

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

(I) money; or

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

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

(11) “Gift card” means:

(A) a stored-value card:

(i) the value of which does not expire;

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

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

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

(12) “Holder” means a person obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter.

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

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

(15) “Mineral” means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores,

colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by law of this State other than this chapter.

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

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

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

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

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

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

(19) “Net card value” means the original purchase price or original issued value of a stored-value card, plus amounts added to the original price or

value, minus amounts used and any service charge, fee, or dormancy charge permitted by law.

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

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

(A) a depositor, for a deposit;

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

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

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

(22) “Payroll card” means a record that evidences a payroll-card account as defined in Regulation E, 12 C.F.R. Part 1005, as may be amended.

(23) “Person” means an individual, estate, business association, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(24) “Property” means tangible property described in section 1465 of this title or a fixed and certain interest in intangible property held, issued, or

owed in the course of a holder's business or by a government, governmental subdivision, agency, or instrumentality. The term:

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

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

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

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

(iii) a security except for:

(I) a worthless security; or

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

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

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

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

(vii) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit; and

(C) does not include:

(i) property held in a plan described in 26 U.S.C. § 529A, as may be amended;

(ii) game-related digital content;

(iii) a loyalty card; or

(iv) a gift card.

(25) “Putative holder” means a person believed by the Administrator to be a holder, until the person pays or delivers to the Administrator property subject to this chapter or the Administrator or a court makes a final determination that the person is or is not a holder.

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

(27) “Security” means:

(A) a security as defined in 9A V.S.A. § 8-102;

(B) a security entitlement as defined in 9A V.S.A. § 8-102, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:

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

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

(iii) specifically indorsed to the person; or

(C) an equity interest in a business association not included in subdivisions (A) or (B) of this subdivision.

(28) “Sign” means, with present intent to authenticate or adopt a record:

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

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

(29) “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

(A) includes:

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

(ii) a payroll card; and

(B) does not include a loyalty card, gift card, or game-related digital content.

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

(A) transmission of communications or information;

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

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

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

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

(B) game-related digital content; or

(C) a loyalty card.

(33) “Worthless security” means a security whose cost of liquidation and delivery to the Administrator would exceed the value of the security on the date a report is due under this chapter.

§ 1453. INAPPLICABILITY TO FOREIGN TRANSACTION

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

§ 1454. RULEMAKING

The Administrator may adopt rules pursuant to 3 V.S.A. chapter 25, to implement and administer this chapter.

Subchapter 2. Presumption of Abandonment

§ 1461. WHEN PROPERTY PRESUMED ABANDONED

Subject to section 1469 of this title, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified below:

(1) a traveler’s check, 15 years after issuance;

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

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

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

(5) a payroll card or demand, savings, or time deposit, including a deposit that is automatically renewable, three years after the maturity of the deposit, except a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;

(6) money or a credit owed to a customer as a result of a retail business transaction, three years after the obligation arose;

(7) an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant, as follows:

(A) with respect to an amount owed on a life or endowment insurance policy, three years after the earlier of the date:

(i) the insurance company has knowledge of the death of the insured; or

(ii) the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and

(B) with respect to an amount owed on an annuity contract, three years after the date the insurance company has knowledge of the death of the annuitant;

(8) property distributable by a business association in the course of dissolution, one year after the property becomes distributable;

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

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

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

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

(13) property not specified in this section or section 1462, 1463, 1464, 1465, 1466, or 1467 of this title, the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

§ 1462. WHEN TAX-DEFERRED RETIREMENT ACCOUNT PRESUMED

ABANDONED

(a) Subject to section 1469 of this title, property held in a pension account or retirement account that qualifies for tax deferral under the income-tax laws

of the United States is presumed abandoned if it is unclaimed by the apparent owner three years after the later of:

(1) the following dates:

(A) except as in subdivision (B) of this subdivision (1), the date a second consecutive communication sent by the holder by first-class U.S. mail to the apparent owner is returned to the holder undelivered by the U.S. Postal Service; or

(B) if the second communication is sent later than 30 days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the U.S. Postal Service; or

(2) the earlier of the following dates:

(A) the date the apparent owner becomes 72 years of age, if determinable by the holder; or

(B) if the Internal Revenue Code, as may be amended, 26 U.S.C. § 1 et seq., requires distribution to avoid a tax penalty, two years after the date the holder:

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

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

(b) If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner and subdivision (a)(2) of this

section applies, the holder shall attempt not later than 90 days after receipt of the notice or indication to confirm whether the apparent owner is deceased.

(c) If the holder does not send communications to the apparent owner of an account described in subsection (a) of this section by first-class U.S. mail, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the property. However, the holder promptly shall attempt to contact the apparent owner by first-class U.S. mail if:

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

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

(3) the apparent owner does not respond to the electronic-mail communication not later than 30 days after the communication was sent.

(d) If first-class U.S. mail sent under subsection (c) of this section is returned to the holder undelivered by the U.S. Postal Service, the property is presumed abandoned three years after the later of:

(1) except as in subdivision (2) of this subsection, the date a second consecutive communication to contact the apparent owner sent by first-class U.S. mail is returned to the holder undelivered;

(2) if the second communication is sent later than 30 days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or

(3) the date established by subdivision (a)(2) of this section.

§ 1463. WHEN OTHER TAX-DEFERRED ACCOUNT PRESUMED

ABANDONED

Subject to section 1469 of this title and except for property described in section 1462 of this title and property held in a plan described in 26 U.S.C. § 529A, as may be amended, property held in an account or plan, including a health savings account, that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner three years after the earlier of:

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

(2) 30 years after the date the account was opened.

§ 1464. WHEN CUSTODIAL ACCOUNT FOR MINOR PRESUMED

ABANDONED

(a) Subject to section 1469 of this title, property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act is presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account was opened three years after the later of:

(1) except as in subdivision (2) of this subsection, the date a second consecutive communication sent by the holder by first-class U.S. mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the U.S. Postal Service;

(2) if the second communication is sent later than 30 days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or

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

(b) If the holder does not send communications to the custodian of the minor on whose behalf an account described in subsection (a) of this section was opened by first-class U.S. mail, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic-mail communication not later than two years after the custodian's last indication of interest in the property. However, the holder promptly shall attempt to contact the custodian by first-class U.S. mail if:

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

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

(3) the custodian does not respond to the electronic-mail communication not later than 30 days after the communication was sent.

(c) If first-class U.S. mail sent under subsection (b) of this section is returned undelivered to the holder by the U.S. Postal Service, the property is presumed abandoned three years after the later of:

(1) the date a second consecutive communication to contact the custodian by first-class U.S. mail is returned to the holder undelivered by the U.S. Postal Service; or

(2) the date established by subdivision (a)(3) of this section.

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

§ 1465. WHEN CONTENTS OF SAFE-DEPOSIT BOX PRESUMED

ABANDONED

Tangible property held in a safe-deposit box and proceeds from a sale of the property by the holder permitted by law of this State other than this chapter are presumed abandoned if the property remains unclaimed by the apparent owner five years after the earlier of the:

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

(2) earliest date when the lessor of the box is authorized by law of this State other than this chapter to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

§ 1466. WHEN STORED-VALUE CARD PRESUMED ABANDONED

(a) Subject to section 1469 of this title, the net card value of a stored-value card, other than a payroll card, is presumed abandoned on the latest of three years after:

(1) December 31 of the year in which the card is issued or additional funds are deposited into it;

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

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

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

§ 1467. WHEN SECURITY PRESUMED ABANDONED

(a) Subject to section 1469 of this title, a security is presumed abandoned three years after:

(1) the date a second consecutive communication sent by the holder by first-class U.S. mail to the apparent owner is returned to the holder undelivered by the U.S. Postal Service; or

(2) if the second communication is made later than 30 days after the first communication is returned, the date the first communication is returned undelivered to the holder by the U.S. Postal Service.

(b) If the holder does not send communications to the apparent owner of a security by first-class U.S. mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the security. However, the holder promptly shall attempt to contact the apparent owner by first-class U.S. mail if:

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

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

(3) the apparent owner does not respond to the electronic-mail communication not later than 30 days after the communication was sent.

(c) If first-class U.S. mail sent under subsection (b) of this section is returned to the holder undelivered by the U.S. Postal Service, the security is presumed abandoned three years after the date the mail is returned.

§ 1468. WHEN RELATED PROPERTY PRESUMED ABANDONED

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

§ 1469. INDICATION OF APPARENT OWNER INTEREST IN
PROPERTY

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

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

or

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

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

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

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

(3) presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution

made by electronic or similar means, with respect to an account, underlying security, or interest in a business association;

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

(5) a deposit into or withdrawal from an account at a financial organization, including an automatic deposit or withdrawal previously authorized by the apparent owner other than an automatic reinvestment of dividends or interest;

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

(7) in the case of any demand, savings, or matured time deposits with a banking or financial organization, including deposits that are automatically renewable, the holder has sent the owner by first-class U.S. mail a statement of account or other associated mailing from the bank or financial institution, which has not been returned by the U.S. Postal Service as undeliverable. In the event the mailing was returned as undeliverable, the property shall be considered abandoned three years after the return, unless the owner during that three years takes any action described in subsection (b) of this section; and

(8) any other action by the apparent owner that reasonably demonstrates to the holder that the apparent owner knows that the property exists.

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

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

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

§ 1470. KNOWLEDGE OF DEATH OF INSURED OR ANNUITANT

(a) In this section, "Death Master File" means the U.S. Social Security Administration Death Master File or other database or service that is at least as comprehensive as the U.S. Social Security Administration Death Master File for determining that an individual reportedly has died.

(b) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not

matured by proof of death of the insured or annuitant, the company has

knowledge of the death of an insured or annuitant when:

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

(2) due diligence, performed as required pursuant to 8 V.S.A. part 3, to maintain contact with the insured or annuitant or determine whether the insured or annuitant has died, validates the death of the insured or annuitant;

(3) the company conducts a comparison for any purpose between a Death Master File and the names of some or all of the company's insureds or annuitants, finds a match that provides notice that the insured or annuitant has died, and validates the death;

(4) the Administrator or the Administrator's agent conducts a comparison for the purpose of finding matches during an examination conducted under subchapter 10 of this chapter between a Death Master File and the names of some or all of the company's insureds or annuitants, finds a match that provides notice that the insured or annuitant has died, and the company validates the death; or

(5) the company:

(A) receives notice of the death of the insured or annuitant from an administrator, beneficiary, policy owner, relative of the insured, or trustee or from a personal representative, guardian, executor, or other legal representative of the insured's or annuitant's estate; and

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

(c) The following rules apply under this section:

(1) A Death Master File match under subdivision (b)(3) or (4) of this section occurs if the criteria for an exact or partial match are satisfied as provided by:

(A) law of this State other than this chapter;

(B) a rule or policy adopted by the Commissioner of the Vermont Department of Financial Regulation pursuant to 3 V.S.A. chapter 25; or

(C) section 1472 of this title.

(2) The Death Master File match does not constitute proof of death for the purpose of submission to an insurance company of a claim by a beneficiary, annuitant, or owner of the policy or contract for an amount due under an insurance policy or annuity contract.

(3) The Death Master File match or validation of the insured's or annuitant's death does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract.

(4) If no provision in 8 V.S.A. part 3 establishes a time for validation of a death of an insured or annuitant, the insurance company shall make a good faith effort using other available records and information to validate the death and document the effort taken not later than 90 days after the insurance company has notice of the death.

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

§ 1471. DEPOSIT ACCOUNT FOR PROCEEDS OF INSURANCE POLICY
OR ANNUITY CONTRACT

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

§ 1472. UNCLAIMED LIFE INSURANCE BENEFITS

(a) As used in this section:

(1) “Contract” means an annuity contract. The term “contract” shall not include an annuity used to fund an employment-based retirement plan or program where:

(A) the insurer does not perform the record-keeping services; or

(B) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(2) “Death Master File” means the U.S. Social Security Administration’s Death Master File or any other database or service that is at least as comprehensive as the U.S. Social Security Administration’s Death Master File for determining that an individual reportedly has died.

(3) “Death Master File match” means a search of the Death Master File that results in a match of the Social Security number or the name and date of birth of an insured, annuity owner, or retained asset account holder.

(4) “Knowledge of death” shall mean:

(A) receipt of an original or valid copy of a certified death certificate; or

(B) a Death Master File match validated by the insurer in accordance with (b)(1)(A) of this section.

(5) “Policy” means any policy or certificate of life insurance that provides a death benefit. The term “Policy” shall not include:

(A) any policy or certificate of life insurance that provides a death benefit under an employee benefit plan:

(i) subject to The Employee Retirement Income Security Act of 1974, Pub.L. No. 93-406, as may be amended, or

(ii) under any Federal employee benefit program;

(B) any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement;

(C) any policy or certificate of credit life or accidental death insurance; or

(D) any policy issued to a group master policyholder for which the insurer does not provide record-keeping services.

(6) “Record-keeping services” means those circumstances under which the insurer has agreed with a group policy or contract customer to be responsible for obtaining, maintaining, and administering in its own or its agents’ systems information about each individual insured under an insured’s group insurance contract, or a line of coverage thereunder, at least the following information:

(A) Social Security number or name and date of birth;

(B) beneficiary designation information;

(C) coverage eligibility;

(D) benefit amount; and

(E) premium payment status.

(7) “Retained Asset Account” means any mechanism whereby the settlement of proceeds payable under a Policy or Contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity benefits other than death benefits.

(b) An insurer shall perform a comparison of its insureds' in-force Policies, Contracts, and Retained Asset Accounts against a Death Master File, on at least a semi-annual basis, by using the full Death Master File once and thereafter using the Death Master File update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a Death Master File Match, the insurer shall:

(1) within 90 days of a Death Master File Match:

(A) complete a good faith effort, which shall be documented by the insurer, to confirm the death of the insured or retained asset account holder against other available records and information;

(B) determine whether benefits are due in accordance with the applicable policy or contract; and if benefits are due in accordance with the applicable policy or contract:

(i) use good faith efforts, which shall be documented by the insurer, to locate the beneficiary or beneficiaries; and

(ii) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim including the need to provide an official death certificate, if applicable under the policy or contract.

(2) With respect to group life insurance, insurers are required to confirm the possible death of an insured when the insurers maintain at least the following information of those covered under a policy or certificate:

(A) Social Security number or name and date of birth,

(B) beneficiary designation information,

(C) coverage eligibility,

(D) benefit amount, and

(E) premium payment status.

(3) Every insurer shall implement procedures to account for:

(A) common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;

(B) compound last names, maiden or married names, and hyphens, blank spaces, or apostrophes in last names;

(C) transposition of the “month” and “date” portions of the date of birth; and

(D) incomplete Social Security number.

(4) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(c) An insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a Death Master File Search or verification of a Death Master File Match conducted pursuant to this section.

(d) The benefits from a Policy, Contract, or a Retained Asset Account, plus any applicable accrued contractual interest, shall first be payable to the designated beneficiaries or owners and, in the event said beneficiaries or owners cannot be found, shall be reportable to the Administrator as unclaimed property pursuant to this chapter. Interest payable under 8 V.S.A. § 3665 shall not be payable as unclaimed property under this chapter.

(e) An insurer shall notify the Administrator upon the expiration of the statutory time period for the property to be presumed abandoned that:

(1) a Policy or Contract beneficiary or Retained Asset Account holder has not submitted a claim with the insurer; and

(2) the insurer has complied with subsection (a) of this section and has been unable, after good faith efforts documented by the insurer, to contact the Retained Asset Account holder, beneficiary, or beneficiaries.

(f) Upon such notice, an insurer shall immediately submit the unclaimed Policy or Contract benefits or unclaimed Retained Asset Accounts, plus any applicable accrued interest, to the Administrator.

(g) Failure to meet any requirement of this section with such frequency as to constitute a general business practice is a violation of 8 V.S.A. § 4724(9). Nothing herein shall be construed to create or imply a private cause of action for a violation of this section.

§ 1473. WHEN ABANDONMENT PERIOD IS ACCELERATED

Notwithstanding sections 1461 through 1469 of this title, and subject to section 1469 of this title:

(1) If the holder has imposed a charge against property for reason of owner inactivity or the failure of the owner to claim the property within a specified period of time, and the abandonment period for the property as specified in sections 1461 through 1469 of this chapter is greater than two years, the property shall instead be presumed abandoned two years from the date of the owner's last indication of interest in the property.

(2) A deceased owner cannot indicate interest in his or her property. If the holder has reason to believe that the owner's deceased, and the abandonment period for the owner's property in sections 1461 through 1469 of this title is greater than two years, the property shall instead be presumed abandoned two years from the date of the owner's last indication of interest in the property. If the owner's property is subject to section 1462 or 1463 of this title, the two-year presumption of abandonment shall run from the earliest of the date of distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty.

Subchapter 3. Rules for Taking Custody of Property

Presumed Abandoned

§ 1481. ADDRESS OF APPARENT OWNER TO ESTABLISH PRIORITY

In this subchapter, the following rules apply:

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

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

(3) If the address under subdivision (2) of this section is in another state, the other state is deemed to be the state of the last-known address of the apparent owner.

(4) The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under section 1482 of this title.

§ 1482. ADDRESS OF APPARENT OWNER IN THIS STATE

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

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

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

§ 1483. IF RECORDS SHOW MULTIPLE ADDRESSES OF APPARENT OWNER

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

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

§ 1484. HOLDER DOMICILED IN THIS STATE

(a) Except as in subsection (b) of this section or section 1482 or 1483 of this title, the Administrator may take custody of property presumed abandoned,

whether located in this State, another state, or a foreign country, if the holder is domiciled in this State or is this State or a governmental subdivision, agency, or instrumentality of this State, and

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

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

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

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

§ 1485. CUSTODY IF TRANSACTION TOOK PLACE IN THIS STATE

Except as in section 1482, 1483, or 1484 of this title, the Administrator may take custody of property presumed abandoned whether located in this State or another state if:

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

State;

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

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

§ 1486. TRAVELER'S CHECK, MONEY ORDER, OR SIMILAR

INSTRUMENT

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

§ 1487. BURDEN OF PROOF TO ESTABLISH ADMINISTRATOR'S

RIGHT TO CUSTODY

If the Administrator asserts a right to custody of unclaimed property, the Administrator has the burden to prove:

(1) the existence and amount of the property;

(2) the property is presumed abandoned; and

(3) the property is subject to the custody of the Administrator.

Subchapter 4. Report by Holder

§ 1491. REPORT REQUIRED BY HOLDER

(a) A holder of property presumed abandoned and subject to the custody of the Administrator shall report in a record to the Administrator concerning the property. The Administrator may not require a holder to file a paper report.

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

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

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

(2) for paying or delivering to the Administrator property described in the report.

§ 1492. CONTENT OF REPORT

(a) The report required under section 1491 of this title must:

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

(2) if filed electronically, be in a secure format approved by the Administrator that protects confidential information of the apparent owner in the same manner as required of the Administrator and the Administrator's agent under subchapter 14 of this chapter;

(3) describe the property;

(4) except for a traveler's check, money order, or similar instrument, contain the name, if known; last-known address, if known; and Social Security number or taxpayer identification number, if known or readily ascertainable, of the apparent owner of property with a value of \$50.00 or more;

(5) for an amount held or owing under a life or endowment insurance policy or annuity contract, contain the name and last-known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;

(6) for property held in or removed from a safe-deposit box, indicate the location of the property, where it may be inspected by the Administrator, and any amounts owed to the holder under section 1516 of this title;

(7) contain the commencement date for determining abandonment under subchapter 2 of this chapter;

(8) state that the holder has complied with the notice requirements of section 1501 of this title;

(9) identify property that is a non-freely transferable security and explain why it is a non-freely transferable security; and

(10) contain other information the Administrator prescribes by rules.

(b) A report under section 1491 of this title may include in the aggregate items valued under \$25.00 each. If the report includes items in the aggregate valued under \$25.00 each, the Administrator may not require the holder to

provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.

(c) A report under section 1491 of this title may include personal information as defined in section 1611 of this title about the apparent owner or the apparent owner's property to the extent not otherwise prohibited by federal law.

(d) If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder must include in the report under section 1491 of this title its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.

§ 1493. WHEN REPORT TO BE FILED

(a) Except as otherwise provided in subsection (b) of this section and subject to subsection (c) of this section, the report under section 1491 of this title must be filed before May 1 of each year and cover the 12 months preceding January 1 of that year.

(b) Subject to subsection (c) of this section, the report under section 1491 of this title to be filed by an insurance company must be filed before May 1 of each year for the immediately preceding calendar year.

(c) Before the date for filing the report under section 1491 of this title, the holder of property presumed abandoned may request the Administrator to

extend the time for filing. The Administrator may grant an extension. If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.

§ 1494. RETENTION OF RECORDS BY HOLDER

A holder required to file a report under section 1491 of this title shall retain records for 10 years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the Administrator. The holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

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

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

(3) the amount or value of the property;

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

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

§ 1495. PROPERTY REPORTABLE AND PAYABLE OR DELIVERABLE

ABSENT OWNER DEMAND

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

§ 1496. ELECTRIC UTILITY COOPERATIVES

(a) Electric utility cooperatives organized under or otherwise subject to 30 V.S.A. chapter 81 shall report capital credits that have been retired and declared payable by the cooperative's board of directors, but that have not been claimed by the owner in accordance with the provisions of this chapter. Electric utility cooperatives shall not pay or deliver the unclaimed capital credits to the Administrator. As used in this section, "capital credits" means those credits to a capital account of a member of an electric utility cooperative that the cooperative is obliged to pay after operating costs and expenses have been paid.

(b) The Administrator shall provide notice of unclaimed capital credit properties reported by electric utilities in accordance with the provisions of section 1503 of this title. In the event of a claim for a capital credit property, the Administrator shall refer the claimant to the appropriate electric utility cooperative who shall evaluate the claim and upon provision of satisfactory proof of ownership shall pay the claimant.

(c) The electric utility cooperative shall notify the Administrator of the resolution of all claims for unclaimed property.

Subchapter 5. Notice to Apparent Owner of Property

Presumed Abandoned

§ 1501. NOTICE TO APPARENT OWNER BY HOLDER

(a) Subject to subsection (b) of this section, the holder of property presumed abandoned shall send to the apparent owner notice by first-class U.S. mail that complies with section 1502 of this title in a format acceptable to the Administrator not more than 180 days nor less than 60 days before filing the report under section 1491 of this title if:

(1) the holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first-class U.S. mail to the apparent owner; and

(2) the value of the property is \$50.00 or more.

(b) If an apparent owner has consented to receive electronic-mail delivery from the holder, the holder shall send the notice described in subsection (a) of this section both by first-class U.S. mail to the apparent owner's last-known mailing address and by electronic mail, unless the holder believes that the apparent owner's electronic-mail address is invalid.

§ 1502. CONTENTS OF NOTICE BY HOLDER

(a) Notice under section 1501 of this title must contain a heading that reads substantially as follows: "Notice. The State of Vermont requires us to notify you that your property may be transferred to the custody of the State Treasurer

if you do not contact us before (insert date that is 30 days after the date of this notice).”.

(b) The notice under section 1501 of this title must:

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

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

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

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

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

§ 1503. NOTICE BY ADMINISTRATOR

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

(b) In providing notice under subsection (a) of this section, the Administrator shall:

(1) except as otherwise provided in subdivision (2) of this subsection, send written notice by first-class U.S. mail to each apparent owner of property

valued at \$50.00 or more held by the Administrator, unless the Administrator determines that a mailing by first-class U.S. mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner had consented to receiving electronic mail from the holder, send notice by electronic mail if the electronic-mail address of the apparent owner is known to the Administrator instead of by first-class U.S. mail; or

(2) send the notice to the apparent owner's electronic-mail address if the Administrator does not have a valid U.S. mail address for an apparent owner, but has an electronic-mail address that the Administrator does not know to be invalid.

(c) In addition to the notice under subsection (b) of this section, the Administrator may use any of the following to provide additional notice to the apparent owners:

(1) publication in a newspaper of general circulation:

(A) in the area of the state in which the last known address of a person to be named in the notice is located;

(B) in the area in which the holder has its principal place of business in the state; or

(C) in the area the Administrator deems to provide the best opportunity to reach the apparent owner;

(2) individual contact by regular or electronic mail, or by telephone, if the treasurer has current contact information on file;

(3) any other manner and method that the treasurer considers effective for providing notice and publication.

(d) In addition to the notice under subsection (b) of this section, the Administrator shall maintain a website or database accessible by the public and electronically searchable that contains the names reported to the Administrator of all apparent owners for whom property is being held by the Administrator. The website or database maintained under this subsection must include instructions for filing with the Administrator a claim to property and a printable claim form with instructions for its use.

(e) In addition to giving notice under subsection (b) of this section, publishing the information under subdivision (c)(1) of this section and maintaining the website or database under subdivision (d)(2) of this section, the Administrator may use other printed publication, telecommunication, the Internet, or other media to inform the public of the existence of unclaimed property held by the Administrator.

§ 1504. COOPERATION AMONG STATE OFFICERS AND AGENCIES
TO LOCATE APPARENT OWNER

Unless prohibited by law of this State other than this chapter, on request of the Administrator, each officer, agency, board, commission, division, and department of this State, any body politic and corporate created by this State for a public purpose, and each political subdivision of this State shall make its books and records available to the Administrator and cooperate with the

Administrator to determine the current address of an apparent owner of property held by the Administrator under this chapter.

Subchapter 6. Taking Custody of Property by Administrator

§ 1511. DEFINITION OF GOOD FAITH

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

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

(2) made payment or delivery:

(A) in response to a demand by the Administrator or Administrator's agent; or

(B) under a guidance or ruling issued by the Administrator that the holder reasonably believed required or permitted the property to be paid or delivered.

§ 1512. DORMANCY CHARGE

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

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

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

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

§ 1513. PAYMENT OR DELIVERY OF PROPERTY TO

ADMINISTRATOR

(a) Except as otherwise provided in this section, on filing a report under section 1491 of this title, the holder shall pay or deliver to the Administrator the property described in the report.

(b) If property in a report under section 1491 of this title is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the Administrator at the time of the report, the date for payment of the property to the Administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the Administrator of the extended date.

(c) Tangible property in a safe-deposit box may not be delivered to the Administrator until 120 days after filing the report under section 1491 of this title.

(d) If property reported to the Administrator under section 1491 of this title is a security, the Administrator may:

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

(2) dispose of the security under section 1532 of this title.

(e) If the holder of property reported to the Administrator under section 1491 of this title is the issuer of a certificated security, the Administrator may obtain a replacement certificate in physical or book-entry form under 9A V.S.A. § 8-405. An indemnity bond is not required.

(f) The Administrator shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the Administrator by a holder.

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

(h) A holder is not required to deliver to the Administrator a security identified by the holder as a non-freely transferable security. If the Administrator or holder determines that a security is no longer a non-freely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this chapter. The holder shall make a determination annually whether a security identified in a report filed

under section 1491 of this title as a non-freely transferable security is no longer a non-freely transferable security.

§ 1514. EFFECT OF PAYMENT OR DELIVERY OF PROPERTY TO ADMINISTRATOR

On payment or delivery of property to the Administrator under this chapter, the Administrator as agent for the State assumes custody and responsibility for safekeeping the property. A holder that pays or delivers property to the Administrator in good faith and substantially complies with sections 1501 and 1502 of this title is relieved of liability arising thereafter with respect to payment or delivery of the property to the Administrator.

§ 1515. RECOVERY OF PROPERTY BY HOLDER FROM ADMINISTRATOR

(a) A holder that under this chapter pays money to the Administrator may file a claim for reimbursement from the Administrator of the amount paid if the holder:

(1) paid the money in error; or

(2) after paying the money to the Administrator, paid money to a person the holder reasonably believed entitled to the money.

(b) If a claim for reimbursement under subsection (a) of this section is made for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder must submit proof that the instrument was presented and payment was made to a person the holder

reasonably believed entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order.

(c) If a holder is reimbursed by the Administrator under subdivision (a)(2) of this section, the holder may also recover from the Administrator income or gain under section 607 that would have been paid to the owner if the money had been claimed from the Administrator by the owner to the extent the income or gain was paid by the holder to the owner.

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

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

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

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

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

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

(h) Not later than 90 days after a claim is filed under subsection (a) or (d) of this section, the Administrator shall allow or deny the claim and give the claimant notice of the decision in a record. If the Administrator does not take action on a claim during the 90-day period, the claim is deemed denied.

(i) The claimant may initiate a proceeding under 3 V.S.A. chapter 25 for review of the Administrator's decision or the deemed denial under subsection (h) of this section not later than:

(1) 30 days following receipt of the notice of the Administrator's decision; or

(2) 120 days following the filing of a claim under subsection (a) or (d) of this section in the case of a deemed denial under subsection (h) of this section.

(j) A final decision in an administrative proceeding initiated under subsection (i) of this section may be appealed to the Civil Division of the Washington County Superior Court, which shall hear the appeal de novo.

§ 1516. PROPERTY REMOVED FROM SAFE-DEPOSIT BOX

Property removed from a safe-deposit box and delivered under this chapter to the Administrator under this chapter is subject to the holder's right to reimbursement for the cost of opening the box and a lien or contract providing reimbursement to the holder for unpaid rent charges for the box. The

Administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the Administrator in selling the property.

§ 1517. CREDITING INCOME OR GAIN TO OWNER'S ACCOUNT

If property other than money is delivered to the Administrator, the owner is entitled to receive from the Administrator income or gain realized or accrued on the property before the property is sold.

§ 1518. ADMINISTRATOR'S OPTIONS AS TO CUSTODY

(a) The Administrator may decline to take custody of property reported under section 1491 of this title if the Administrator determines that:

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

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

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

(1) sends the apparent owner of the property notice required by section 1501 of this title and provides the Administrator evidence that the holder sent such notice;

(2) includes with the payment or delivery a report regarding the property conforming to section 1492 of this title; and

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

(c) A holder's request for the Administrator's consent under subdivision (b)(3) of this section must be in a record. If the Administrator fails to respond to the request not later than 30 days after receipt of the request, the Administrator is deemed to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.

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

§ 1519. DISPOSITION OF PROPERTY HAVING NO SUBSTANTIAL
VALUE; IMMUNITY FROM LIABILITY

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

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

§ 1520. PERIODS OF LIMITATION AND REPOSE

(a) Expiration, before, on, or after the effective date of this chapter, of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order, does not prevent the property

from being presumed abandoned or affect the duty of a holder under this chapter to file a report or pay or deliver property to the Administrator.

(b) The Administrator may not commence an action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property more than five years after the holder filed a non-fraudulent report under section 1491 of this title with the Administrator. The parties may agree in a record to extend the limitation in this subsection.

(c) The Administrator may not commence an action, proceeding, or examination with respect to a duty of a holder under this chapter more than 10 years after the duty arose.

Subchapter 7. Sale of Property by Administrator

§ 1531. PUBLIC SALE OF PROPERTY

(a) Subject to section 1532 of this title, not earlier than three years after receipt of property presumed abandoned, the Administrator may sell the property.

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

(1) the date of the sale; and

(2) a reasonable description of the property.

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

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

(2) on the Internet; or

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

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

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

§ 1532. DISPOSAL OF SECURITIES

(a) The Administrator may not sell or otherwise liquidate a security until three years after the Administrator receives the security and gives the apparent owner notice under section 1503 of this title that the Administrator holds the security.

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

§ 1533. RECOVERY OF SECURITIES OR VALUE BY OWNER

(a) If the Administrator sells a security before the expiration of six years after delivery of the security to the Administrator, an apparent owner that files

a valid claim under this chapter of ownership of the security before the six-year period expires is entitled, at the option of the Administrator, to receive:

(1) replacement of the security; or

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

(b) Replacement of the security or calculation of market value under subsection (a) must take into account a stock split, reverse stock split, stock dividend, or similar corporate action.

(c) A person that makes a valid claim under this chapter of ownership of a security after expiration of six years after delivery of the security to the Administrator is entitled to receive:

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

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

§ 1534. PURCHASER OWNS PROPERTY AFTER SALE

A purchaser of property at a sale conducted by the Administrator under this chapter takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or holder. The Administrator shall

execute documents necessary to complete the transfer of ownership to the purchaser.

§ 1535. MILITARY MEDAL OR DECORATION

(a) The Administrator may not sell a medal or decoration awarded for military service in the U.S. Armed Forces.

(b) The Administrator, with the consent of the respective organization under subdivision (1) of this subsection, agency under subdivision (2) of this subsection, or entity under subdivision (3) of this subsection, may deliver a medal or decoration described in subsection (a) to be held in custody for the owner to:

(1) a military veterans organization qualified under the Internal Revenue Code, as may be amended, 26 U.S.C. Section 501(c)(19);

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

(3) a governmental entity.

(c) On delivery under subsection (b) of this section, the Administrator is not responsible for safekeeping the medal or decoration.

Subchapter 8. Administration of Property

§ 1541. DEPOSIT OF FUNDS BY ADMINISTRATOR

(a) All funds received under this chapter, including the proceeds from the sale of unclaimed property under subchapter 7 of this chapter, shall forthwith be received by the Administrator, except that the Administrator shall retain in a separate fund an amount not exceeding \$100,000.00 or 55 percent of the funds

received during the previous year, whichever is greater, from which he or she shall make prompt payment of claims duly allowed by him or her as provided in this section.

(b) The Administrator shall maintain an account with an amount of funds the Administrator reasonably estimates is sufficient to pay claims allowed under this chapter. If the aggregate amount of claims by owners allowed at any time exceeds the amount held in the account, an excess claim must be paid by the Administrator.

§ 1542. ADMINISTRATOR TO RETAIN RECORDS OF PROPERTY

The Administrator shall:

(1) record and retain the name and last-known address of each person shown on a report filed under section 1491 of this title to be the apparent owner of property delivered to the Administrator;

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

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

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

§ 1543. EXPENSES AND SERVICE CHARGES OF ADMINISTRATOR

Before making a deposit of funds received under this chapter to the General Fund, the Administrator may deduct:

(1) expenses of disposition of property delivered to the Administrator under this chapter;

(2) costs of mailing and publication in connection with property delivered to the Administrator under this chapter;

(3) reasonable service charges;

(4) expenses incurred in examining records of or collecting property from a putative holder or holder; and

(5) property valued at \$100.00 or less more than 10 years after the abandoned property was received from the holder under subchapter 6 of this chapter shall be paid by the Administrator into the Vermont Higher Education Endowment Trust Fund created by 16 V.S.A. § 2885 under authority of this subdivision. For purposes of this subdivision, the value of the abandoned property shall be that value as of the date the property was received from the holder by the Administrator.

§ 1544. ADMINISTRATOR HOLDS PROPERTY AS CUSTODIAN FOR OWNER

Property received by the Administrator under this chapter is held in custody for the benefit of the owner and is not owned by the State.

Subchapter 9. Claim to Recover Property from Administrator

§ 1551. CLAIM OF ANOTHER STATE TO RECOVER PROPERTY

(a) If the Administrator knows that property held by the Administrator under this chapter is subject to a superior claim of another state, the Administrator shall:

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

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

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

§ 1552. WHEN PROPERTY SUBJECT TO RECOVERY BY ANOTHER STATE

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

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

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

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

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

(3) the property was subject to the custody of the Administrator of this State under section 1485 of this title and, under the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or

(4) the property:

(A) is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered to the Administrator under section 1486 of this title; and

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

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

(c) The Administrator shall decide a claim under this section not later than 90 days after it is presented. If the Administrator determines that the other state is entitled under subsection (a) to custody of the property, the Administrator shall allow the claim and pay or deliver the property to the other state.

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

§ 1553. CLAIM FOR PROPERTY BY PERSON CLAIMING TO BE

OWNER

(a) A person claiming to be the owner of property held under this chapter by the Administrator may file a claim for the property on a form prescribed by the Administrator. The claimant must verify the claim as to its completeness and accuracy.

(b) The Administrator may waive the requirement in subsection (a) of this section and may pay or deliver property directly to a person if:

(1) the person receiving the property or payment is shown to be the apparent owner included on a report filed under section 1491 of this title;

(2) the Administrator reasonably believes the person is entitled to receive the property or payment; and

(3) the property has a value of less than \$250.00.

§ 1554. WHEN ADMINISTRATOR MUST HONOR CLAIM FOR

PROPERTY

(a) The Administrator shall pay or deliver property to a claimant under subsection 1553(a) of this title if the Administrator receives evidence sufficient to establish to the satisfaction of the Administrator that the claimant is the owner of the property.

(b) Not later than 90 days after a claim is filed under subsection 903(a), the Administrator shall allow or deny the claim and give the claimant notice in a record of the decision.

(c) If the claim is denied under subsection (b) of this section:

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

(2) the claimant may file an amended claim with the Administrator or commence an action under section 1556 of this title; and

(3) the Administrator shall consider an amended claim filed under subdivision (2) of this subsection as an initial claim.

(d) If the Administrator does not take action on a claim during the 90-day period following the filing of a claim under subsection 1553(a) of this title, the claim is deemed denied.

§ 1555. ALLOWANCE OF CLAIM FOR PROPERTY

(a) Not later than 30 days after a claim is allowed under subsection 1554(b) of this title, the Administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property, together with income or gain to which the owner is entitled under section 1517 of this title.

On request of the owner, the Administrator may sell or liquidate a security and pay the net proceeds to the owner, even if the security had been held by the

Administrator for less than three years or the Administrator has not complied with the notice requirements under section 1532 of this title.

(b) Property held under this chapter by the Administrator is subject to a claim for the payment of an enforceable debt the owner owes in this State for:

(1) child-support arrearages, including child-support collection costs and child-support arrearages that are combined with maintenance;

(2) a civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or a final court judgment; or

(3) state taxes, penalties, and interest that have been determined to be delinquent or as to which notice has been recorded with the appropriate authority.

(c) Before delivery or payment to an owner under subsection (a) of this section of property or payment to the owner of net proceeds of a sale of the property, the Administrator first shall apply the property or net proceeds to a debt under subsection (b) of this section the Administrator determines is owed by the owner. The Administrator shall pay the amount to the appropriate State agency and the State agency notify the owner of the payment.

(d) The Administrator may make periodic inquiries of State agencies in the absence of a claim filed under section 1553 of this title to determine whether an apparent owner included in the unclaimed-property records of this State have enforceable debts described in subsection (b) of this section. The

Administrator first shall apply the property or net proceeds of a sale of property held by the Administrator to a debt under subsection (b) of this section of an apparent owner that appears in the records of the Administrator and deliver the amount to the appropriate State agency. The Administrator shall notify the apparent owner of the payment.

§ 1556. ACTION BY PERSON WHOSE CLAIM IS DENIED

Not later than one year after filing a claim under subsection 1553(a) of this title, the claimant may commence an action against the Administrator in the Civil Division of the Washington County Superior Court to establish a claim that has been denied or deemed denied under subsection 1553(d) of this title. On final determination of the action, the court may, on application, award to the prevailing party its reasonable attorney's fees, costs, and expenses of litigation.

§ 1557. DECEASED OWNERS; MULTIPLE CLAIMANTS

(a) If the Administrator holds unclaimed property in the name of a deceased owner, the Administrator may deliver the property as follows:

(1) In the case of an open estate, to the Administrator or executor.

(2) In the case of a closed estate and the unclaimed property is valued at less than \$5,000.00, in accordance with the Probate Division of the Superior Court decree of distribution.

(3) In the absence of an open estate or Probate Division of the Superior Court decree of distribution, and the unclaimed property is valued at less than

\$5,000.00 to the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin according to 14 V.S.A. § 314.

(4) In all other cases where the Administrator holds property in the name of a deceased owner, a probate estate shall be opened by the claimant, or other interested party, in order to determine the appropriate distribution of the unclaimed property. Where an estate is opened solely to distribute unclaimed property under this section, the Probate Division of the Superior Court may waive any filing fees.

(b) If the Administrator holds unclaimed property valued at \$250.00 or less that more than one person owns, the Administrator may deliver the property as follows:

(1) If the property has been listed on the Administrator's website for less than one year, a proportionate share to each of the persons who owns the property and who files a claim.

(2) If the property has been listed on the Administrator's website for a year or more, to the first person who files a claim and who owns at least a share of the property.

Subchapter 10. Verified Report of Property; Examination of Records

§ 1561. VERIFIED REPORT OF PROPERTY

If a person does not file a report required by section 1491 of this title or the Administrator believes that a person may have filed an inaccurate, incomplete,

or false report, the Administrator may require the person to file a verified report in a form prescribed by the Administrator. The verified report must:

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

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

(3) specifically identify property described under subdivision (2) of this section about which there is a dispute whether it is reportable under this chapter; and

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

§ 1562. EXAMINATION OF RECORDS TO DETERMINE COMPLIANCE

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

(1) examine the records of a person, including examination of appropriate records in the possession of an agent of the person under examination, if the records are reasonably necessary to determine whether the person has complied with this chapter;

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

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

§ 1563. RULES FOR CONDUCTING EXAMINATION.

(a) The Administrator shall adopt rules governing procedures and standards for an examination under section 1562 of this title, including rules for use of an

estimation, extrapolation, and statistical sampling in conducting an examination.

(b) An examination under section 1562 of this title must be performed under rules adopted under subsection (a) of this section and with generally accepted examination practices and standards applicable to an unclaimed-property examination.

(c) If a person subject to examination under section 1562 of this title has filed the reports required under sections 1491 and 1561 of this title and has retained the records required by section 1494 of this title, the following rules apply:

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

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

(3) The person conducting the examination shall consider the evidence presented in good faith by the person in preparing the findings of the examination under section 1567 of this title.

§ 1564. RECORDS OBTAINED IN EXAMINATION

Records obtained and records, including work papers, compiled by the Administrator in the course of conducting an examination under section 1562 of this title:

(1) are subject to the confidentiality and security provisions of subchapter 14 of this chapter and are not public records;

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

(3) may be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity if the governmental entity conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to subchapter 14 of this chapter;

(4) must be disclosed, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in this subchapter, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to subchapter 14 of this chapter;

(5) must be produced by the Administrator under an administrative or judicial subpoena or administrative or court order; and

(6) must be produced by the Administrator on request of the person subject to the examination in an administrative or judicial proceeding relating to the property.

§ 1565. EVIDENCE OF UNPAID DEBT OR UNDISCHARGED

OBLIGATION

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

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

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

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

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

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

(4) paid, satisfied, or discharged;

(5) issued in error;

(6) issued without consideration;

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

(8) voided not later than 90 days after issuance for a valid business reason set forth in a contemporaneous record; or

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

(d) In asserting a defense under this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice.

§ 1566. FAILURE OF PERSON EXAMINED TO RETAIN RECORDS

If a person subject to examination under section 1562 of this title does not retain the records required by section 1494 of this title, the Administrator may determine the value of property due using a reasonable method of estimation based on all information available to the Administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under subsection 1563(a) of this title and in accord with subsection 1563(b) of this title.

§ 1567. REPORT TO PERSON WHOSE RECORDS WERE EXAMINED

At the conclusion of an examination under section 1002 of this title, the Administrator shall provide to the person whose records were examined a complete and unredacted examination report that specifies:

- (1) the work performed;
- (2) the property types reviewed;
- (3) the methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;
- (4) each calculation showing the value of property determined to be due; and
- (5) the findings of the person conducting the examination.

(b) If an examination of the records of a person results in the disclosure of property reportable under this chapter, the Administrator may assess the cost of the examination against the holder at the rate of \$200.00 per day for each examiner, or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable.

§ 1568. COMPLAINT TO ADMINISTRATOR ABOUT CONDUCT OF
PERSON CONDUCTING EXAMINATION

(a) If a person subject to examination under section 1562 of this title believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the Administrator to intervene and take appropriate remedial action, including countermanding the request of the person conducting the examination, imposing a time limit for completion of the examination, or reassigning the examination to another person.

(b) If a person in a record requests a conference with the Administrator to present matters that are the basis of a request under subsection (a) of this section, the Administrator shall hold the conference not later than 30 days after receiving the request. The Administrator may hold the conference in person, by telephone, or by electronic means.

(c) If a conference is held under subsection (b) of this section, not later than 30 days after the conference ends, the Administrator shall provide a report in a record of the conference to the person that requested the conference.

§ 1569. ADMINISTRATOR’S CONTRACT WITH ANOTHER TO
CONDUCT EXAMINATION

(a) As used in this section, “related to the Administrator” refers to an individual who is:

(1) the Administrator’s spouse, partner in a civil union, domestic partner, or reciprocal beneficiary;

(2) the Administrator’s child, stepchild, grandchild, parent, stepparent, sibling, stepsibling, halfsibling, aunt, uncle, niece, or nephew;

(3) a spouse, partner in a civil union, domestic partner, or reciprocal beneficiary of an individual under subdivision (2) of this subsection; or

(4) any individual residing in the Administrator’s household.

(b) The Administrator may contract with a person to conduct an examination under this subchapter. The contract may be awarded only under contracting policies and standards approved by the Vermont Secretary of Administration.

(c) If the person with which the Administrator contracts under subsection (b) of this section is:

(1) an individual, the individual may not be related to the Administrator;

or

(2) a business entity, the entity may not be owned in whole or in part by the Administrator or an individual related to the Administrator.

(d) At least 60 days before assigning a person under contract with the Administrator under subsection (b) of this section to conduct an examination, the Administrator shall demand in a record that the person to be examined submit a report and deliver property that is previously unreported.

(e) If the Administrator contracts with a person under subsection (b) of this section:

(1) the contract may provide for compensation of the person based on a fixed fee, hourly fee, or contingent fee;

(2) a contingent fee arrangement may not provide for a payment that exceeds 10 percent of the amount or value of property paid or delivered as a result of the examination; and

(3) on request by a person subject to examination by a contractor, the Administrator shall deliver to the person a complete and unredacted copy of the contract and any contract between the contractor and a person employed or engaged by the contractor to conduct the examination.

§ 1570. LIMIT ON FUTURE EMPLOYMENT

The Administrator or an individual employed by the Administrator who participates in, recommends, or approves the award of a contract under subsection 1569(b) of this title on or after the effective date of this chapter may not be employed by, contracted with, or compensated in any capacity by the contractor or an affiliate of the contractor for one year after the latest of

participation in, recommendation of, or approval of the award or conclusion of the contract.

§ 1571. REPORT BY ADMINISTRATOR TO GENERAL ASSEMBLY

Not later than January 15 of each year, the Administrator shall compile and submit a report to the General Assembly. The report must contain the following information about property presumed abandoned for the preceding fiscal year for the State:

(1) the total amount and value of all property paid or delivered under this chapter to the Administrator, separated into:

(A) the part voluntarily paid or delivered; and

(B) the part paid or delivered as a result of an examination under section 1002 of this title, separated into the part recovered as a result of an examination conducted by:

(i) a State employee; and

(ii) a contractor under section 1569 of this title;

(2) the name of and amount paid to each contractor under section 1569 of this title and the percentage the total compensation paid to all contractors under section 1569 of this title bears to the total amount paid or delivered to the Administrator as a result of all examinations performed under section 1569 of this title;

(3) the total amount and value of all property paid or delivered by the Administrator to persons that made claims for property held by the

Administrator under this chapter and the percentage the total payments made and value of property delivered to claimants bears to the total amounts paid and value delivered to the Administrator; and

(4) the total amount of claims made by persons claiming to be owners that:

(A) were denied;

(B) were allowed; and

(C) are pending.

§ 1572. DETERMINATION OF LIABILITY FOR UNREPORTED
REPORTABLE PROPERTY

If the Administrator determines from an examination conducted under section 1562 of this title that a putative holder failed or refused to pay or deliver to the Administrator property which is reportable under this chapter, the Administrator shall issue a determination of the putative holder's liability to pay or deliver and give notice in a record to the putative holder of the determination.

Subchapter 11. Determination of Liability; Putative Holder Remedies

§ 1581. INFORMAL CONFERENCE

(a) Not later than 30 days after receipt of a notice under section 1572 of this title, the putative holder may request an informal conference with the Administrator to review the determination. Except as otherwise provided in

this section, the Administrator may designate an employee to act on behalf of the Administrator.

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

(1) not later than 20 days after the date of the request, the Administrator shall set the time and place of the conference;

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

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

(4) the request tolls the 90-day period under sections 1583 and 1584 of this title until notice of a decision under subdivision (7) of this subsection has been given to the putative holder or the putative holder withdraws the request for the conference;

(5) the conference may be postponed, adjourned, and reconvened as the Administrator determines appropriate;

(6) the Administrator or Administrator's designee with the approval of the Administrator may modify a determination made under section 1012 of this title or withdraw it; and

(7) the Administrator shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than 20 days after the conference ends.

(c) A conference under subsection (b) of this section is not an administrative remedy and is not a contested case subject to 3 V.S.A. § 809. An oath is not required and rules of evidence do not apply in the conference.

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

- (1) discuss the determination made under section 1572 of this title; and
- (2) present any issue concerning the validity of the determination.

(e) If the Administrator fails to act within the period prescribed in subdivision (b)(1) or (7) of this section, the failure does not affect a right of the Administrator, except that interest does not accrue on the amount for which the putative holder was determined to be liable under section 1572 of this title during the period in which the Administrator failed to act until the earlier of:

- (1) the date under section 1583 of this title the putative holder initiates administrative review or files an action under section 1584 of this title; or
- (2) 90 days after the putative holder received notice of the Administrator's determination under section 1572 of this title if no review was initiated under section 1583 of this title and no action was filed under section 1584 of this title.

(f) The Administrator may hold an informal conference with a putative holder about a determination under section 1572 of this title without a request

at any time before the putative holder initiates administrative review under section 1583 of this title or files an action under section 1584 of this title.

(g) Interest and penalties under section 1594 of this title continue to accrue on property not reported, paid, or delivered as required by this chapter after the initiation, and during the pendency, of an informal conference under this section.

§ 1582. REVIEW OF ADMINISTRATOR'S DETERMINATION

A putative holder may seek relief from a determination under section 1572 of this title by:

- (1) administrative review under section 1583 of this title; or
- (2) judicial review under section 1583 of this title.

§ 1583. ADMINISTRATIVE REVIEW

(a) Not later than 90 days after receiving notice of the Administrator's determination under section 1572 of this title, a putative holder may initiate a proceeding under 3 V.S.A. chapter 25, subchapter 2 for review of the Administrator's determination.

(b) A final decision in an administrative proceeding initiated under subsection (a) of this section may be appealed to the Civil Division of the Washington County Superior Court, which shall hear the appeal de novo.

§ 1584. JUDICIAL REMEDY

(a) Not later than 90 days after receiving notice of the Administrator's determination under section 1572 of this title, the putative holder may:

(1) file an action against the Administrator in the Civil Division of the Washington County Superior Court challenging the Administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or

(2) pay the amount or deliver the property determined by the Administrator to be paid or delivered to the Administrator and, not later than six months after payment or delivery, file an action against the Administrator in the Civil Division of the Washington County Superior Court for a refund of all or part of the amount paid or return of all or part of the property delivered.

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

(c) On the final determination of an action filed under subsection (a) of this section, the court may, on application, award to the prevailing party its reasonable attorney's fees, costs, and expenses, of litigation.

(d) A putative holder that is the prevailing party in an action under subdivision (a)(2) of this section for refund of money paid to the Administrator is entitled to interest on the amount refunded, at the same rate a holder is required to pay to the Administrator under subsection 1594(a) of this title, from the date paid to the Administrator until the date of the refund.

Subchapter 12. Enforcement by Administrator

§ 1591. JUDICIAL ACTION TO ENFORCE LIABILITY

(a) If a determination under section 1572 of this title becomes final and is not subject to administrative or judicial review, the Administrator may bring an action in the Civil Division of the Washington County Superior Court or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property.

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

§ 1592. INTERSTATE AND INTERNATIONAL AGREEMENT;

COOPERATION

(a) Subject to subsection (b) of this section, the Administrator may:

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

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

(b) An exchange or examination under subsection (a) of this section may be done only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in subchapter 14 of this chapter,

or agrees in a record to be bound by this State's confidentiality and security requirements.

§ 1593. ACTION INVOLVING ANOTHER STATE OR FOREIGN COUNTRY

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

(b) On request of another state or foreign country, the Vermont Attorney General may commence an action on behalf of the other state or country to enforce, in this State, the law of the other state or country against a putative holder subject to a claim by the other state or country, if the other state or country agrees to pay costs incurred by the Attorney General in the action.

(c) The Administrator may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or country on behalf of the Administrator. This State shall pay the costs, including reasonable attorney's fees and expenses, incurred by the other state or foreign country in an action under this subsection.

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

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

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

§ 1594. INTEREST AND PENALTY FOR FAILURE TO ACT IN TIMELY MANNER

(a) A holder that fails to report, pay, or deliver property within the time prescribed by this chapter shall pay to the Administrator interest at the higher of the annual rate established by the Vermont Tax Department for unpaid tax liabilities pursuant to 32 V.S.A. § 3108 or the prime rate as reported in the Money Rates section of the Wall Street Journal on the day the invoice for interest is issued by the Administrator on the property or value of the property from the date the property should have been reported, paid, or delivered to the Administrator until the date reported, paid, or delivered.

(b) Except as otherwise provided in section 1595 or 1596 of this title, the Administrator may require a holder that fails to report, pay, or deliver property within the time prescribed by this chapter to pay to the Administrator, in

addition to interest included under subsection (a) of this section, a civil penalty of \$200.00 for each day the duty is not performed, up to a cumulative maximum amount of \$5,000.00.

§ 1595. OTHER CIVIL PENALTIES

(a) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the Administrator may require the holder to pay the Administrator, in addition to interest as provided in subsection 1594(a), a civil penalty of \$1,000.00 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$25,000.00, plus 25 percent of the amount or value of property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.

(b) If a holder makes a fraudulent report under this chapter, the Administrator may require the holder to pay to the Administrator, in addition to interest under subsection 1594(a) of this title, a civil penalty of \$1,000.00 for each day from the date the report was made until corrected, up to a cumulative maximum of \$25,000.00, plus 25 percent of the amount or value of any property that should have been reported but was not included in the report or was underreported.

§ 1596. WAIVER OF INTEREST AND PENALTY

The Administrator:

(1) may waive, in whole or in part, interest under subsection 1594(a) of this title and penalties under subsection 1594(b) or section 1595 of this title;
and

(2) shall waive a penalty under subsection 1594(b) of this title if the Administrator determines that the holder acted in good faith and without negligence.

Subchapter 13. Agreement to Locate Property of Apparent Owner

Held by Administrator

§ 1601. WHEN AGREEMENT TO LOCATE PROPERTY ENFORCEABLE

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

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

(2) is signed by or on behalf of the apparent owner; and

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

§ 1602. WHEN AGREEMENT TO LOCATE PROPERTY VOID

(a) Subject to subsection (b) of this section, an agreement under section 1601 of this title is void if it is entered into during the period beginning on the

date the property was paid or delivered by a holder to the Administrator and ending 24 months after the payment or delivery.

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

(c) An agreement under subsection (a) of this section that provides for compensation in an amount that is unconscionable is unenforceable except by the apparent owner. An apparent owner that believes the compensation the apparent owner has agreed to pay is unconscionable or the Administrator, acting on behalf of an apparent owner, or both, may bring an action in the appropriate court to reduce the compensation to the maximum amount that is not unconscionable. On the final determination of an action filed under this subsection, the court may, on application, award the prevailing party its reasonable attorney's fees, costs, and expenses of litigation.

(d) An apparent owner or the Administrator may assert that an agreement described in this section is void on a ground other than it provides for payment of unconscionable compensation.

(e) This section does not apply to an apparent owner's agreement with an attorney to pursue a claim for recovery of specifically identified property held

by the Administrator or to contest the Administrator's denial of a claim for recovery of the property.

(f) An agreement between an owner and an asset locator, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property that is presumed abandoned and that provides for compensation that exceeds 10 percent of the value of the unclaimed property, shall be unenforceable.

§ 1603. RIGHT OF AGENT OF APPARENT OWNER TO RECOVER

PROPERTY HELD BY ADMINISTRATOR

(a) An apparent owner that contracts with another person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner which is held by the Administrator may designate the person as the agent of the apparent owner. The designation must be in a record signed by the apparent owner.

(b) The Administrator shall give the agent of the apparent owner all information concerning the property that the apparent owner is entitled to receive, including information that otherwise is confidential information under section 1612 of this title.

§ 1604. ASSET LOCATORS

(a) All asset locators seeking to interact with the Administrator on behalf of apparent owners shall first register with Administrator on forms prescribed by the Administrator. Registration information shall include an asset locator's

previous business experience and whether the asset locator has a criminal record. In order to obtain and maintain registered status, all asset locators shall post a performance bond of not less than \$10,000.00 to insure the Administrator against any fraudulent or mistaken claims that may arise as a result of an asset locator's representation of an apparent owner. A copy of any agreement, or contract, between an asset locator and an apparent owner shall be filed with the Administrator, together with a signed by the apparent owner and notarized "notice to claimant" form, as prescribed by the Administrator, describing the rights of the apparent owner under this subchapter.

(b) An owner may not assign his or her rights, or property interests, under this chapter to an asset locator. No power of attorney containing provisions contrary to this section shall be enforceable.

Subchapter 14. Confidentiality and Security of Information

§ 1611. DEFINITIONS; APPLICABILITY

(a) As used in this subchapter, "personal information" means:

(1) information that identifies or reasonably can be used to identify an individual, such as first and last name in combination with the individual's:

(A) Social Security number or other government-issued number or identifier;

(B) date of birth;

(C) home or physical address;

(D) electronic-mail address or other online contact information or Internet provider address;

(E) financial account number or credit or debit card number;

(F) biometric data, health or medical data, or insurance information; or

(G) passwords or other credentials that permit access to an online or other account;

(2) personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and

(3) any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of the data or if lost or misused, would require notice or reporting under 9 V.S.A. chapter 62 and federal privacy and data security law, whether or not the Administrator or the Administrator's agent is subject to the law.

(b) A provision of this subchapter that applies to the Administrator or the Administrator's records applies to an Administrator's agent.

§ 1612. CONFIDENTIAL INFORMATION.

(a) Except as otherwise provided in this chapter, the following are confidential and exempt from public inspection or disclosure:

(1) records of the Administrator and the Administrator's agent related to the administration of this chapter;

(2) reports and records of a holder in the possession of the Administrator or the Administrator's agent; and

(3) personal information and other information derived or otherwise obtained by or communicated to the Administrator or the Administrator's agent from an examination under this chapter of the records of a person.

(b) A record or other information that is confidential under law of this State other than this chapter, another state, or the United States continues to be confidential when disclosed or delivered under this chapter to the Administrator or Administrator's agent.

(c) Notwithstanding any other provision of this chapter, or of 1 V.S.A. chapter 5, subchapter 3, the Administrator may withhold information concerning an individual, or specific abandoned property, when in the Administrator's judgment it is necessary to ensure that abandoned property is returned to the rightful owner, or to otherwise protect the owner. In addition, the Administrator may withhold information concerning individuals and abandoned property until notice has been provided in accordance with section 1503 of this title, deny requests for lists of apparent owners in any format for 24 months after the date the property is paid or delivered to the Administrator, and withhold information concerning uncashed checks and other similar payment information prior to the property being presumed abandoned as set forth in subchapter 2 of this chapter.

§ 1613. WHEN CONFIDENTIAL INFORMATION MAY BE DISCLOSED

(a) When reasonably necessary to enforce or implement this chapter, the Administrator may disclose confidential information concerning property held by the Administrator or the Administrator's agent only to:

(1) an apparent owner or the apparent owner's personal representative, attorney, other legal representative, relative, or agent designated under section 1603 of this title to have the information;

(2) the personal representative, executor, other legal representative, relative of a deceased apparent owner, agent designated under section 1603 of this title by the deceased apparent owner, or a person entitled to inherit from the deceased apparent owner;

(3) another department or agency of this State or the United States;

(4) the person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the Administrator of this State, or if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to subchapter 14 of this chapter;

(5) a person subject to an examination as required by subdivision 1564(6) of this title.

(b) Except as otherwise provided in subsection 1612(a) of this title, the Administrator shall include on the website or in the database required by subdivision 1503(c)(2) of this title the name of each apparent owner of

property held by the Administrator. The Administrator may include in published notices, printed publications, telecommunications, the Internet, or other media and on the website or in the database additional information concerning the apparent owner's property if the Administrator believes the information will assist in identifying and returning property to the owner and does not disclose personal information except the home or physical address of an apparent owner.

(c) The Administrator and the Administrator's agent may not use confidential information provided to them or in their possession except as expressly authorized by this chapter or required by law other than this chapter.

§ 1614. CONFIDENTIALITY AGREEMENT

A person to be examined under section 1562 of this title may require, as a condition of disclosure of the records of the person to be examined, that each person having access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

(1) is in a form that is reasonably satisfactory to the Administrator; and

(2) requires the person having access to the records to comply with the provisions of this subchapter applicable to the person.

§ 1615. NO CONFIDENTIAL INFORMATION IN NOTICE

Except as otherwise provided in sections 1501 and 1502 of this title, a holder is not required under this chapter to include confidential information in

a notice the holder is required to provide to an apparent owner under this chapter.

§ 1616. SECURITY OF INFORMATION

(a) If a holder is required to include confidential information in a report to the Administrator, the information must be provided by a secure means.

(b) If confidential information in a record is provided to and maintained by the Administrator or Administrator's agent as required by this chapter, the Administrator or agent shall:

(1) implement administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the information required by 9 V.S.A. chapter 62 and federal privacy and data security law whether or not the Administrator or the Administrator's agent is subject to the law;

(2) protect against reasonably anticipated threats or hazards to the security, confidentiality, or integrity of the information; and

(3) protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to a holder or the holder's customers, including insureds, annuitants, and policy or contract owners and their beneficiaries.

(c) The Administrator:

(1) after notice and comment, shall adopt and implement a security plan that identifies and assesses reasonably foreseeable internal and external risks to

confidential information in the Administrator's possession and seeks to mitigate the risks; and

(2) shall ensure that the Administrator's agent adopts and implements a similar plan with respect to confidential information in the agent's possession.

(d) The Administrator and the Administrator's agent shall educate and train their employees regarding the plan adopted under subsection (c) of this section.

(e) The Administrator and the Administrator's agent shall in a secure manner return or destroy all confidential information no longer reasonably needed under this chapter.

§ 1617. SECURITY BREACH

(a) Except to the extent prohibited by law other than this chapter, the Administrator or Administrator's agent shall notify a holder as soon as practicable of:

(1) a suspected loss, misuse or unauthorized access, disclosure, modification, or destruction of confidential information obtained from the holder in the possession of the Administrator or the Administrator's agent; and

(2) any interference with operations in any system hosting or housing confidential information that:

(A) compromises the security, confidentiality, or integrity of the information; or

(B) creates a substantial risk of identity fraud or theft.

(b) Except as necessary to inform an insurer, attorney, investigator, or others as required by law, the Administrator and the Administrator's agent may not disclose, without the express consent in a record of the holder, an event described in subsection (a) of this section to a person whose confidential information was supplied by the holder.

(c) If an event described in subsection (a) of this section occurs, the Administrator and the Administrator's agent shall:

(1) take action necessary for the holder to understand and minimize the effect of the event and determine its scope; and

(2) cooperate with the holder with respect to:

(A) any notification required by law concerning a data or other security breach; and

(B) a regulatory inquiry, litigation, or similar action.

§ 1618. INDEMNIFICATION FOR BREACH

(a) If a claim is made or action commenced arising out of an event described in subsection 1617(a) of this title relating to confidential information possessed by the Administrator's agent, the Administrator's agent shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:

(1) any claim or action; and

(2) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or other expense, including reasonable attorney's fees and costs, established by the claim or action.

(b) The Administrator shall require an Administrator's agent that will receive confidential information required under this chapter to maintain adequate insurance for indemnification obligations of the Administrator's agent under subsection (a) of this section. The agent required to maintain the insurance shall provide evidence of the insurance to:

(1) the Administrator not less frequently than annually; and

(2) the holder on commencement of an examination and annually thereafter until all confidential information is returned or destroyed under subsection 1406(e) of this title.

Subchapter 15. Miscellaneous Provisions

§ 1621. UNIFORMITY OF APPLICATION AND CONSTRUCTION

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

§ 1622. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section

7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

§ 1623. TRANSITIONAL PROVISION

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

(b) This chapter does not relieve a holder of a duty that arose before the effective date of this chapter to report, pay, or deliver property. Subject to subsections 1520(b) and (c) of this title, a holder that did not comply with the law governing unclaimed property before the effective date of this chapter is subject to applicable provisions for enforcement and penalties in effect before the effective date of this chapter.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2021.

Date Governor signed bill: April 28, 2020