

Vermont's Revised Uniform Unclaimed Property Act (RUUPA)

Objective

The primary objective of the program is consumer protection. It is meant to address the problem of "lucrative silence," i.e., the financial incentive for holders in possession of property to remain silent and not seek to reunite owners with that property. The Uniform Law Commission has described this incentive as follows:

Some entity other than the owner actually possesses the intangible property when and if it is abandoned by its rightful owner. That entity is in position to assume title to abandoned intangible personal property virtually by doing nothing except to continue to hold it. In fact, it is possible to surmise that a holding institution for intangible personal property can find doing nothing with its customers' property and communicating as little as possible with its customers to be "lucrative silence."

How the Unclaimed Property Program Works

Property is remitted to the Treasurer's Office by business entities (holders) after they lose contact with their customer for a certain period, usually three years. The Treasurer's Office holds the property for owners, and seeks to reunite them with their property.

What is Unclaimed Property

The Vermont Unclaimed Property Law does not include real estate, but unclaimed property can include: savings or checking accounts, uncashed checks, matured certificates of deposit, stocks, bonds or mutual funds, travelers' checks or money orders and proceeds of life insurance policies.

Why Update the Law

By updating Vermont's UP Act, the Treasurer's Office will be able to better meet the main program objective, which is consumer protection, getting the property back to the rightful owners, while ensuring the holders of unclaimed property remain in compliance.

The revised law also modernizes Vermont's unclaimed property program, by recognizing new or expanded types of property (e.g., stored value cards) and new ways in which consumers access information.

Vermont's RUUPA – An Overview

- **Subchapter 1, §1451 - §1454 -- General Provisions**
 - Terms are more clearly defined and definitions such as "electronic," "electronic mail," "game related digital content," and "payroll card." Many of these terms were not in existence when Vermont moved to the 1995 Model Act in 2006.

- **Subchapter 2, §1461 - §1474 -- Presumptions of Abandonment**
 - The presumptions of abandonment have been kept the same with most property types. Vermont's Act differs from the model in regard with payroll cards. The model act suggests that the dormancy period be three years for payroll cards and Vermont's model act suggests one year.
 - Allows for electronic communications and makes rules clearer about what counts as owner interest.
 - Outlines better guidance for UGMA accounts, tax deferred retirement accounts, and gift and store value cards.
 - Continues the need for insurance companies to perform a comparison of its in-force policies, contracts, and retained asset accounts against the Death Master File on a semi-annual basis. This includes the need for insurance companies to implement procedures to account for common nicknames, initials in lieu of first or middle names, the use of a middle name, and interchanged first and middle names. In addition, the transposed month and date portions of a date of birth.
 - Under certain circumstances, this act allows for the accelerated period of abandonment.

- **Subchapter 3, §1481 - §1487 -- Rules for Taking Custody**
 - Incorporates federal common law that established which state has priority to claim unclaimed property
 - Primary rule – address of owner in records of holder. Secondary rule – state of incorporation.
 - Established rules for multiple addresses in holder records.

- **Subchapter 4, §1491 - §1496 -- Report by Holder**
 - Maintains the \$25 aggregate level, the May 1st reporting deadline, 10-year record retention, and the Electric Cooperative Capital Credit Exemption.

- **Subchapter 5, §1501 - §1504 -- Notice to Apparent Owner**
 - Maintains the due diligence requirement for the holder.
 - Adds the requirement for the Administrator to send written notice to the apparent owner for all property valued at \$50- or more, by first class mail.

- **Subchapter 6, §1511 - §1520 -- Taking custody**

- Allows for certain dormancy charges.
 - The Administrator has 90 days to allow or deny the claim.
 - Allows for a formal appeal process of the claim.
 - The Administrator has the option to refuse certain property.
- Subchapter 7, §1531 - §1535 -- Sale of Property
 - Securities will be sold after three years vs. one year in the current statute.
 - Owner has six years after the delivery of the security to the Administrator, the owner has the option to receive a replacement security or the market value of the security at the time of the claim including dividends and interest.
 - Adds a provision that military medals will not be sold, and in certain circumstances may be delivered to a third party.
- Subchapter 8, §1541 - §1544 -- Administration of Property
 - Any property received by the Administrator is to be held for the benefit of the owner and is not owned by the State.
- Subchapter 9, §1551 - §1557 -- Claims to Recover Property
 - Allows the Administrator to liquidate securities upon the owner's request.
 - Property is subject to a claim for the payment of an enforceable debt from child support arrearages, a civil, criminal, or penalty, court costs, restitution or state taxes, penalties and interest determined to be delinquent.
- Subchapter 10, §1561 - §1572 -- Examination of records
 - Allows for extrapolation for holders that fail to retain record.
 - Allows for the holder subject to the examination to request a meeting with the Administrator.
 - The State may contract on a contingency, hourly, or fixed fee.
 - Limits the future employment of the Administrator or individuals employed by the Administrator.
 - Requires an annual report to the General Assembly from the Administrator concerning unclaimed property for the preceding fiscal year.
- Subchapter 11, §1581 - §1584 -- Putative Holders remedies
 - Allows the putative holder to request an informal hearing with the administrator or designated individual.
 - Allows for the administrative or judicial review of the property reportable identified through the examination process.
- Subchapter 12, §1591 - §1596 -- Enforcement by Administrator
 - Allows for the exchange of information with other States.

- Allows, through the Attorney General's office, to join other states to seek enforcement of this Act.
 - Allows for interest and penalties or the waiver of interest and penalties.
- Subchapter 13, §1601 - §1604 -- Agreement to Locate Property
 - Asset locators must be registered and bonded with the Administrator.
- Subchapter 14, §1611 - §1623 -- Confidentiality
 - Requires the protection of personal information.
 - Exempts certain information from public inspection or disclosure, such as holder reports, personal information derived from an examination of a holder.
 - Identifies when confidential information may be released.
 - Requires notification of a data or security breach.