

Introduced: 1/25/77
Referred: Judiciary and Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 79

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Uniform Disposition of Unclaim-
7 ed Property Act; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 09 is amended by adding a new chapter to read:

10 CHAPTER 51. UNCLAIMED PROPERTY.

11 Sec. 09.51.010. PROPERTY HELD BY BANKING OR FINANCIAL ORGANIZA-
12 TIONS OR BY BUSINESS ASSOCIATIONS. The following property held or
13 owed by a banking or financial organization or by a business association
14 is presumed abandoned:

15 (1) a demand, savings, or matured time deposit made in the
16 state with a banking organization, together with interest or dividend,
17 excluding charges that may lawfully be withheld, unless the owner has,
18 within seven years:

19 (A) increased or decreased the amount of the deposit,
20 or presented the passbook or other similar evidence of this
21 deposit for the crediting of interest; or

22 (B) corresponded in writing with the banking organi-
23 zation concerning the deposit; or

24 (C) otherwise indicated an interest in the deposit as
25 evidenced by a memorandum on file with the banking organization;

26 (2) funds paid in this state toward the purchase of shares
27 or other interest in a financial organization or deposit made with it
28 in the state, and interest or dividends excluding charges that may
29 lawfully be withheld, unless the owner has within seven years:

1 (A) increased or decreased the amount of the funds or
2 deposit, or presented an appropriate record for the crediting of
3 interest or dividends; or

4 (B) corresponded in writing with the financial organi-
5 zation concerning the funds or deposit; or

6 (C) otherwise indicated an interest in the funds or
7 deposit as evidenced by a memorandum on file with the financial
8 organization;

9 (3) a sum payable on a check certified in this state or on
10 a written instrument issued in the state on which a banking or financial
11 organization or business association is directly liable, including but
12 not limited to, a certificate of deposit, draft, money order, and
13 traveler's check, which, with the exception of a traveler's check, has
14 been outstanding for more than seven years from the date of its
15 issuance if payable on demand, or, in the case of a traveler's check,
16 which has been outstanding for more than 15 years from the date of its
17 issuance, unless the owner has within seven years, or within 15 years
18 in the case of a traveler's check, corresponded in writing with the
19 banking or financial organization or business association concerning
20 it, or otherwise indicated an interest as evidenced by a memorandum on
21 file with the banking or financial organization or business association;

22 (4) funds or other personal property, tangible or intangible,
23 removed from a safe deposit box or other safekeeping repository or
24 agency or collateral deposit box in the state on which the lease or
25 rental period has expired due to nonpayment of rental charges or other
26 reason, or a surplus amount arising from the sale of the property
27 according to law that has been unclaimed by the owner for more than
28 seven years from the date on which the lease or rental period expired.

29 Sec. 09.51.020. UNCLAIMED FUNDS HELD BY LIFE INSURANCE CORPORA-

1 TIONS. (a) Unclaimed funds, as defined in this section, held and
2 owed by a life insurance corporation are presumed abandoned to this
3 state if, according to the records of the corporation, the last known
4 address of the person entitled to the funds is within the state. If a
5 person other than the insured or annuitant is entitled to the funds
6 and the address of the person is not known to the corporation or if it
7 is not definite and certain from the records of the corporation what
8 person is entitled to the funds, it is presumed that the last known
9 address of the person entitled to the funds is the same as the last
10 known address of the insured or annuitant according to the records of
11 the corporation.

12 (b) "Unclaimed funds", as used in this section, means money held
13 and owed by a life insurance corporation which is unclaimed and unpaid
14 for more than seven years after the money became due and payable as
15 established from the records of the corporation under a life or endow-
16 ment insurance policy or annuity contract which has matured or termi-
17 nated. A life insurance policy not matured by actual proof of the
18 death of the insured is considered to be matured and the proceeds of
19 it are considered to be due and payable if the policy was in force
20 when the insured attained the limiting age under the mortality table
21 on which the reserve is based, unless the person appearing entitled
22 to the proceeds has within the preceding seven years: (1) assigned,
23 readjusted, or paid premiums on the policy, or subjected the policy to
24 loan; or (2) corresponded in writing with the life insurance corporation
25 concerning the policy. Money otherwise payable according to the
26 records of the corporation is considered to be due and payable although
27 the policy or contract has not been surrendered as required.

28 Sec. 09.51.030. DEPOSITS AND REFUNDS HELD BY UTILITIES. The
29 following funds held or owed by a utility are presumed abandoned:

1 (1) a deposit made by a subscriber with a utility to secure
2 payment for, or a sum paid in advance for, utility services to be
3 furnished in this state, less any lawful deductions, that has remained
4 unclaimed by the person appearing on the records of the utility as
5 entitled to the deposit or advance payment for more than seven years
6 after the termination of the services for which the deposit or advance
7 payment was made;

8 (2) a sum received for utility services provided in this
9 state, which a utility has been ordered to refund, together with
10 interest on the sum, less lawful deductions, that has remained un-
11 claimed by the person appearing on the records of the utility as
12 entitled to the refund for more than seven years after the date it
13 became payable in accordance with the final determination or order
14 providing for the refund.

15 Sec. 09.51.040. UNDISTRIBUTED DIVIDENDS AND DISTRIBUTION OF
16 BUSINESS ASSOCIATIONS. A stock or other certificate of ownership, or
17 a dividend, profit, distribution, interest, payment on principal, or
18 other sum held or owed by a business association for or to a share-
19 holder, certificate holder, member, bondholder, or other security
20 holder, or a participating patron of a cooperative, who has not claimed
21 it, or corresponded in writing with the business association concerning
22 it, within seven years after the date prescribed for payment or de-
23 livery, is presumed abandoned if:

24 (1) it is held or owed by a business association organized
25 under the laws of or created in this state; or

26 (2) it is held or owed by a business association doing
27 business in this state, but not organized under the laws of or created
28 in this state, and the records of the business association indicate
29 that the last known address of the person entitled to it is in this

1 state.

2 Sec. 09.51.050. PROPERTY OF BUSINESS ASSOCIATIONS AND BANKING OR
3 FINANCIAL ORGANIZATIONS HELD IN COURSE OF DISSOLUTION. Intangible
4 personal property distributable in the course of a voluntary dissolution
5 of a business association, banking organization, or financial organiza-
6 tion organized under the laws of or created in this state, which is
7 unclaimed by the owner within two years after the date for final dis-
8 tribution, is presumed abandoned.

9 Sec. 09.51.060. PROPERTY HELD BY FIDUCIARIES. Intangible personal
10 property and income or increment on the property, held in a fiduciary
11 capacity for the benefit of another person is presumed abandoned
12 unless the owner has, within seven years after it becomes payable or
13 distributable, increased or decreased the principal, accepted payment
14 of principal or income, corresponded in writing concerning the property,
15 or otherwise indicated an interest as evidenced by a memorandum on
16 file with the fiduciary:

17 (1) if the property is held by a banking organization or a
18 financial organization, or by a business association organized under
19 the laws of or created in this state; or

20 (2) if it is held by a business association, doing business
21 in this state, but not organized under the laws of or created in this
22 state, and the records of the business association indicate that the
23 last known address of the person entitled to the property is in this
24 state; or

25 (3) if it is held in this state by any other person.

26 Sec. 09.51.070. PROPERTY HELD BY STATE COURTS AND PUBLIC OFFICERS
27 AND AGENCIES. Intangible personal property held for the owner by a
28 court, public corporation, public authority, or public officer of this
29 state, or a political subdivision of this state, which has remained

1 unclaimed by the owner for more than seven years, is presumed abandoned.

2 Sec. 09.51.080. MISCELLANEOUS PERSONAL PROPERTY HELD FOR ANOTHER
3 PERSON. Intangible personal property, not otherwise covered by this
4 chapter, including income from or increment to the property and deduct-
5 ing any lawful charges, which is held or owed in this state in the
6 ordinary course of the holder's business and has remained unclaimed by
7 the owner for more than seven years after it became payable or distri-
8 butable, is presumed abandoned.

9 Sec. 09.51.090. RECIPROCITY FOR PROPERTY PRESUMED ABANDONED OR
10 ESCHEATED UNDER THE LAWS OF ANOTHER STATE. If specific property which
11 is subject to the provisions of secs. 10 - 80 of this chapter is held
12 for or owed by or distributable to an owner whose last known address
13 is in another state by a holder who is subject to the jurisdiction of
14 that state, the specific property is not presumed abandoned in this
15 state and subject to this chapter if:

16 (1) it may be claimed as abandoned or escheated under the
17 laws of the other state; and

18 (2) the laws of the other state make reciprocal provision
19 that similar specific property is not presumed abandoned or escheat-
20 able by the other state when held for or owed by or distributable to
21 an owner whose last known address is within this state by a holder who
22 is subject to the jurisdiction of this state.

23 Sec. 09.51.100. REPORT OF ABANDONED PROPERTY. (a) Each person
24 holding funds or other property, tangible or intangible, presumed
25 abandoned under this chapter shall report to the commissioner of
26 revenue with respect to the property as provided in (b) of this section.

27 (b) The report required by (a) must be verified and include:

28 (1) except in the case of traveler's checks and money
29 orders, the name, if known, and last known address, if any, of each

1 person from the records of the holder appearing to be the owner of pro-
2 perty of the value of \$10 or more presumed abandoned under this chapter;

3 (2) in case of unclaimed funds of life insurance corpora-
4 tions, the full name of the insured or annuitant and his last known
5 address according to the life insurance corporation's records;

6 (3) the nature and identifying number, if any, or descrip-
7 tion of the property and the amount appearing from the records to be
8 due, except that items of value under \$10 each may be reported in the
9 aggregate;

10 (4) the date when the property became payable, demandable,
11 or returnable, and the date of the last transaction with the owner
12 with respect to the property; and

13 (5) other information which the commissioner may require by
14 regulation as necessary for the administration of this chapter.

15 (c) If the person holding property presumed abandoned is a
16 successor to other persons who previously held the property for the
17 owner, or if the holder has changed his name while holding the pro-
18 perty, he shall file with his report all previously known names and
19 addresses of each holder of the property.

20 (d) The report must be filed before September 1 of each year.
21 The commissioner may postpone the reporting date upon written request
22 by any person required to file a report.

23 (e) If the holder of property presumed abandoned under this
24 chapter knows the location of the owner and if the owner's claim has
25 not been barred by the statute of limitations, the holder shall,
26 before filing the annual report, communicate with the owner and take
27 necessary steps to prevent abandonment from being presumed. The
28 holder shall exercise due diligence to ascertain the location of the
29 owner.

1 (f) Verification, if made by a partnership, must be executed by
2 a partner; if made by an unincorporated association or private corpora-
3 tion, by an officer; and if made by a public corporation, by its chief
4 fiscal officer.

5 (g) The initial report filed under this chapter must include all
6 items of property that would have been presumed abandoned if this
7 chapter had been in effect during the 10 year period preceding its
8 effective date.

9 Sec. 09.51.110. NOTICE AND PUBLICATION OF LISTS OF ABANDONED
10 PROPERTY. (a) Within 120 days after the filing of the report required
11 by sec. 100 of this chapter, the commissioner shall have notice publish-
12 ed at least once each week for two successive weeks in a newspaper of
13 general circulation in the judicial district in this state in which is
14 located the last known address of any person named in the notice. If
15 no address is listed or if the address is outside this state, the
16 notice must be published in the judicial district in which the holder
17 of the abandoned property has his principal place of business within
18 this state.

19 (b) The published notice shall be entitled "notice of names of
20 persons appearing to be owners of abandoned property," and shall
21 contain:

22 (1) the names in alphabetical order and last known addresses,
23 if any, of persons listed in the report and entitled to notice within
24 the judicial district as specified in (a) of this section;

25 (2) a statement that information concerning the amount or
26 description of the property and the name and address of the holder may
27 be obtained by any persons possessing an interest in the property by
28 addressing an inquiry to the commissioner;

29 (3) a statement that if proof of claim is not presented by

1 the owner to the holder and if the owner's right to receive the property
2 is not established to the holder's satisfaction within 65 days after the
3 date of the second published notice, the abandoned property will be
4 placed not later than 85 days after the publication date in the custody
5 of the commissioner to whom all further claims must be directed.

6 (c) The commissioner is not required to publish in the notice an
7 item of less than \$25 unless he considers publication to be in the
8 public interest.

9 (d) Within 120 days after the receipt of the report required by
10 sec. 100 of this chapter, the commissioner shall mail a notice to each
11 person having an address listed in the report who appears to be entitl-
12 ed to property of the value of \$25 or more presumed abandoned under
13 this chapter.

14 (e) The mailed notice must contain:

15 (1) a statement that, according to a report filed with the
16 commissioner, property is being held to which the addressee appears
17 entitled;

18 (2) the name and address of the person holding the property
19 and necessary information regarding changes of name and address of the
20 holder;

21 (3) a statement that, if satisfactory proof of claim is not
22 presented by the owner to the holder by the date specified in the
23 published notice, the property will be placed in the custody of the
24 commissioner to whom all further claims must be directed.

25 (f) This section is not applicable to sums payable on traveler's
26 checks or money orders presumed abandoned under sec. 10 of this chapter.

27 Sec. 09.51.120. PAYMENT OR DELIVERY OF ABANDONED PROPERTY. A
28 person who has filed a report under sec. 100 of this chapter, within
29 20 days after the time specified in sec. 110 of this chapter, for

1 claiming the property from the holder, or in the case of sums payable
2 on traveler's checks or money orders presumed abandoned under sec.
3 10 of this chapter, within 20 days after the filing of the report,
4 shall pay or deliver to the commissioner all abandoned property specified
5 in this report, except that, if the owner establishes his right to
6 receive the abandoned property to the satisfaction of the holder
7 within the time specified in sec. 110 of this chapter, or if it appears
8 that for some other reason the presumption of abandonment is erroneous,
9 the holder need not pay or deliver the property, which will no longer
10 be presumed abandoned, to the commissioner, but shall file a verified
11 written explanation of the proof of claim or of the error in the
12 presumption of abandonment.

13 Sec. 09.51.130. RELIEF FROM LIABILITY BY PAYMENT OR DELIVERY.

14 Upon the payment or delivery of abandoned property to the commissioner,
15 the state shall assume custody and shall be responsible for the safe-
16 keeping of the property. A person who pays or delivers abandoned
17 property to the commissioner under this chapter is relieved of all
18 liability to the extent of the value of the property paid or delivered
19 for any claim which exists or which may arise or be made in respect to
20 the property. A holder who has paid money to the commissioner under
21 this chapter may make payment to a person appearing to the holder to
22 be entitled to it, and upon proof of payment and proof that the payee
23 was entitled to it, the commissioner shall reimburse the holder for
24 the payment.

25 Sec. 09.51.140. INCOME ACCRUING AFTER PAYMENT OR DELIVERY. When
26 property is paid or delivered to the commissioner under this chapter,
27 the owner is not entitled to receive income or other increments accruing
28 after the property is paid or delivered.

29 Sec. 09.51.150. PERIODS OF LIMITATION NOT A BAR. The expiration

1 of any period of time specified by statute or court order, during
2 which an action or proceeding may be commenced or enforced to obtain
3 payment of a claim for money or recovery of property, does not prevent
4 the money or property from being presumed abandoned property, nor does
5 it affect any duty to file a report required by this chapter or to pay
6 or deliver abandoned property to the commissioner.

7 Sec. 09.51.160. SALE OF ABANDONED PROPERTY. (a) All abandoned
8 property other than money delivered to the commissioner under this
9 chapter shall within one year after the delivery be sold by him to the
10 highest bidder at public sale in a location in the state which in his
11 judgment will bring the most favorable market for the property involved.
12 The commissioner may decline the highest bid and reoffer the property
13 for sale if he considers the price bid insufficient. He need not
14 offer any property for sale if, in his opinion, the probable cost of
15 sale exceeds the value of the property.

16 (b) Before holding a sale held under this section the commissioner
17 shall publish notice of the sale at least three weeks in advance of
18 sale in a newspaper of general circulation in the judicial district
19 where the property is to be sold.

20 (c) The purchaser at any sale conducted by the commissioner
21 under this chapter is entitled to receive title to the property pur-
22 chased, free from all claims of the owner or prior holder of the
23 property and of all persons claiming through or under them. The
24 commissioner shall execute all documents necessary to complete the
25 transfer of title.

26 Sec. 09.51.170. DEPOSIT OF FUNDS. (a) All funds received under
27 this chapter, including the proceeds from the sale of abandoned property
28 under sec. 160 of this chapter, shall be deposited by the commissioner
29 in the general fund of the state, except that the commissioner shall

1 retain in a separate trust fund an amount not exceeding \$25,000 from
2 which he shall make prompt payment of claims duly allowed by him as
3 provided in this chapter. Before making the deposit he shall record
4 the name and last known address of each person appearing from the
5 holder's reports to be entitled to the abandoned property and of the
6 name and last known address of each insured person or annuitant, and
7 with respect to each policy or contract listed in the report of a life
8 insurance corporation, its number, the name of the corporation, and
9 the amount due. The record shall be available for public inspection
10 at all reasonable business hours.

11 (b) Before making any deposit to the credit of the general fund,
12 the commissioner may deduct:

13 (1) costs incurred in connection with sale of abandoned
14 property;

15 (2) costs of mailing and publication incurred in connection
16 with any abandoned property; and

17 (3) reasonable service charges.

18 Sec. 09.51.180. CLAIM FOR ABANDONED PROPERTY PAID OR DELIVERED.

19 A person claiming an interest in property delivered to the state under
20 this chapter may file a claim for it or to the proceeds from the sale
21 of the property on a form prescribed by the commissioner.

22 Sec. 09.51.190. DETERMINATION OF CLAIMS. (a) The commissioner
23 shall consider a claim filed under this chapter and may hold a hearing
24 and receive evidence concerning it. If a hearing is held, he shall
25 prepare findings and a decision in writing on each claim filed,
26 stating the substance of any evidence heard by him and the reasons for
27 his decision. The decision is a public record.

28 (b) If the claim is allowed, the commissioner shall make payment
29 of it. The claim shall be paid without deduction for the costs of

1 notices or sale or for service charges.

2 Sec. 09.51.200. JUDICIAL ACTION UPON DETERMINATIONS. A person
3 aggrieved by a decision of the commissioner, may appeal to the superior
4 court to establish his claim.

5 Sec. 09.51.210. ELECTION TO TAKE PAYMENT OR DELIVERY. The
6 commissioner, after receiving reports of property considered abandoned
7 under this chapter, may decline to receive any property reported which
8 he considers to have a value less than the cost of giving notice and
9 holding sale, or he may, if he considers it desirable because of the
10 small amount involved, postpone taking possession until a sufficient
11 amount accumulates. Unless the holder of the property is notified to
12 the contrary within 120 days after filing the report required under
13 sec. 100 of this chapter, the commissioner is considered to have
14 elected to receive the custody of the property.

15 Sec. 09.51.220. EXAMINATION OF RECORDS. The commissioner may at
16 reasonable times and upon reasonable notice examine the records of any
17 person if he has reason to believe that the person has failed to
18 report property that should have been reported under this chapter.

19 Sec. 09.51.230. PROCEEDING TO COMPEL DELIVERY OF ABANDONED
20 PROPERTY. If a person refuses to deliver property to the commissioner
21 as required under this chapter, he shall request the attorney general
22 to bring an action to enforce the delivery.

23 Sec. 09.51.240. PENALTIES. (a) A person who wilfully fails to
24 file a report or perform other duties required under this chapter,
25 shall be punished by a fine of \$50 for each day the report is withheld,
26 but not more than \$3,000.

27 (b) Any person who wilfully refuses to pay or deliver abandoned
28 property to the commissioner as required under this chapter shall be
29 punished by a fine of not more than \$1,000 or imprisonment for not

1 more than one year, or by both.

2 Sec. 09.51.250. REGULATIONS. The commissioner shall adopt
3 regulations which are necessary to carry out the provisions of this
4 chapter.

5 Sec. 09.51.260. EFFECT OF LAWS OF OTHER STATES. This chapter
6 does not apply to any property that has been presumed abandoned or
7 escheated under the laws of another state before the effective date of
8 this chapter.

9 Sec. 09.51.270. DEFINITIONS. As used in this chapter, unless
10 the context otherwise requires:

11 (1) "banking organization" means a bank, trust company,
12 savings bank, industrial bank, land bank, safe deposit company, or a
13 private banker engaged in business in this state;

14 (2) "business association" means a corporation (other than
15 a public corporation), joint stock company, business trust, partnership,
16 or any association for business purposes of two or more individuals;

17 (3) "commissioner" means the commissioner of revenue;

18 (4) "financial organization" means a savings and loan
19 association, building and loan association, credit union, cooperative
20 bank, or investment company, engaged in business in this state;

21 (5) "holder" means a person in possession of property
22 subject to this chapter belonging to another, or who is trustee in
23 case of a trust, or is indebted to another on an obligation subject to
24 this chapter;

25 (6) "life insurance corporation" means an association or
26 corporation transacting within this state the business of insurance on
27 the lives of persons or insurance appertaining to it, including
28 but not limited to, endowments and annuities;

29 (7) "owner" means a depositor in case of a deposit, a

1 beneficiary in case of a trust, a creditor, claimant, or payee in case
2 of other rights of action or a person having a legal or equitable
3 interest in property subject to this chapter, or his legal representa-
4 tive;

5 (8) "person" means an individual, business association,
6 government or political subdivision, public corporation, public
7 authority, estate, trust, two or more persons having a joint or common
8 interest, or any other legal or commercial entity;

9 (9) "utility" means a person who owns or operates within
10 this state, for public use, any plant, equipment, property, franchise,
11 or license for the transmission of communications or the production,
12 storage, transmission, sale, delivery, or furnishing of electricity,
13 water, steam, or gas.

14 Sec. 09.51.280. SHORT TITLE. This chapter may be cited as the
15 Uniform Disposition of Unclaimed Property Act.

16 * Sec. 2. AS 09.50.070 is amended to read:

17 Sec. 09.50.070. PROPERTY SUBJECT TO ESCHEAT. When no claim of
18 ownership has been made [TO BANK DEPOSITS, CASH, OR PERSONAL PROPERTY]
19 for more than seven years to any real property or to any tangible
20 personal property whose disposition has not otherwise been provided
21 for under AS 09.51 or AS 34.45, the property escheats to and becomes
22 the property of the state.

23 * Sec. 3. AS 09.50.120(a) is repealed and re-enacted to read:

24 (a) The commissioner of revenue may sell personal property which
25 has escheated to the state under sec. 70 of this chapter. The sale
26 must be preceded by the notice and publication required by AS 09.51.110
27 and must be conducted in accordance with AS 09.51.160.

28 * Sec. 4. AS 09.50.140 is repealed and re-enacted to read:

29 Sec. 09.50.140. DUTY OF BANKS AND FINANCIAL INSTITUTIONS TO

1 REPORT ESCHEATED PROPERTY. Every banking organization, financial
2 organization, business association, fiduciary or other holder of
3 property subject to escheat to which no owner is known to them or the
4 owner of which has not been heard from by them for more than seven
5 years shall file a report of unclaimed property with the commissioner
6 of revenue under AS 09.51.100.

7 * Sec. 5. AS 34.45.070(b) is amended to read:

8 (b) The district judge or magistrate shall hold the money in
9 trust for the owner of the property and shall pay it to the owner upon
10 the latter's making a written, verified claim to it, with proof of his
11 ownership, within six months after the date of the sale. If no claim
12 is made within six months after the date of the sale, he shall immedi-
13 ately pay the excess proceeds to the Department of Revenue. The
14 Department of Revenue shall deposit the excess proceeds in the state
15 treasury, and the owner [, WITHIN SEVEN YEARS AFTER THE DEPOSIT,] may
16 at any time after that deposit file a claim with the commissioner
17 under AS 09.51.180 - 09.51.190 and recover the money from the state.
18 Any person aggrieved by a decision of the commissioner may appeal to
19 the superior court under AS 09.51.200 to establish his claim.

20 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).