

Offered: 4/11/86
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 182 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the disposition of unclaimed
7 property."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 06.05.470(x) is amended to read:
10 (x) Unclaimed funds remaining after the completion of the liq-
11 uidation by the department shall be handled in accordance with AS 34.-
12 45.110 - 34.45.780 [RETAINED FOR FIVE YEARS BY IT UNLESS SOONER
13 CLAIMED BY THE OWNER. AFTER THAT, THE REMAINING SUM SHALL BE TRANS-
14 FERRED TO THE GENERAL FUND].
15 * Sec. 2. AS 06.25.085 is amended to read:
16 Sec. 06.25.085. APPLICATION OF GENERAL BANKING LAWS. The pro-
17 visions of AS 06.05.005 - 06.05.085, 06.05.090 06.05.270, 06.05.307,
18 06.05.320 - 06.05.327, 06.05.405 - 06.05.425, 06.05.440 - 06.05.445,
19 [06.05.460,] 06.05.462, 06.05.465 - 06.05.515 and 06.05.525 - 06.05.-
20 545 apply to all trust companies engaged in any phase of the business
21 of banking as that term is defined by AS 06.05.540(3) or AS 06.25.100.
22 * Sec. 3. AS 10.15.520 is amended to read:
23 Sec. 10.15.520. DEPOSIT WITH DEPARTMENT OF AMOUNT DUE PERSONS
24 WHO CANNOT BE FOUND. Upon the voluntary or involuntary dissolution of
25 a cooperative, the portion of the assets distributable to a creditor,
26 member, shareholder or patron or other person unknown or who cannot be
27 found, or who is under a disability with [AND THERE IS] no person
28 legally competent to receive the distributive portion, shall be re-
29 duced to cash, and within six months after the final dividend in the

1 liquidation or winding up is payable, shall be deposited with the
2 department. The receiver or other liquidating agent shall prepare in
3 duplicate and under oath a statement containing the names and last
4 known addresses of the persons entitled to the funds, and shall file
5 the statement with the department. The department shall handle the
6 funds in accordance with AS 34.45.110 - 34.45.780 [THE FUNDS SHALL
7 THEREUPON ESCHEAT TO AND BECOME THE PROPERTY OF THE STATE. THE OWNER,
8 OR THE OWNER'S HEIRS OR PERSONAL REPRESENTATIVES, MAY RECLAIM ANY
9 FUNDS SO DEPOSITED IN THE MANNER PROVIDED FOR ESTATES WHICH HAVE
10 ESCHEATED TO THE STATE].

11 * Sec. 4. AS 12.36.030(b) is repealed and reenacted to read:

12 (b) The law enforcement agency shall dispose of that part of the
13 property referenced in (a) of this section that is

14 (1) subject to AS 34.45.110 - 34.45.780 in accordance with
15 AS 34.45.110 - 34.45.780;

16 (2) not subject to AS 34.45.110 - 34.45.780 by selling the
17 property in the same manner as a sale upon execution; after paying the
18 expenses for the preservation and sale of the property, the law en-
19 forcement agency shall dispose of the proceeds of the sale in the same
20 manner as money collected upon a judgment.

21 * Sec 5. AS 13.11.025 is amended to read:

22 Sec. 13.11.025. NO TAKER. If there is no taker under the pro-
23 visions of this chapter [,]

24 (1) personal property in the intestate estate passes to the
25 state and is subject to AS 34.45.280 - 34.45.780; if notice to heirs,
26 substantially equivalent to that required by AS 34.45.310, has been
27 given by the personal representative or other person, AS 34.45.310
28 does not apply;

29 (2) real property in the intestate estate passes to the

1 state and is subject to AS 38.95.200 - 38.95.270.

2 * Sec. 6. AS 13.16 is amended by adding a new section to read:

3 Sec. 13.16.381. DISPOSITION OF UNCLAIMED ESTATE BY PERSONAL

4 REPRESENTATIVE. When there is no taker of an intestate estate, or if

5 an heir, devisee, or claimant cannot be found and the missing person

6 has no conservator, the personal representative shall handle the

7 (1) unclaimed personal property of the estate in accordance

8 with AS 34.45.280 - 34.45.780; and

9 (2) unclaimed real property of the estate in accordance with

10 AS 38.05.

11 * Sec. 7. AS 13.16.600(a) is amended to read:

12 (a) If an heir, devisee, or claimant cannot be found, the per-

13 sonal representative shall distribute the share of personal property

14 of the missing person to the person's conservator, or if the person

15 has no conservator [ANY, OTHERWISE] to the Department [COMMISSIONER]

16 of Revenue to be deposited in the general fund as required by AS 34.-

17 45.370. Property distributable to the Department of Revenue under

18 this subsection is subject to AS 34.45.280 - 34.45.780. If notice to

19 the heir, devisee, or claimant, substantially equivalent to that

20 required by AS 34.45.310, has been given by the personal representa-

21 tive or other person, AS 34.45.310 does not apply [TO BECOME A PART OF

22 THE STATE ESCHEAT FUND].

23 * Sec. 8. AS 13.16.600(b) is repealed and reenacted to read:

24 (b) Real property distributable to a missing heir, devisee, or

25 claimant shall be distributed first to the conservator of the heir,

26 devisee, or claimant; if the heir, devisee, or claimant has no conser-

27 vator, the real property passes to the state. Real property reported

28 under this section is subject to AS 38.95.200 - 38.95.270.

29 * Sec. 9. AS 34.45.030 is amended to read:

1 Sec. 34.45.030. SALE. If [THE] property held by a person de-
2 scribed in AS 34.45.010 is not claimed and taken away within one year
3 after the time it is received, the person having possession of the
4 property may sell the property in the manner provided in AS 34.45.-
5 010 - 34.45.080, except that property described in AS 34.45.110 -
6 34.45.260 shall be reported to the Department of Revenue under AS 34.-
7 45.280 and is subject to AS 34.45.290 - 34.45.780 [THIS CHAPTER].

8 * Sec. 10. AS 34.45.070(b) is amended to read:

9 (b) The district judge or magistrate shall hold the money in
10 trust for the owner of the property and shall pay it to the owner upon
11 the latter's making a written, verified claim to it, with proof of
12 ownership, within one year [SIX MONTHS] after the date of the sale.
13 If no claim is made within one year [SIX MONTHS] after the date of the
14 sale, the district judge or magistrate shall immediately pay the
15 excess proceeds to the Department of Revenue. Excess proceeds that
16 are required to be paid over to the Department of Revenue under this
17 section, are subject to AS 34.45.280 and 34.45.330 - 34.45.780. [THE
18 DEPARTMENT OF REVENUE SHALL DEPOSIT THE EXCESS PROCEEDS IN THE STATE
19 TREASURY, AND THE OWNER, WITHIN SEVEN YEARS AFTER THE DEPOSIT, MAY
20 RECOVER THE MONEY FROM THE STATE.]

21 * Sec. 11. AS 34.45 is amended by adding new sections to read:

22 ARTICLE 2. PERSONAL PROPERTY PRESUMED ABANDONED; GENERAL RULES.

23 Sec. 34.45.110. GENERAL RULE FOR PROPERTY PRESUMED ABANDONED.

24 (a) Except as otherwise provided in AS 34.45.120 - 34.45.780, all
25 intangible property, including income or increment derived from the
26 property, less lawful charges, that is held, issued, or owing in the
27 ordinary course of a holder's business and has remained unclaimed by
28 the owner for more than five years after becoming payable or distrib-
29 utable is presumed abandoned.

1 (b) Property is payable or distributable for the purposes of
2 AS 34.45.120 - 34.45.780 even if the owner failed to demand the prop-
3 erty or to present an instrument or document required to receive
4 payment of the property.

5 Sec. 34.45.120. GENERAL RULES FOR TAKING CUSTODY OF UNCLAIMED
6 INTANGIBLE PROPERTY. Unless otherwise provided in this chapter or by
7 another statute of the state, intangible property is subject to the
8 custody of the state as unclaimed property if the conditions raising a
9 presumption of abandonment under AS 34.45.110 or 34.45.140 - 34.45.260
10 are satisfied and

11 (1) the last known address of the apparent owner, as shown
12 on the records of the holder, is in the state;

13 (2) the records of the holder do not reflect the identity
14 of the person entitled to the property and it is established that the
15 last known address of the person entitled to the property is in the
16 state;

17 (3) the records of the holder do not reflect the last known
18 address of the apparent owner, and it is established that

19 (A) the last known address of the person entitled to
20 the property is in the state, or

21 (B) the holder is a domiciliary or a government or
22 governmental subdivision or agency, including a municipality, of
23 the state and has not previously paid or delivered the property
24 to the state of the last known address of the apparent owner or
25 other person entitled to the property;

26 (4) the last known address of the apparent owner, as shown
27 on the records of the holder, is in a state that either does not
28 provide by law for the escheat or custodial taking of the property, or
29 its escheat or unclaimed property law is not applicable to the

1 property, and the holder is a domiciliary, government, or governmental
2 subdivision or agency, including a municipality, of the state;

3 (5) the last known address of the apparent owner, as shown
4 on the records of the holder, is in a foreign nation and the holder is
5 a domiciliary, government, or governmental subdivision, including a
6 municipality, or agency of the state; or

7 (6) the transaction out of which the property arose oc-
8 curred in the state and

9 (A) the last known address of the apparent owner or
10 other person entitled to the property is unknown, or the last
11 known address of the apparent owner or other person entitled to
12 the property is in a state that either does not provide by law
13 for the escheat or custodial taking of the property or its es-
14 cheat or unclaimed property law does not apply to the property,
15 and

16 (B) the holder is a domiciliary of a state that either
17 does not provide by law for the escheat or custodial taking of
18 the property or its escheat or unclaimed property law does not
19 apply to the property.

20 ARTICLE 3. CONDITIONS LEADING TO PRESUMPTION OF ABANDONMENT OF
21 PARTICULAR TYPES OF PERSONAL PROPERTY.

22 Sec. 34.45.140. TRAVELER'S CHECKS AND MONEY ORDERS. (a) Sub-
23 ject to (d) of this section, money payable on a traveler's check that
24 has been outstanding for more than 15 years after its issuance is
25 presumed abandoned unless the owner, within the preceding 15 years,
26 has communicated in writing with the issuer concerning it or otherwise
27 indicated an interest as evidenced by a memorandum or other record, on
28 file, prepared by an employee of the issuer.

29 (b) Subject to (d) of this section, money payable on a money

1 order or similar written instrument, other than a third-party bank
2 check, that has been outstanding for more than seven years after its
3 issuance is presumed abandoned unless the owner, within the preceding
4 seven years, has communicated in writing with the issuer concerning it
5 or otherwise indicated an interest as evidenced by a memorandum or
6 other record, on file, prepared by an employee of the issuer.

7 (c) A holder may not deduct from the amount of a traveler's
8 check or money order a charge imposed for failure to present the
9 instrument for payment unless there is a valid and enforceable written
10 contract between the issuer and the owner of the instrument under
11 which the issuer may impose a charge, and the issuer regularly imposes
12 charges and does not regularly reverse or otherwise cancel them.

13 (d) Money payable on a traveler's check, money order, or similar
14 written instrument, other than a third-party bank check, described in
15 (a) and (b) of this section, is not subject to the custody of the
16 state as unclaimed property unless

17 (1) the records of the issuer show that the traveler's
18 check, money order, or similar written instrument was purchased in the
19 state;

20 (2) the issuer has its principal place of business in the
21 state and the records of the issuer do not show the state in which the
22 traveler's check, money order, or similar written instrument was pur-
23 chased; or

24 (3) the issuer has its principal place of business in the
25 state, the records of the issuer show the state in which the travel-
26 er's check, money order, or similar written instrument was purchased
27 and the state of purchase either does not provide by law for the
28 escheat or custodial taking of the property or its escheat or un-
29 claimed property law is not applicable to the property.

1 (e) Notwithstanding any other provision of AS 34.45.110 - 34.-
2 45.780, (d) of this section applies to money payable on traveler's
3 checks, money orders, and similar written instruments, other than a
4 third-party bank check, presumed abandoned after January 31, 1965,
5 except to the extent that those sums have been paid over to a state
6 before January 1, 1974.

7 Sec. 34.45.150. CHECKS, DRAFTS, AND SIMILAR INSTRUMENTS ISSUED
8 OR CERTIFIED BY BANKING AND FINANCIAL ORGANIZATIONS. (a) Other than
9 money payable on an instrument that is subject to AS 34.45.140, money
10 payable on a check, draft, or similar instrument on which a banking or
11 financial organization is directly liable, including a cashier's check
12 and a certified check, that has been outstanding for more than five
13 years after it was payable or after its issuance if payable on demand,
14 is presumed abandoned. This presumption does not apply if the owner,
15 within the preceding five years, has communicated in writing with the
16 banking or financial organization concerning the instrument or has
17 otherwise indicated an interest as evidenced by a memorandum or other
18 record, on file, prepared by an employee of the organization.

19 (b) A holder may not deduct from the amount of an instrument
20 subject to this section a charge imposed for failure to present the
21 instrument for payment unless there is a valid and enforceable written
22 contract between the holder and the owner of the instrument under
23 which the holder may impose a charge, and the holder regularly imposes
24 the charges and does not regularly reverse or otherwise cancel them.

25 Sec. 34.45.160. BANK DEPOSITS AND MONEY IN FINANCIAL ORGANIZA-
26 TIONS. (a) A demand, savings, or matured time deposit with a banking
27 or financial organization, including a deposit that is automatically
28 renewable, and money paid toward the purchase of a share, a mutual
29 investment certificate, or other intangible property interest in a

1 banking or financial organization is presumed abandoned unless the
2 owner, within the preceding seven years has,

3 (1) in the case of a deposit, increased or decreased its
4 amount or presented the passbook or other similar evidence of the
5 deposit for the crediting of interest;

6 (2) communicated in writing with the banking or financial
7 organization concerning the property;

8 (3) otherwise indicated an interest in the property as
9 evidenced by a memorandum or other record, on file, prepared by an em-
10 ployee of the banking or financial organization;

11 (4) owned other property to which (1), (2), or (3) of this
12 subsection applies and the banking or financial organization has
13 communicated in writing with the owner with regard to the property
14 that would otherwise be presumed abandoned under this subsection at
15 the address to which communications regarding the other property are
16 regularly sent; or

17 (5) had another relationship with the banking or financial
18 organization concerning which the owner has

19 (A) communicated in writing with the banking or finan-
20 cial organization or otherwise indicated an interest as evidenced
21 by a memorandum or other record, on file, prepared by an employee
22 of the banking or financial organization; and

23 (B) the banking or financial organization communicates
24 in writing with the owner with regard to the property that would
25 otherwise be abandoned under this subsection at the address to
26 which communications regarding the other relationship regularly
27 are sent.

28 (b) A holder may not impose, with respect to property described
29 in (a) of this section, a charge due to dormancy or inactivity, or

1 cease payment of interest.

2 (c) Property described in (a) of this section that is automat-
3 ically renewable is matured for purposes of (a) of this section upon
4 the expiration of its initial time period. However, in the case of a
5 renewal to which the owner consents at or about the time of renewal by
6 communicating in writing with the banking or financial organization or
7 by otherwise indicating consent as evidenced by a memorandum or other
8 record on file, prepared by an employee of the organization, the prop-
9 erty is matured upon the expiration of the last time period for which
10 consent was given. If, at the time provided for delivery in AS 34.-
11 45.320, a penalty or forfeiture in the payment of interest would
12 result from the delivery of the property, the time for delivery is
13 extended until the time when no penalty or forfeiture would result.

14 (d) For purposes of this section, "property" includes interest
15 and dividends.

16 Sec. 34.45.170. MONEY OWING UNDER LIFE INSURANCE POLICIES. (a)
17 Money held or owing under a life or endowment insurance policy or
18 annuity contract that has matured or terminated is presumed abandoned
19 if unclaimed for more than five years after the money became due and
20 payable as established from the records of the insurance company
21 holding or owing the money. However, property described in (c)(2) of
22 this section is presumed abandoned if unclaimed for more than two
23 years.

24 (b) If a person other than the insured or annuitant is entitled
25 to the money and the address of that person is not known to the compa-
26 ny, or it is not definite and certain from the records of the company
27 who is entitled to the money, it is presumed that the last known
28 address of the person entitled to the money is the same as the last
29 known address of the insured or annuitant according to the records of

1 the company.

2 (c) For purposes of this section, a life or endowment insurance
3 policy or annuity contract not matured by actual proof of the death of
4 the insured or annuitant according to the records of the company is
5 matured and the proceeds are due and payable if

6 (1) the company knows that the insured or annuitant has
7 died; or

8 (2) the insured has attained, or would have attained if
9 still living, the limiting age under the mortality table on which the
10 reserve is based and

11 (A) the policy was in force at the time the insured
12 attained, or would have attained, the limiting age; and

13 (B) neither the insured nor another person appearing
14 to have an interest in the policy has, within the preceding two
15 years, according to the records of the company, assigned, read-
16 justed, or paid premiums on the policy, subjected the policy to a
17 loan, corresponded in writing with the company concerning the
18 policy, or otherwise indicated an interest as evidenced by a
19 memorandum or other record, on file, prepared by an employee of
20 the company.

21 (d) For purposes of this section, the application of an automat-
22 ic premium loan provision or other nonforfeiture provision contained
23 in an insurance policy does not prevent a policy from being matured or
24 terminated under (a) of this section if the insured has died or the
25 insured or the beneficiary of the policy otherwise has become entitled
26 to the proceeds of the policy before the depletion of the cash surren-
27 der value of a policy by the application of those nonforfeiture pro-
28 visions.

29 (e) If the laws of the state or the terms of the life insurance

1 policy require the company to give notice to the insured or the owner
2 that an automatic premium loan provision or other nonforfeiture pro-
3 vision has been exercised and the notice is to be given to an insured
4 or owner whose last known address, according to the records of the
5 company, is in the state but is undeliverable, the company shall make
6 a reasonable search to ascertain the policyholder's correct address to
7 which the notice must be mailed.

8 (f) Notwithstanding any other provision of law, if the company
9 learns of the death of the insured or annuitant and the beneficiary
10 has not communicated with the insurer within four months after the
11 death, the company shall take reasonable steps to pay the proceeds to
12 the beneficiary.

13 (g) Commencing two years after the effective date of this Act,
14 every change-of-beneficiary form issued by an insurance company under
15 a life or endowment insurance policy or annuity contract to an insured
16 or owner who is a resident of the state must request the following
17 information:

18 (1) the name of each beneficiary, or if a class of benefi-
19 ciaries is named, the name of each current beneficiary in the class;

20 (2) the address of each beneficiary; and

21 (3) the relationship of each beneficiary to the insured.

22 Sec. 34.45.180. DEPOSITS HELD BY UTILITIES. A deposit, includ-
23 ing interest on the deposit, made by a subscriber with a utility to
24 secure payment, or money paid in advance for utility services to be
25 furnished, less lawful deductions, that remains unclaimed by the owner
26 for more than one year after the termination of the services for which
27 the deposit or advance payment was made is presumed abandoned.

28 Sec. 34.45.190. REFUNDS HELD BY BUSINESS ASSOCIATIONS. Except
29 to the extent otherwise ordered by a court or administrative agency,

1 money that a business association has been ordered by the court or
2 administrative agency to refund is presumed abandoned if it remains
3 unclaimed by the owner for more than one year after it became payable
4 in accordance with the final determination or order providing for the
5 refund, regardless of whether the final determination or order re-
6 quires the owner to make a claim for it.

7 Sec. 34.45.200. STOCK AND OTHER INTANGIBLE INTERESTS IN BUSINESS
8 ASSOCIATIONS. (a) Except as otherwise provided in AS 34.35.210 and
9 (b) and (e) of this section, stock or other intangible ownership
10 interest in a business association, the existence of which is evi-
11 denced by records available to the association, is presumed abandoned
12 and, with respect to the ownership interest, the association is the
13 holder, if a dividend, distribution, or other money payable as a
14 result of the interest has remained unclaimed by the owner for seven
15 years after the money became payable, and the owner, within that seven
16 years, has not

17 (1) communicated in writing with the association regarding
18 the ownership interest or a dividend, distribution, or other money
19 payable as a result of the interest; or

20 (2) otherwise communicated with the association regarding
21 the ownership interest or a dividend, distribution, or other money
22 payable as a result of the interest, as evidenced by a memorandum or
23 other record, on file with the association, prepared by an employee of
24 the association.

25 (b) At the expiration of a seven-year period following the
26 failure of the owner to claim a dividend, distribution, or other money
27 payable to the owner as a result of the ownership interest, the inter-
28 est is not presumed abandoned unless there have been at least seven
29 dividends, distributions, or other payments paid during the period,

1 none of which has been claimed by the owner. If seven dividends,
2 distributions, or other payments are paid during the seven-year peri-
3 od, the ownership interest is presumed abandoned at the end of the
4 seven-year period. If seven dividends, distributions, or other pay-
5 ments are not paid during the seven-year period, the period continues
6 to run until there have been seven dividends, distributions, or other
7 payments that have not been claimed by the owner.

8 (c) The running of the seven-year period of abandonment ceases
9 immediately upon the occurrence of a communication described in (a) of
10 this section. If a subsequent dividend, distribution, or other money
11 payable to the owner as a result of the ownership interest is not
12 claimed by the owner, a new seven-year period of abandonment commences
13 at the time that subsequent dividend, distribution, or other money
14 became due and payable.

15 (d) At the time an ownership interest is presumed abandoned
16 under this section, all dividends, distributions, or other money then
17 held for or owing to the owner as a result of the ownership interest,
18 and not previously presumed abandoned, are presumed abandoned.

19 (e) This section does not apply to a stock or other intangible
20 ownership interest enrolled in a plan that provides for the automatic
21 reinvestment of dividends, distributions, or other money payable as a
22 result of the interest, unless the records available to the adminis-
23 trator of the plan show, with respect to another intangible ownership
24 interest not enrolled in the reinvestment plan, that the owner has not
25 within seven years communicated in a manner described in (a) of this
26 section.

27 Sec. 34.45.210. PROPERTY OF BUSINESS ASSOCIATIONS HELD IN COURSE
28 OF DISSOLUTION. Except for intangible property distributable under
29 AS 06.05.465, intangible property distributable in the course of a

1 dissolution of a business association that remains unclaimed by the
2 owner for more than one year after the date specified for final dis-
3 tribution is presumed abandoned.

4 Sec. 34.45.220. PROPERTY HELD BY AGENTS AND FIDUCIARIES. (a)
5 Intangible property and income or increment derived from the intan-
6 gible property held in a fiduciary capacity for the benefit of another
7 person is presumed abandoned unless the owner, within five years after
8 it has become payable or distributable, has increased or decreased the
9 principal, accepted payment of principal or income, communicated
10 concerning the property, or otherwise indicated an interest as evi-
11 denced by a memorandum or other record, on file, prepared by the fidu-
12 ciary.

13 (b) Money in an individual retirement account or a retirement
14 plan for self-employed individuals or similar account or plan estab-
15 lished under the internal revenue laws of the United States is not
16 payable or distributable within the meaning of (a) of this section
17 unless, under the terms of the account or plan, distribution of all or
18 part of the funds would then be mandatory.

19 (c) For the purpose of this section, a person who holds property
20 as an agent for a business association is considered as holding the
21 property in a fiduciary capacity for that business association alone,
22 unless the agreement between that person and the business association
23 provides otherwise.

24 (d) For the purposes of this chapter, a person who is considered
25 as holding property in a fiduciary capacity for a business association
26 alone is the holder of the property only so far as the interest of the
27 business association in the property is concerned, and the business
28 association is the holder of the property so far as the interest of
29 another person in the property is concerned.

1 Sec. 34.45.230. PROPERTY HELD BY COURTS AND PUBLIC AGENCIES.
2 Intangible property held for the owner by a court, state, municipality
3 or other government, governmental subdivision or agency, public corpo-
4 ration, or public authority, that remains unclaimed by the owner for
5 more than one year after becoming payable or distributable, is pre-
6 sumed abandoned.

7 Sec. 34.45.240. GIFT CERTIFICATES AND CREDIT MEMOS. (a) A gift
8 certificate or a credit memo, issued in the ordinary course of an
9 issuer's business, that remains unclaimed by the owner for more than
10 five years after becoming payable or distributable is presumed aban-
11 doned.

12 (b) In the case of a gift certificate, the amount presumed
13 abandoned is the price paid by the purchaser for the gift certificate.
14 In the case of a credit memo, the amount presumed abandoned is the
15 amount credited to the recipient of the memo.

16 Sec. 34.45.250. WAGES. Unpaid wages, including wages represent-
17 ed by unrepresented payroll checks, owing in the ordinary course of the
18 holder's business and that remain unclaimed by the owner for more than
19 one year after becoming payable are presumed abandoned.

20 Sec. 34.45.260. CONTENTS OF SAFE DEPOSIT BOX OR OTHER SAFEKEEP-
21 ING REPOSITORY. All tangible and intangible personal property held in
22 a safe deposit box or other safekeeping repository in a financial
23 organization in the state in the ordinary course of the holder's
24 business, and proceeds resulting from the sale of the property permit-
25 ted by other law, that remain unclaimed by the owner for more than one
26 year after the lease or rental period on the box or other repository
27 has expired, are presumed abandoned.

28 ARTICLE 4. REPORTING AND DISPOSITION OF PERSONAL PROPERTY.

29 Sec. 34.45.280. REPORT OF ABANDONED PERSONAL PROPERTY. (a) A

1 person holding personal property, tangible or intangible, presumed
2 abandoned and subject to custody as unclaimed property under AS 34.-
3 45.110 - 34.45.430, shall report to the department concerning the
4 property as provided in this section.

5 (b) The report must be verified and must include

6 (1) except with respect to traveler's checks and money
7 orders, the name, if known, and last known address, if any, of each
8 person appearing from the records of the holder to be the owner of
9 property, the value of which is \$25 or more, presumed abandoned under
10 AS 34.45.110 - 34.45.430 and other statutes specifically made subject
11 to this reporting requirement;

12 (2) in the case of unclaimed money amounting to \$25 or
13 more, held or owing under a life or endowment insurance policy or
14 annuity contract, the full name and last known address of the insured
15 or annuitant and of the beneficiary according to the records of the
16 insurance company holding or owing the funds;

17 (3) in the case of the contents of a safe deposit box or
18 other safekeeping repository or of other tangible personal property, a
19 description of the property and the place where it is held and may be
20 inspected by the department, and any amounts owing to the holder;

21 (4) the nature and identifying number, if any, or descrip-
22 tion of the property and the amount appearing from the records to be
23 due; items of value under \$25 each may be reported in the aggregate;

24 (5) the date the property became payable, demandable, or
25 returnable, and the date of the last transaction with the apparent
26 owner with respect to the property; and

27 (6) other information that the department prescribes by
28 regulation as necessary for the administration of this chapter.

29 (c) If the holder of property presumed abandoned and subject to

1 custody as unclaimed property is a successor to other persons who
2 previously held the property for the apparent owner, or the holder has
3 changed the holder's name while holding the property, the holder shall
4 file with the holder's report all known names and addresses of each
5 previous holder of the property.

6 (d) The report required under (a) of this section shall be filed
7 before November 1 of each year for unclaimed property held as of June
8 30 of that year, but the report of a life insurance company shall be
9 filed before May 1 of each year for unclaimed property held as of
10 December 31 of the preceding year. On written request by a person
11 required to file a report, the commissioner may postpone the reporting
12 date.

13 (e) Not more than 120 days before filing the report required by
14 this section, the holder in possession of property presumed abandoned
15 and subject to custody as unclaimed property under AS 34.45.110 -
16 34.45.430 shall send written notice to the apparent owner at the
17 owner's last known address informing the owner that the holder is in
18 possession of property subject to this chapter if

19 (1) the holder has in its records an address for the appar-
20 ent owner that the holder believes to be accurate,

21 (2) the claim of the apparent owner is not barred by the
22 statute of limitations, and

23 (3) the property has a value of \$50 or more.

24 (f) The requirements of this section do not apply to the holder
25 of gift certificates and credit memos that are presumed abandoned
26 under AS 34.45.240 during the year preceding June 30 of each year if
27 the total aggregate value of the certificates and memos is less than
28 \$250.

29 Sec. 34.45.290. REQUESTS FOR REPORTS AND EXAMINATION OF RECORDS.

1 (a) The department may require a person who has not filed a report
2 under AS 34.45.280 to file a verified report stating whether the
3 person is holding unclaimed property reportable or deliverable under
4 AS 34.45.110 - 34.45.780.

5 (b) The department, at reasonable times and upon reasonable
6 notice, may examine the records of a person if the department has
7 reason to believe that the person has not complied with the provisions
8 of this chapter. The department may conduct the examination even if
9 the person believes that the person does not possess property report-
10 able or deliverable under this chapter. The department may use the
11 information obtained under this subsection only for the purposes of
12 this chapter. The department, or a current or former officer, em-
13 ployee, or agent of the department, may not disclose information that
14 is viewed or obtained during the course of an examination under this
15 subsection and that is confidential under state or federal law or
16 regulation, unless the disclosure is necessary to carry out the pur-
17 poses of this chapter.

18 (c) If a person is treated under AS 34.45.220 as the holder of
19 the property only so far as the interest of the business association
20 in the property is concerned, the department, under (b) of this sec-
21 tion, may examine the records of the person if the department has
22 given the notice required by (b) of this section to both the person
23 and the business association.

24 (d) If, after the effective date of this Act, a holder fails to
25 maintain the records required by AS 34.45.300 and the records of the
26 holder available for the periods subject to AS 34.45.110 - AS 34.-
27 45.780 are insufficient to permit the preparation of a report, the
28 department may require the holder to report and pay the amount that is
29 reasonably estimated from the available records.

1 Sec. 34.45.300. RETENTION OF RECORDS. (a) Every holder re-
2 quired to file a report under AS 34.45.280, shall, if it has obtained
3 the last known address of the owner, maintain a record of the name and
4 last known address of the owner for 10 years after the property be-
5 comes reportable, unless a shorter time period is provided in (b) of
6 this section or by regulations adopted by the department.

7 (b) A business association that sells, or provides such instru-
8 ments to others for sale, in the state its traveler's checks, money
9 orders, or other similar written instruments, other than third-party
10 bank checks on which the business association is directly liable,
11 shall maintain a record of the instruments while they remain outstand-
12 ing, indicating the state and date of issue, for three years after the
13 date the property is reportable.

14 Sec. 34.45.310. NOTICE AND PUBLICATION OF LISTS OF ABANDONED
15 PROPERTY. (a) The department shall publish a notice not later than
16 the March 1 following the submission of the report required by AS 34.-
17 45.280, or in the case of property reported by life insurance com-
18 panies, not later than the September 1 following the submission of the
19 report. The notice shall be published at least once a week for two
20 consecutive weeks in a newspaper of general circulation in the area of
21 the state in which the last known address of a person to be named in
22 the notice is located. If no address is listed or the address is
23 outside the state, the notice shall be published in a newspaper of
24 general circulation in the area in which the holder of property has
25 its principal place of business in the state.

26 (b) The published notice must be entitled "Notice of Names of
27 Persons Appearing to be Owners of Abandoned Property" and must contain

28 (1) the names, in alphabetical order, and last known ad-
29 dress, if any, of persons listed in the reports and entitled to notice

1 within the area as specified in (a) of this section;

2 (2) a statement that information concerning the property
3 and the name and last known address of the holder may be obtained by
4 addressing an inquiry to the department; and

5 (3) a statement that if proof of claim is not presented by
6 the owner to the holder, and the owner's right to receive the property
7 is not established to the holder's satisfaction before April 20 of the
8 year of publication, or, in the case of property reported by a life
9 insurance company, before October 20, the property will be placed not
10 later than May 1 of that year, or in the case of property reported by
11 a life insurance company, not later than November 1, in the custody of
12 the department and all further claims shall be directed to the depart-
13 ment after that placement.

14 (c) The department is not required to publish in the notice an
15 item of less than \$50 in value unless the department considers the
16 publication of the item to be in the public interest.

17 (d) Not later than the March 1 following submission of the
18 report required by AS 34.45.280, or in the case of property reported
19 by a life insurance company, not later than the September 1 following
20 the submission of the report, the department shall mail a notice to
21 each person whose last known address is listed in the report and who
22 appears to be entitled to property of the value of \$50 or more pre-
23 sumed abandoned under this chapter, and to any beneficiary of a life
24 or endowment insurance policy or annuity contract for whom the depart-
25 ment has a last known address.

26 (e) The mailed notice must contain

27 (1) a statement that, according to a report filed with the
28 department, property to which the addressee appears entitled is being
29 held;

1 (2) the name and last known address of the person holding
2 the property and information regarding the changes of name and last
3 known address of the holder; and

4 (3) a statement that, if satisfactory proof of claim is not
5 presented by the owner to the holder by the date specified in the
6 published notice, the property will be placed in the custody of the
7 department and all further claims must be directed to the department.

8 (f) This section does not apply to money payable on traveler's
9 checks, money orders, and other written instruments presumed abandoned
10 under AS 34.45.140.

11 Sec. 34.45.320. PAYMENT OR DELIVERY OF ABANDONED PROPERTY. (a)
12 Except as otherwise provided in (b) and (c) of this section, a person
13 who is required to file a report under AS 34.45.280, shall, within six
14 months after the final date for filing the report under that section,
15 pay or deliver to the department all abandoned property required to be
16 reported.

17 (b) If the owner establishes the right to receive the abandoned
18 property to the satisfaction of the holder before the property has
19 been delivered or if it appears that the presumption of abandonment is
20 erroneous, the holder need not pay or deliver the property to the
21 department, and the property is no longer presumed abandoned. The
22 holder shall file with the department a verified written explanation
23 of the proof of claim or of the error in the presumption of abandon-
24 ment.

25 (c) Property reported under AS 34.45.280 for which the holder is
26 not required to report the name of the apparent owner shall be de-
27 livered to the department when the report is filed.

28 (d) The holder of an ownership interest under AS 34.45.200 shall
29 deliver a duplicate certificate, or other evidence of ownership if the

1 holder does not issue certificates of ownership, to the department.
2 Upon delivery of a duplicate certificate to the department, the holder
3 and a transfer agent, registrar, or other person acting for or on
4 behalf of a holder in executing or delivering the duplicate certifi-
5 cate is relieved of all liability, in accordance with the provisions
6 of AS 34.45.330 to every person, including a person acquiring the
7 original certificate or the duplicate of the certificate issued to the
8 department, for loss or damage resulting to a person by the issuance
9 and delivery to the department of the duplicate certificate.

10 Sec. 34.45.330. CUSTODY BY STATE. (a) Upon the payment or
11 delivery of property to the department, the state assumes custody and
12 responsibility for the safekeeping of the property. A person who pays
13 or delivers property to the department in good faith is relieved of
14 all liability to the extent of the value of the property paid or
15 delivered for a claim existing at the time of the payment or delivery
16 or that may arise or be made with respect to the property after the
17 payment or delivery.

18 (b) A holder who has paid money to the department under AS 34.-
19 45.110 - 34.45.430 may make payment to a person appearing to the
20 holder to be entitled to payment. Upon receiving proof of payment
21 from the holder and proof that the payee was entitled to the payment,
22 the department shall promptly reimburse the holder for the payment
23 without imposing a fee or other charge. If reimbursement is sought
24 for a payment made on a negotiable instrument, including a traveler's
25 check or money order, the department shall reimburse the holder under
26 this subsection when the holder files proof that the instrument was
27 presented and that payment was made to a person who appeared to the
28 holder to be entitled to payment. The department shall reimburse the
29 holder for payment made under this subsection even if the holder paid

1 a person whose claim was barred under AS 34.45.430.

2 (c) A holder who has delivered property, including a certificate
3 of an ownership interest in a business association, other than money
4 to the department under AS 34.45.110 - 34.45.430, may reclaim the
5 property if it is still in the possession of the department, without
6 payment of a fee or other charge, upon filing proof that the owner has
7 claimed the property from the holder.

8 (d) The department may accept the holder's affidavit as suffi-
9 cient proof of the facts that entitle the holder to recover money and
10 property under this section.

11 (e) If a holder pays or delivers property to the department in
12 good faith and another person subsequently claims the property from
13 the holder or another state claims the property under the laws of the
14 other state relating to escheat or unclaimed property, the department,
15 upon receiving written notice of the claim, shall defend the holder
16 against the claim and indemnify the holder against liability on the
17 claim.

18 (f) Property removed from a safe deposit box or other safekeep-
19 ing repository is received by the department subject to the holder's
20 right under this subsection to be reimbursed for the actual cost of
21 the opening and to a valid lien or contract providing for the holder
22 to be reimbursed for unpaid rent or storage charges. For charges
23 other than the actual cost of the opening, the department shall reim-
24 burse or pay the holder an amount no greater than the value of the
25 property recovered less the department's selling cost.

26 (g) For the purposes of this section, "good faith" means that

27 (1) payment or delivery was made in a reasonable attempt to
28 comply with this chapter;

29 (2) the person delivering the property was not a fiduciary

1 then in breach of trust in respect to the property, and had a reason-
2 able basis for believing, based on the facts then known to the person,
3 that the property was abandoned for the purposes of this chapter; and

4 (3) there is no showing that the records under which the
5 delivery was made did not meet reasonable commercial standards of
6 practice in the industry.

7 Sec. 34.45.340. CREDITING OF DIVIDENDS, INTEREST, OR INCREMENTS
8 TO OWNER'S ACCOUNT. Except as provided under AS 34.45.360(d) for
9 appreciation of securities, if property other than money is paid or
10 delivered to the department under AS 34.45.110 - 34.45.430, the owner
11 is entitled to receive from the department dividends, interest, or
12 other increments realized or accruing on the property at or before the
13 department's liquidation or conversion of the property into money.

14 ARTICLE 5. ADMINISTRATION OF ABANDONED PROPERTY.

15 Sec. 34.45.360. PUBLIC SALE OF ABANDONED PROPERTY. (a) Except
16 as provided in (c) and (d) of this section, the department, within
17 three years after receiving abandoned property, shall sell it to the
18 highest bidder at public sale in the area of the state that the de-
19 partment determines to be the most favorable market for the property
20 involved. The department may decline the highest bid and reoffer the
21 property for sale if in the judgment of the department the bid is
22 insufficient. If in the judgment of the department the probable cost
23 of sale exceeds the value of the property, the department need not
24 offer the property for sale. A sale held under this section shall be
25 preceded by a single publication of notice, at least three weeks in
26 advance of sale, in a newspaper of general circulation in the general
27 area in which the property is to be sold.

28 (b) Securities listed on an established stock exchange must be
29 sold at prices prevailing at the time of sale on the exchange. Other

1 securities may be sold over the counter at prices prevailing at the
2 time of sale or by another method the department considers advisable.

3 (c) Unless the department considers it to be in the best inter-
4 est of the state to do otherwise, the department shall hold all secu-
5 rities that have been delivered to the department, other than those
6 presumed abandoned under AS 34.45.200, for at least one year before
7 the department may sell the securities.

8 (d) Unless the department considers it to be in the best inter-
9 est of the state to do otherwise, the department shall hold all secu-
10 rities presumed abandoned under AS 34.45.200 and delivered to the
11 department for at least three years before selling the securities. A
12 person making a claim under AS 34.45.380 is entitled to receive either
13 the securities delivered to the department by the holder, if they
14 still remain in the hands of the department, or the proceeds received
15 from sale, less amounts deducted under AS 34.45.380(c). A person does
16 not have a claim under this section or AS 34.45.380 against the state,
17 the holder, a transfer agent, a registrar, or other person acting for
18 or on behalf of a holder for appreciation in the value of the property
19 occurring after delivery by the holder to the department.

20 (e) The purchaser of property at a sale conducted by the depart-
21 ment under this section takes the property free of all claims of the
22 owner or previous holder of the property and of all persons claiming
23 through or under them. The department shall execute all documents
24 necessary to complete the transfer of ownership.

25 Sec. 34.45.370. DEPOSIT OF MONEY. Except as otherwise provided
26 by this section, the department shall promptly deposit in the general
27 fund of the state all money received under AS 34.45.110 - 34.45.780,
28 including the proceeds from the sale of abandoned property under
29 AS 34.45.360. The department shall retain in a separate trust fund an

1 amount not less than \$100,000 from which the department shall make
2 prompt payment of allowed claims. Before making the deposit, the
3 department shall record the name and last known address of each person
4 appearing from the holders' reports to be entitled to the property and
5 the name and last known address of each insured person or annuitant
6 and beneficiary and, with respect to each policy or contract listed in
7 the report of an insurance company, its number, the name of the com-
8 pany, and the amount due. The department shall make the record avail-
9 able for public inspection at all reasonable business hours.

10 Sec. 34.45.380. FILING OF CLAIM WITH DEPARTMENT. (a) A person,
11 excluding another state, claiming an interest in property paid or
12 delivered to the department may file a claim on a form prescribed by
13 the department and verified by the claimant.

14 (b) The department shall consider each claim after it is filed
15 and shall give written notice to the claimant if the claim is denied
16 in whole or in part. The notice may be given by mailing it to the ad-
17 dress, if any, stated in the claim as the address to which notices are
18 to be sent. If an address for notices is not stated in the claim, the
19 notice may be mailed to the address, if any, of the claimant as stated
20 in the claim. A notice of denial need not be given if the claim
21 states neither the address to which notices are to be sent nor the
22 address of the claimant.

23 (c) If a claim is allowed, the department shall pay or deliver
24 to the claimant the property or the amount the department actually
25 received, or the net proceeds if it has been sold by the department,
26 together with an additional amount required by AS 34.45.340. For the
27 purposes of determining net proceeds after sale of the property, the
28 department may deduct

29 (1) costs incurred in connection with the sale of the

1 property;

2 (2) costs of mailing and publication in connection with the
3 property;

4 (3) reasonable service charges; and

5 (4) costs incurred in examining records of the holder of
6 the property and in collecting the property from the holder.

7 (d) If a claim is allowed and the property claimed was inter-
8 est-bearing to the owner on the date of surrender by the holder, the
9 department also shall pay interest at the rate prescribed in AS 45.-
10 45.010 or a lesser rate the property earned while in the possession of
11 the holder. Interest begins to accrue when the property is delivered
12 to the department and ceases on the expiration of 10 years after
13 delivery or the date on which payment is made to the owner, whichever
14 is earlier. The department may not pay interest on interest-bearing
15 property for a period occurring before the effective date of this Act.

16 (e) A holder who pays the owner for property that has been
17 delivered to the state and that, if claimed from the department, would
18 be subject to (d) of this section shall add interest as provided in
19 (d) of this section. The added interest shall be repaid to the holder
20 by the commissioner in the same manner as the principal.

21 (f) Unless another state files a claim to recover the property,
22 if the identity of the owner of the property is known, the department
23 shall apply the fair market value of the property to satisfaction of
24 the child support obligations of the owner.

25 Sec. 34.45.390. CLAIM OF ANOTHER STATE TO RECOVER PROPERTY. (a)
26 After personal property has been paid or delivered to the department
27 under this chapter another state may recover the property if

28 (1) this state took custody of the property because the
29 records of the holder did not reflect the last known address of the

1 apparent owner when the property was presumed abandoned under this
2 chapter, the person entitled to the property was in the other state,
3 and under the laws of the other state the property escheated to or was
4 subject to a claim of abandonment by that state;

5 (2) the last known address of the apparent owner or other
6 person entitled to the property, as reflected by the records of the
7 holder, is in the other state and under the laws of the other state
8 the property has escheated to or become subject to a claim of abandon-
9 ment by that state;

10 (3) the records of the holder were erroneous in that they
11 did not accurately reflect the actual owner of the property and the
12 last known address of the actual owner is in the other state and under
13 the laws of the other state the property escheated to or was subject
14 to a claim of abandonment by the other state;

15 (4) this state took custody of the property under AS 34.-
16 45.120(6), and, under the laws of the state of domicile of the holder,
17 the property has escheated to or become subject to a claim of aban-
18 donment by the state of domicile; or

19 (5) the property is the sum payable on a traveler's check,
20 money order, or other similar instrument of which this state took
21 custody under AS 34.45.140, and the instrument was purchased in the
22 other state, and, under the laws of the other state, the property
23 escheated to or became subject to a claim of abandonment by the other
24 state.

25 (b) The claim of another state to recover escheated or abandoned
26 property must be presented in a form prescribed by the department.
27 The department shall allow the claim if it determines that the other
28 state is entitled to the abandoned property under (a) of this section.

29 (c) The department shall require a state, before recovering

1 property under this section, to agree to indemnify this state and its
2 officers and employees against liability on a claim for the property.

3 Sec. 34.45.400. ACTION TO ESTABLISH CLAIM. (a) A person ag-
4 grieved by a decision or action of the department under this chapter
5 may apply to the department within 60 days after the mailing date of
6 the department's notice to the person, giving notice of the grievance
7 and requesting an informal conference. At the conference the person
8 aggrieved may present arguments and evidence relevant to the decision
9 or action of the department. If the department determines that a
10 correction is warranted, the department shall make the correction.

11 (b) A person aggrieved by a decision or action of the department
12 may apply to the department and request a formal hearing

13 (1) in place of the informal conference provided for in (a)
14 of this section, within 60 days after the mailing date of the depart-
15 ment's notice to the person; or

16 (2) within 30 days after the decision resulting from an
17 informal conference.

18 (c) At the formal hearing the department may subpoena witnesses
19 and may administer oaths and make inquiries necessary to determine the
20 validity of the claim. The person aggrieved may present arguments and
21 evidence relevant to the decision or action of the department. If the
22 department determines that a correction is warranted, the department
23 shall make the correction.

24 (d) A person aggrieved by the decision of the department may,
25 within 30 days after the formal hearing and decision by the depart-
26 ment, appeal to the superior court in the judicial district in which
27 the person resides. The department shall give appellant access to the
28 department's file in the matter for preparation of the appeal. If,
29 after the appeal is heard, it appears that the decision of the

1 department was correct, the court shall confirm that decision. If
2 incorrect the court shall determine the amount that the person ag-
3 grieved is entitled to recover and shall order the repayment. The
4 department shall immediately pay the amount due and attach a certified
5 copy of the judgment to the payment.

6 Sec. 34.45.410. ELECTION TO TAKE DELIVERY. (a) The department
7 may decline to receive property reported under this chapter. If the
8 department elects not to receive custody of the property, the depart-
9 ment shall notify the holder within 120 days after the holder files
10 the report required under AS 34.45.280.

11 (b) A holder, with the written consent of the department and
12 upon terms prescribed by the department, may report and deliver prop-
13 erty before the property is presumed abandoned. Property delivered
14 under this subsection shall be held by the department and is not pre-
15 sumed abandoned until the property would otherwise be presumed aban-
16 doned under this chapter.

17 Sec. 34.45.420. DESTRUCTION OR DISPOSITION OF PROPERTY HAVING
18 INSUBSTANTIAL COMMERCIAL VALUE. If the department determines after
19 investigation that property delivered under this chapter has insub-
20 stantial commercial value, the department may destroy or otherwise
21 dispose of the property at any time. An action or proceeding may not
22 be maintained against the state or an officer of the state or against
23 the holder because of an action taken by the department under this
24 section.

25 Sec. 34.45.430. PERIODS OF LIMITATION. The expiration, before
26 or after the effective date of this Act, of a period of time specified
27 by contract, statute, or court order, during which a claim for money
28 or property may be made or during which an action or proceeding may be
29 commenced or enforced to obtain payment of a claim for money or to

1 recover property, does not prevent the money or property from being
2 presumed abandoned, and does not affect a duty to file a report or to
3 pay or deliver abandoned property to the department as required by
4 AS 34.45.110 - 34.45.430.

5 ARTICLE 6. ENFORCEMENT AND PENALTIES.

6 Sec. 34.45.450. ENFORCEMENT. The department may bring an action
7 in a court of competent jurisdiction to enforce AS 34.45.110 - 34.45.-
8 780.

9 Sec. 34.45.460. INTERSTATE AGREEMENTS AND COOPERATION. (a) The
10 department may enter into agreements with other states to exchange
11 information needed to enable this or another state to audit or other-
12 wise determine unclaimed personal property that this state or another
13 state may be entitled to subject to a claim of custody. The depart-
14 ment may, by regulation, require the reporting of information needed
15 to enable compliance with agreements made under this section, and
16 prescribe the form for the report.

17 (b) To avoid conflicts between the department's procedures and
18 the procedures in other jurisdictions that enact the Uniform Unclaimed
19 Property Act, the department, so far as is consistent with the pur-
20 poses, policies, and provisions of this chapter, shall, before adopt-
21 ing, amending, or repealing regulations, advise and consult with
22 administrators in other jurisdictions that enact, substantially, the
23 Uniform Unclaimed Property Act, and shall take into consideration the
24 rules of administrators in other jurisdictions that enact the Uniform
25 Unclaimed Property Act.

26 (c) The department may join with other states to seek enforce-
27 ment of AS 34.45.110 - 34.45.780 against a person who is or may be
28 holding property reportable under AS 34.45.110 - 34.45.430.

29 (d) At the request of another state, the attorney general of

1 this state may bring an action in the name of the other state in a
2 court of competent jurisdiction to enforce the unclaimed property laws
3 of the other state against a holder in this state of property subject
4 to escheat or a claim of abandonment by the other state. An action
5 may be brought under this subsection only if the other state has
6 agreed to pay expenses incurred by the attorney general of this state
7 in bringing the action.

8 (e) The department may request that the attorney general of
9 another state, or another person, bring an action to enforce this
10 chapter in the other state in the name of the department. This state
11 shall pay all expenses including attorney fees in an action under this
12 subsection. The department may agree to pay the person bringing the
13 action attorney fees based in whole or in part on a percentage of the
14 value of property recovered in the action. Expenses paid under this
15 subsection may not be deducted from the amount that is subject to a
16 claim by the owner under AS 34.45.110 - 34.45.430.

17 Sec. 34.45.470. INTEREST AND PENALTIES. (a) A person who fails
18 to pay or deliver property within the time prescribed by this chapter
19 may be required to pay to the department interest at the annual rate
20 calculated under AS 43.05.225 on the property or the value of it from
21 the date the property should have been paid or delivered.

22 (b) A person who fails to pay or deliver property or fails to
23 perform other duties required under this chapter may be required to
24 pay the civil penalties calculated under AS 43.05.220, on the proper-
25 ty, or the value of the property, that the person had a duty to pay,
26 deliver, or report to the department.

27 (c) A person who intentionally refuses after written demand by
28 the department to pay or deliver property to the department as re-
29 quired under this chapter is guilty of a class A misdemeanor.

1 Property Act.

2 Sec. 34.45.750. REPORT BY DEPARTMENT UPON FAILURE TO MAKE REPORT
3 OR MAKING FALSE REPORT. If a person fails to submit a report as
4 required under AS 34.45.110 - 34.45.780, or makes, wilfully or other-
5 wise, a false report, the department shall make the report from the
6 information it obtains under AS 43.05.050. A report made by the
7 department is prima facie valid for all legal purposes.

8 Sec. 34.45.760. DEFINITIONS. In AS 34.45.110 - 34.45.780,
9 unless the context requires otherwise,

10 (1) "apparent owner" means the person whose name appears on
11 the records of the holder as the person entitled to property held,
12 issued, or owing by the holder;

13 (2) "banking organization" means a bank, trust company,
14 savings bank, industrial bank, land bank, safe deposit company, pri-
15 vate banker, or an organization defined by other applicable laws as a
16 bank or banking organization;

17 (3) "business association" means a nonpublic corporation,
18 joint stock company, investment company, business trust, partnership,
19 or association for business purposes of two or more individuals,
20 whether or not for profit, including a banking organization, financial
21 organization, insurance company, or utility;

22 (4) "commissioner" means the commissioner of the Department
23 of Revenue;

24 (5) "department" means the Department of Revenue;

25 (6) "domicile" means the state of incorporation of a corpo-
26 ration and the state of the principal place of business of an unincor-
27 porated person;

28 (7) "financial organization" means a savings and loan
29 association, cooperative bank, building and loan association, or

1 credit union;

2 (8) "holder" means a person, wherever organized or domi-
3 ciled, who is

4 (A) in possession of property belonging to another,

5 (B) a trustee, or

6 (C) indebted to another on an obligation;

7 (9) "insurance company" means an association, corporation,
8 fraternal or mutual benefit organization, whether or not for profit,
9 that is engaged in providing insurance coverage, including accidental,
10 burial, casualty, credit life, contract performance, dental, fidelity,
11 fire, health, hospitalization, illness, life, including endowments and
12 annuities, malpractice, marine, mortgage, surety, and wage protection
13 insurance;

14 (10) "intangible property"

15 (A) includes

16 (i) money, checks, drafts, deposits, interest,
17 dividends, and income;

18 (ii) credit balances, customer overpayments, gift
19 certificates, security deposits, refunds, credit memos,
20 unpaid wages, unused airline tickets, and unidentified
21 remittances;

22 (iii) stocks and other intangible ownership inter-
23 ests in business associations;

24 (iv) money deposited to redeem stocks, bonds,
25 coupons, and other securities, or to make distributions;

26 (v) amounts due and payable under the terms of
27 insurance policies; and

28 (vi) amounts distributable from a trust or custo-
29 dial fund established under a plan to provide health,

1 welfare, pension, vacation, severance, retirement, death,
2 stock purchase, profit-sharing, employee savings, supple-
3 mental unemployment insurance, or similar benefits;

4 (B) does not include shares of stock issued by a
5 corporation organized under 43 U.S.C. 1601 - 1629a (Alaska Native
6 Claims Settlement Act) or to unclaimed dividends payable on the
7 shares of stock;

8 (11) "last known address" means a description of the lo-
9 cation of the apparent owner sufficient for the purpose of the deliv-
10 ery of mail;

11 (12) "owner" means a depositor in the case of a deposit, a
12 beneficiary in the case of a trust other than a deposit in trust, a
13 creditor, claimant, or payee in the case of other intangible property,
14 or a person having a legal or equitable interest in property subject
15 to AS 34.45.110 - 34.45.780; the term includes a person's legal rep-
16 resentative;

17 (13) "person" means an individual, business association,
18 state, municipality or other government, including the United States
19 government, subdivision or agency, public corporation, public authori-
20 ty, estate, trust, two or more persons having a joint or common inter-
21 est, or other legal or commercial entity;

22 (14) "property" means personal property;

23 (15) "state" means a state, district, commonwealth, terri-
24 tory, insular possession, or other area subject to the legislative
25 authority of the United States;

26 (16) "utility" means a person who owns or operates for
27 public use a plant, equipment, property, franchise, or license for the
28 transmission of communications or the production, storage, trans-
29 mission, sale, delivery, or furnishing of electricity, water, steam,

1 or gas.

2 Sec. 34.45.780. SHORT TITLE. AS 34.45.110 - 34.45.780 may be
3 cited as the Uniform Unclaimed Property Act.

4 * Sec. 12. AS 38.95 is amended by adding new sections to read:

5 ARTICLE 5. REAL PROPERTY ESCHEATED TO STATE.

6 Sec. 38.95.200. REAL PROPERTY SUBJECT TO ESCHEAT. (a) Real
7 property in an intestate estate for which no taker can be found and
8 real property devised by will for which no devisee, heir, or other
9 claimant can be found escheats to the state.

10 (b) Real property of a defunct organization or corporation, for
11 which no proceeding for distribution instituted has been instituted
12 within four years after the organization becomes defunct, escheats to
13 the state.

14 Sec. 38.95.210. ENFORCEMENT OF RIGHTS BY DEPARTMENT. (a) When
15 the Department of Natural Resources is informed or has reason to
16 believe that real property has escheated to the state, the department
17 shall bring an action in superior court to establish whether the
18 property has escheated to the state.

19 (b) The department may maintain an action to recover the pos-
20 session of escheated property, or for the enforcement of the state's
21 right to the property.

22 Sec. 38.95.220. JUDGMENT OF ESCHEAT. (a) If the superior court
23 determines that the real property has escheated to the state, the
24 superior court shall issue a judgment of escheat.

25 (b) A court order approving settlement of an estate that dis-
26 tributes real property to the state is a judgment of escheat.

27 Sec. 38.95.230. MANAGEMENT OF ESCHEATED REAL PROPERTY BY DEPART-
28 MENT. (a) After a judgment of escheat under AS 38.95.220, the de-
29 partment may sell, lease, exchange, assign, or otherwise manage real

1 property that has escheated to the state. In determining the proper
2 disposition of escheated real property the department shall, within
3 two years after the judgment of escheat under AS 38.95.220, make a
4 written finding that it is in the best interests of the state either
5 to

6 (1) obtain an appraisal of the fair market value of the
7 real property and sell, lease, exchange, assign, or otherwise manage
8 the property, including retention in state management; or

9 (2) retain the real property in state management without
10 obtaining an appraisal.

11 (b) The appraised value of property handled under (a)(1) of this
12 section, or the selling price from a sale under AS 38.05.055 if it is
13 lower, less the expenses of sale or appraisal, is the established
14 value of the property for purposes of redemption by an heir or other
15 taker under AS 38.95.240(c).

16 (c) Seven years after the judgment of escheat, real property
17 that has not been otherwise disposed of by the department becomes
18 general state land for classification, disposal, and use.

19 Sec. 38.95.240. TIME WITHIN WHICH TO CLAIM ESCHEATED REAL PROP-
20 ERTY. (a) Within seven years after a judgment of escheat under
21 AS 38.95.220, a person who is not a party to the escheat proceeding
22 may bring an action in the superior court to prove the person's claim
23 to the real property. If the plaintiff establishes the claim and
24 establishes that the plaintiff had no knowledge of the prior escheat
25 proceeding, the court shall award the plaintiff the property if it has
26 been managed under AS 38.95.230(a)(2), or the appraised value of the
27 property under AS 38.95.230(b) if the property has been managed under
28 AS 38.95.230(a)(1).

29 (b) If it is determined that the plaintiff is entitled to the

1 property, the department shall deliver the property to the plaintiff.
2 The rents, profits, interest, or dividends that accrue to the state
3 during its possession of the property are the property of the state
4 and may not be recovered.

5 (c) If it is determined that the plaintiff is entitled to the
6 appraised value of property that has been disposed of under AS 38.-
7 95.230(a)(1), at the department's discretion it may offer to the
8 plaintiff land owned by the state and available for disposal that is
9 of comparable value to the appraised value under AS 38.95.230(a)(1).
10 If the department does not offer land of comparable value, or if the
11 plaintiff refuses the department's offer, the plaintiff is entitled to
12 the established value of the property under AS 38.95.230(b).

13 (d) The time limitation of seven years does not apply to a minor
14 or an incapacitated person as defined by AS 13.26.005, but such a
15 person must bring an action to prove the person's claim to the real
16 property within one year after the incapacity ceases.

17 (e) This section does not prevent the state from transferring
18 escheated real property to a person who provides proof satisfactory to
19 the department that the person is the owner of the real property when
20 the department determines the transfer to be appropriate.

21 Sec. 38.95.250. PROCEEDS OF SALE OR REDEMPTION. The department
22 shall deposit the proceeds of real property sold under AS 38.95.230-
23 (a)(1) less the expenses of sale, including attorney fees and ap-
24 praisal and publication costs in an escheated real property trust
25 account. The department shall maintain the proceeds in the account
26 for a period of at least seven years after the date of the judgment of
27 escheat. The department may use money in the trust account to pay
28 claims made under AS 38.95.240.

29 Sec. 38.95.260. DISPOSITION OF SALE PROCEEDS SEVEN YEARS AFTER

1 THE JUDGMENT OF ESCHEAT. Seven years after the judgment of escheat,
2 net proceeds from the sale of escheated real property may be trans-
3 ferred from the escheated real property trust account to the general
4 fund and credited to the land disposal income account under AS 38.-
5 04.022, unless a person who was the owner or one of the owners of the
6 property when the property escheated to the state has outstanding
7 child support obligations, in which case the proportion of the net
8 proceeds that is attributable to the ownership interest of the person
9 shall be applied to the satisfaction of the child support obligations
10 and the balance remaining after the satisfaction shall be credited to
11 the land disposal income account.

12 Sec. 38.95.270. DEFINITION. In AS 38.95.200 - 38.95.270, "de-
13 partment" means the Department of Natural Resources.

14 * Sec. 13. AS 47.30.895(a) is amended to read:

15 (a) Those unclaimed articles [ARTICLES] of personal property
16 that are covered by AS 34.45.110 - 34.45.260 and the unclaimed money
17 in the custody of a treatment facility that belong to a patient who
18 dies before discharge, or to a patient who leaves the hospital without
19 authority, if unclaimed by the patient or the legal heirs or represen-
20 tatives of the patient within one year after the patient's death or
21 departure, shall be disposed of in accordance with AS 34.45.110 -
22 34.45.780, and the other articles of the patient's personal property
23 shall be disposed of in the manner prescribed by the department and
24 the proceeds [SHALL BE] deposited in the general fund [STATE TREA-
25 SURY].

26 * Sec. 14. AS 06.05.460; AS 09.50.070 - 09.50.160; AS 10.05.591; and
27 AS 34.45.090 are repealed.

28 * Sec. 15. The Uniform Unclaimed Property Act, enacted in sec. 11 of
29 this Act, does not apply to personal property already delivered to the

1 state or already the subject of escheat proceedings before the effective
2 date of this Act.