

COMMITTEE REPORT
SENATE

FURTHER:

5/2/86

Date 5/8/86

Mr. President

The Committee on FINANCE considered CSHB 182(Fin)
relating to the disposition of unclaimed property.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CS HB 182 (Fin)
- new title
- same title and recommends "DO PASS"
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
100.2/(4200.0) = HFC
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING

DO PASS

Rubinfeld
McLennan
Jensen
J. Hart

MEMBERS HAVING

OTHER RECOMMENDATIONS

Paul Gruber, NRC

Chairman
do pass
Chairman recommendation



Senate Finance Committee

Senator Jan Falks, Co-Chairman Senator John Sackett, Co-Chairman

5/8/86

SCS for CSHB 182 (Finance)

- Amendment #1: p 13, line 9
 p 14, line 26
- Amentment #2: p 11, line 6
- Amendment #3: p 18, line 24
- Amendment #4: p 17, line 12
- Amendment #5: p 17, line 15
- Amendment #6: p 20, line 4

VICKI
Cap Rm 413
(4935)

Plez return asap... THANK!

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 4/25/86

REQUEST Page 1 of 2

Bill/Resolution No. : CSHB 182 (FIN)
 Title : Unclaimed Property

Sponsor : Governor
 Requester : House Finance Committee
 Date : 4/25/86

FISCAL DETAIL

Agency Affected : Revenue
 BRU : Audit

Components : Audit Administration

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		59.2	---	---	---	---
TRAVEL		1.0	---	---	---	---
CONTRACTUAL		40.0	---	---	---	---
SUPPLIES		0	---	---	---	---
EQUIPMENT		0	---	---	---	---
LAND & STRUCTURES		0	---	---	---	---
GRANTS, CLAIMS		0	---	---	---	---
MISCELLANEOUS		0	---	---	---	---
TOTAL OPERATING		100.2	---	---	---	---

CAPITAL		0	0	0	0	0
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REVENUE		4200.0	---	---	---	---
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FUNDING : (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER		100.2				
TOTAL		100.2				

POSITIONS :

FULL-TIME		2				
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Al Adams, Chair Phone : 465-3706
 Division : House Finance Committee Date : 4/25/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

ANALYSIS OF FISCAL NOTE FOR CS HB 182 (FIN)

FY 87:

Page 2 of 2

Expenditures

Personal Services---

Unclaimed Property Administrator (Range 18 for
9 months)

\$ 36.7

Tax Examiner I (Range 10 for 9 months)

\$ 22.5

Subtotal

\$ 59.2

Travel---

Training and seminars by NAUPA

\$ 1.0

Contractual---

Advertising, postage, data processing,
telecommunications, forms design and printing

\$ 40.0

Total Expenditures \$100.0

Revenue

Passage of the bill will immediately generate \$1.7 million in new revenue for the general fund. This is because the balance of the existing unclaimed property trust fund is about \$1.8 million and the bill allows the department to keep \$100,000 in the fund to pay claims before transferring the remainder to the general fund. The rest of the revenue estimate is computed at \$5 (national average annual receipt: low estimate) x 500,000 (state population estimate) for a total of \$2.5 million. Thus, total estimated revenues generated by the bill equal \$4.2 million.

Funding Source

Since the bill provides for funding of operating costs with program receipts, the funding source for this fiscal note is other funds.

FY88 AND FUTURE FISCAL YEARS:

There will be fiscal impact from the bill in future fiscal years. It will continue to generate revenue. Although exact estimates cannot be determined, the national average estimate is a good indicator of the revenue potential.

Operating expenses will also continue in the future. The budget process will determine the actual level of funding provided.

Offered: 4/29/86
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 SCS CS FOR HOUSE BILL NO. 182 (Finance)

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 s' ate;

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 seven
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 seven 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

Am#2
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6 (1) the company ^{HAS RECEIVED DUE PROOF} ~~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 34.45.210 and
9 (b), ~~and~~ (e) ^{and (f)} 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,

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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 INSERT section.

27 ^{NEW} SUBSECTION (F) 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;

Am #4
→

12 (2) in the case of unclaimed money amounting to ~~\$25~~^{\$50} 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 ^{OR OTHER PERSON WHO IS ENTITLED TO THE PROCEEDS} according to the records of the
16 insurance company holding or owing the funds;

Am #5
→

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.

DELETE
INSERT
NEW
LANGUAGE

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.

Am #6
→

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 ~~X~~⁷ 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 dresses, 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 AND ACCOUNTING. (a) Except as
26 otherwise provided by this section, the department shall promptly
27 deposit in the general fund of the state all money received under
28 AS 34.45.110 - 34.45.780, including the proceeds from the sale of
29 abandoned property under AS 34.45.360. The department shall retain in

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

11 (b) The commissioner of administration shall separately account
12 for money that the department deposits in the general fund under (a)
13 of this section. The annual estimated balance in the account may be
14 used by the legislature to make appropriations to the department to
15 carry out the department's duties under this chapter.

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

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

29 (c) If a claim is allowed, the department shall pay or deliver

1 to the claimant the property or the amount the department actually
2 received, or the net proceeds if it has been sold by the department,
3 together with an additional amount required by AS 34.45.340. For the
4 purposes of determining net proceeds after sale of the property, the
5 department may deduct

6 (1) costs incurred in connection with the sale of the
7 property;

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

10 (3) reasonable service charges; and

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

13 (d) If a claim is allowed and the property claimed was inter-
14 est-bearing to the owner on the date of surrender by the holder, the
15 department also shall pay interest at the rate prescribed in AS 45.-
16 45.010 or a lesser rate the property earned while in the possession of
17 the holder. Interest begins to accrue when the property is delivered
18 to the department and ceases on the expiration of 10 years after
19 delivery or the date on which payment is made to the owner, whichever
20 is earlier. The department may not pay interest on interest-bearing
21 property for a period occurring before the effective date of this Act.

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

27 (f) Unless another state files a claim to recover the property,
28 if the identity of the owner of the property is known, the department
29 shall apply the fair market value of the property to satisfaction of

1 the child support obligations of the owner.

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

5 (1) this state took custody of the property because the
6 records of the holder did not reflect the last known address of the
7 apparent owner when the property was presumed abandoned under this
8 chapter, the person entitled to the property was in the other state,
9 and under the laws of the other state the property escheated to or was
10 subject to a claim of abandonment by that state;

11 (2) the last known address of the apparent owner or other
12 person entitled to the property, as reflected by the records of the
13 holder, is in the other state and under the laws of the other state
14 the property has escheated to or become subject to a claim of abandon-
15 ment by that state;

16 (3) the records of the holder were erroneous in that they
17 did not accurately reflect the actual owner of the property and the
18 last known address of the actual owner is in the other state and under
19 the laws of the other state the property escheated to or was subject
20 to a claim of abandonment by the other state;

21 (4) this state took custody of the property under AS 34.-
22 45.120(6), and, under the laws of the state of domicile of the holder,
23 the property has escheated to or become subject to a claim of aban-
24 donment by the state of domicile; or

25 (5) the property is the sum payable on a traveler's check,
26 money order, or other similar instrument of which this state took
27 custody under AS 34.45.140, and the instrument was purchased in the
28 other state, and, under the laws of the other state, the property
29 escheated to or became subject to a claim of abandonment by the other

1 state.

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

6 (c) The department shall require a state, before recovering
7 property under this section, to agree to indemnify this state and its
8 officers and employees against liability on a claim for the property.

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

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

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

22 (2) within 30 days after the decision resulting from an
23 informal conference.

24 (c) At the formal hearing the department may subpoena witnesses
25 and may administer oaths and make inquiries necessary to determine the
26 validity of the claim. The person aggrieved may present arguments and
27 evidence relevant to the decision or action of the department. If the
28 department determines that a correction is warranted, the department
29 shall make the correction.

1 (d) A person aggrieved by the decision of the department may,
2 within 30 days after the formal hearing and decision by the depart-
3 ment, appeal to the superior court in the judicial district in which
4 the person resides. The department shall give appellant access to the
5 department's file in the matter for preparation of the appeal. If,
6 after the appeal is heard, it appears that the decision of the depart-
7 ment was correct, the court shall confirm that decision. If incorrect
8 the court shall determine the amount that the person aggrieved is
9 entitled to recover and shall order the repayment. The department
10 shall immediately pay the amount due and attach a certified copy of
11 the judgment to the payment.

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

17 (b) A holder, with the written consent of the department and
18 upon terms prescribed by the department, may report and deliver prop-
19 erty before the property is presumed abandoned. Property delivered
20 under this subsection shall be held by the department and is not pre-
21 sumed abandoned until the property would otherwise be presumed aban-
22 doned under this chapter.

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

1 section.

2 Sec. 34.45.430. PERIODS OF LIMITATION. The expiration, before
3 or after the effective date of this Act, of a period of time specified
4 by contract, statute, or court order, during which a claim for money
5 or property may be made or during which an action or proceeding may be
6 commenced or enforced to obtain payment of a claim for money or to
7 recover property, does not prevent the money or property from being
8 presumed abandoned, and does not affect a duty to file a report or to
9 pay or deliver abandoned property to the department as required by
10 AS 34.45.110 - 34.45.430.

11 ARTICLE 6. ENFORCEMENT AND PENALTIES.

12 Sec. 34.45.450. ENFORCEMENT. The department may bring an action
13 in a court of competent jurisdiction to enforce AS 34.45.110 - 34.45.-
14 780.

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

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

1 rules of administrators in other jurisdictions that enact the Uniform
2 Unclaimed Property Act.

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

6 (d) At the request of another state, the attorney general of
7 this state may bring an action in the name of the other state in a
8 court of competent jurisdiction to enforce the unclaimed property laws
9 of the other state against a holder in this state of property subject
10 to escheat or a claim of abandonment by the other state. An action
11 may be brought under this subsection only if the other state has
12 agreed to pay expenses incurred by the attorney general of this state
13 in bringing the action.

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

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

28 (b) A person who fails to pay or deliver property or fails to
29 perform other duties required under this chapter may be required to

1 pay the civil penalties calculated under AS 43.05.220, on the proper-
2 ty, or the value of the property, that the person had a duty to pay,
3 deliver, or report to the department.

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

7 ARTICLE 7. GENERAL PROVISIONS.

8 Sec. 34.45.700. AGREEMENT TO LOCATE REPORTED PROPERTY. An
9 agreement to pay compensation to recover or assist in the recovery of
10 property reported under AS 34.45.280, made within 24 months after the
11 date payment or delivery is made under AS 34.45.290, is unenforceable.

12 Sec. 34.45.710. FOREIGN TRANSACTIONS. AS 34.45.110 - 34.45.780
13 do not apply to property held, due, and owing in a foreign country and
14 arising out of a foreign transaction.

15 Sec. 34.45.720. APPLICATION. (a) AS 34.45.110 - 34.45.780 do
16 not relieve a holder of a duty that arose before the effective date of
17 this Act to report, pay, or deliver property. A holder who did not
18 comply with the law in effect before the effective date of this Act is
19 subject to the applicable enforcement and penalty provisions that
20 existed before the effective date of this Act, and the applicable
21 enforcement and penalty provisions are continued in effect for the
22 purpose of this subsection.

23 (b) The initial report filed under AS 34.45.280 for property
24 that was not required to be reported before the effective date of this
25 Act but that is subject to AS 34.45.110 - 34.45.780 must include all
26 items of property that would have been presumed abandoned during the
27 six-year period preceding the effective date of this Act, as if
28 AS 34.45.110 - 34.45.780 had been in effect during that period.

29 Sec. 34.45.730. REGULATIONS. The department shall adopt

1 regulations necessary to carry out the provisions of AS 34.45.110 -
2 34.45.780.

3 Sec. 34.45.740. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
4 AS 34.45.110 - 34.45.780 shall be applied and construed so as to
5 effectuate their general purpose to make uniform the law with respect
6 to unclaimed property among states enacting the Uniform Unclaimed
7 Property Act.

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

14 Sec. 34.45.760. DEFINITIONS. In AS 34.45.110 - 34.45.780,
15 unless the context requires otherwise,

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

19 (2) "banking organization" means a bank, trust company,
20 savings bank, industrial bank, land bank, safe deposit company, pri-
21 vate banker, or an organization defined by other applicable laws as a
22 bank or banking organization;

23 (3) "business association" means a nonpublic corporation,
24 joint stock company, investment company, business trust, partnership,
25 or association for business purposes of two or more individuals,
26 whether or not for profit, including a banking organization, financial
27 organization, insurance company, or utility;

28 (4) "commissioner" means the commissioner of the Department
29 of Revenue;

- 1 (5) "department" means the Department of Revenue;
- 2 (6) "domicile" means the state of incorporation of a corpo-
3 ration and the state of the principal place of business of an unincor-
4 porated person;
- 5 (7) "financial organization" means a savings and loan
6 association, cooperative bank, building and loan association, or
7 credit union;
- 8 (8) "holder" means a person, wherever organized or domi-
9 ciled, who is
- 10 (A) in possession of property belonging to another,
11 (B) a trustee, or
12 (C) indebted to another on an obligation;
- 13 (9) "insurance company" means an association, corporation,
14 fraternal or mutual benefit organization, whether or not for profit,
15 that is engaged in providing insurance coverage, including accidental,
16 burial, casualty, credit life, contract performance, dental, fidelity,
17 fire, health, hospitalization, illness, life, including endowments and
18 annuities, malpractice, marine, mortgage, surety, and wage protection
19 insurance;
- 20 (10) "intangible property"
- 21 (A) includes
- 22 (i) money, checks, drafts, deposits, interest,
23 dividends, and income;
- 24 (ii) credit balances, customer overpayments, gift
25 certificates, security deposits, refunds, credit memos,
26 unpaid wages, unused airline tickets, and unidentified
27 remittances;
- 28 (iii) stocks and other intangible ownership inter-
29 ests in business associations;

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

3 (v) amounts due and payable under the terms of
4 insurance policies; and

5 (vi) amounts distributable from a trust or custo-
6 dial fund established under a plan to provide health, wel-
7 fare, pension, vacation, severance, retirement, death, stock
8 purchase, profit-sharing, employee savings, supplemental
9 unemployment insurance, or similar benefits;

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

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

17 (12) "owner" means a depositor in the case of a deposit, a
18 beneficiary in the case of a trust other than a deposit in trust, a
19 creditor, claimant, or payee in the case of other intangible property,
20 or a person having a legal or equitable interest in property subject
21 to AS 34.45.110 - 34.45.780; the term includes a person's legal rep-
22 resentative;

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

28 (14) "property" means personal property;

29 (15) "state" means a state, district, commonwealth,

1 territory, insular possession, or other area subject to the
2 legislative authority of the United States;

3 (16) "utility" means a person who owns or operates for
4 public use a plant, equipment, property, franchise, or license for the
5 transmission of communications or the production, storage, trans-
6 mission, sale, delivery, or furnishing of electricity, water, steam,
7 or gas.

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

10 * Sec. 12. AS 38.95 is amended by adding new sections to read;

11 ARTICLE 5. REAL PROPERTY ESCHEATED TO STATE.

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

16 (b) Real property of a defunct organization or corporation, for
17 which no proceeding for distribution instituted has been instituted
18 within four years after the organization becomes defunct, escheats to
19 the state.

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

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

28 Sec. 38.95.220. JUDGMENT OF ESCHEAT. (a) If the superior court
29 determines that the real property has escheated to the state, the

1 superior court shall issue a judgment of escheat.

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

4 Sec. 38.95.230. MANAGEMENT OF ESCHEATED REAL PROPERTY BY DEPART-
5 MENT. (a) After a judgment of escheat under AS 38.95.220, the de-
6 partment may sell, lease, exchange, assign, or otherwise manage real
7 property that has escheated to the state. In determining the proper
8 disposition of escheated real property the department shall, within
9 two years after the judgment of escheat under AS 38.95.220, make a
10 written finding that it is in the best interests of the state either
11 to

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

15 (2) retain the real property in state management without
16 obtaining an appraisal.

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

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

25 Sec. 38.95.240. TIME WITHIN WHICH TO CLAIM ESCHEATED REAL PROP-
26 ERTY. (a) Within seven years after a judgment of escheat under
27 AS 38.95.220, a person who is not a party to the escheat proceeding
28 may bring an action in the superior court to prove the person's claim
29 to the real property. If the plaintiff establishes the claim and

1 establishes that the plaintiff had no knowledge of the prior escheat
2 proceeding, the court shall award the plaintiff the property if it has
3 been managed under AS 38.95.230(a)(2), or the appraised value of the
4 property under AS 38.95.230(b) if the property has been managed under
5 AS 38.95.230(a)(1).

6 (b) If it is determined that the plaintiff is entitled to the
7 property, the department shall deliver the property to the plaintiff.
8 The rents, profits, interest, or dividends that accrue to the state
9 during its possession of the property are the property of the state
10 and may not be recovered.

11 (c) If it is determined that the plaintiff is entitled to the
12 appraised value of property that has been disposed of under AS 38.-
13 95.230(a)(1), at the department's discretion it may offer to the
14 plaintiff land owned by the state and available for disposal that is
15 of comparable value to the appraised value under AS 38.95.230(a)(1).
16 If the department does not offer land of comparable value, or if the
17 plaintiff refuses the department's offer, the plaintiff is entitled to
18 the established value of the property under AS 38.95.230(b).

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

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

27 Sec. 38.95.250. PROCEEDS OF SALE OR REDEMPTION. The department
28 shall deposit the proceeds of real property sold under AS 38.95.230-
29 (a)(1) less the expenses of sale, including attorney fees and

1 appraisal and publication costs in an escheated real property trust
2 account. The department shall maintain the proceeds in the account
3 for a period of at least seven years after the date of the judgment of
4 escheat. The department may use money in the trust account to pay
5 claims made under AS 38.95.240.

6 Sec. 38.95.260. DISPOSITION OF SALE PROCEEDS SEVEN YEARS AFTER
7 THE JUDGMENT OF ESCHEAT. Seven years after the judgment of escheat,
8 net proceeds from the sale of escheated real property may be trans-
9 ferred from the escheated real property trust account to the general
10 fund and credited to the land disposal income account under AS 38.-
11 04.022, unless a person who was the owner or one of the owners of the
12 property when the property escheated to the state has outstanding
13 child support obligations, in which case the proportion of the net
14 proceeds that is attributable to the ownership interest of the person
15 shall be applied to the satisfaction of the child support obligations
16 and the balance remaining after the satisfaction shall be credited to
17 the land disposal income account.

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

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

21 (a) Those unclaimed articles [ARTICLES] of personal property
22 that are covered by AS 34.45.110 - 34.45.260 and the unclaimed money
23 in the custody of a treatment facility that belong to a patient who
24 dies before discharge, or to a patient who leaves the hospital without
25 authority, if unclaimed by the patient or the legal heirs or represen-
26 tatives of the patient within one year after the patient's death or
27 departure, shall be disposed of in accordance with AS 34.45.110 -
28 34.45.780, and the other articles of the patient's personal property
29 shall be disposed of in the manner prescribed by the department and

1 the proceeds [SHALL BE] deposited in the general fund [STATE TREA-
2 SURY].

3 * Sec. 14. AS 06.05.460; AS 09.50.070 - 09.50.160; AS 10.05.591; and
4 AS 34.45.090 are repealed.

5 * Sec. 15. The Uniform Unclaimed Property Act, enacted in sec. 11 of
6 this Act, does not apply to personal property already delivered to the
7 state or already the subject of escheat proceedings before the effective
8 date of this Act.

A M E N D M E N T

Am #1
131

Offered in the HOUSE

By Gruenberg

TO: CSHB 182 (Jud)

Page 13, line 9, following "(b)":

Delete: "and (e)"

Insert: ", (e), and (f)"

Page 14, following line 26, insert a new subsection to read:

"(f) A distribution of net margins by a cooperative incorporated under AS 10.25 is presumed abandoned if the distribution remains unclaimed by the owner for more than one year after the date authorized for the distribution. The abandoned distribution reverts to the cooperative if the cooperative has, at least six months before the proposed reversion date, ~~either~~ *b-ll*

(1) mailed a notice of the proposed reversion to the last known address of the owner as shown by the cooperative records; ~~or~~ *and*

(2) has published notice of the proposed reversion in the manner provided by law for the service of a summons by publication."

Adopted
Ferguson

AMENDMENT NO. 12

Am #2

Page 11, line 6.

Delete the word "knows" and substitute the words
"has received due proof."

JF: —g
—o Ob

Stenger
Adopted
5/8/86

May 5, 1986

PROPOSED AMENDMENT TO HB 182
PREPARED BY THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS

As currently drafted, this bill will place unnecessary, burdensome requirements on small businesses which will result in a high percentage of them being automatically delinquent and in violation of the law. The amendment would provide a reasonable threshold which a small business would need to reach before it would be required to meet all of the filing requirements and maintain the records up to 17 years.

It is recommended that the language in subsection (f) on page 18, beginning on line 24 be deleted and replaced with the following:

(f) The requirements of this section do not apply to the holder of intangible property that is presumed abandoned under AS 34.45.110-780 during the year preceding June 30 of each year if the total aggregate value of the intangible property is less than \$750.

PF: y
-u CB

Gary Jenkins
Adopted
5/8/86

AMENDMENT NO. 34

Page 17, line 12.

Change "\$25" to "\$⁵⁰100."

\$25 is a very low amount for which reporting needs to be required. The administrative costs would not make it worthwhile.

RH: y
-v cb

Forgan
Adopted
5/8/86

AMENDMENT NO. 45

Page 17, line 15.

~~Change~~ ^{After} "beneficiary" to ^{Add: or other} "person who is entitled to the proceeds."

Reason: In many instances, it is the owner of the policy who is entitled to the proceeds and not the beneficiary.

RH: g
- v CB

Tenger
Adopted
5/8/86


Am #6

AMENDMENT NO. 56

Page 20, line 4.

Change "10 years" to "⁷5 years" to eliminate unnecessary record retention.

1-5-86

R.H.: 
vob

Tanger
Adopted
5/8/86

AMENDMENT NO. 2

Page 12, lines 13 through 21.

Delete subparagraph (g).

Reason: This subsection represents insurance regulation and should be in the Insurance Law, if anywhere. This subsection would require that every change of beneficiary form include the name, address and relationship of every beneficiary to the insured. While it may be true that many such forms already include this information, this subsection could require substantial additional printing costs for insurers.

JPT:

105 Municipal Way
Suite 303
Juneau, Alaska 99801

J. P. TANGEN

Phone (907) 586-2286
Telecopy 907) 586-2317

May 5, 1986

HAND DELIVERED

The Honorable Jan Faiks, Co-Chair
The Honorable John Sackett, Co-Chair
Alaska State Legislature
Senate Finance Committee
Pouch V
Juneau, Alaska 99811

Re: House Bill 182

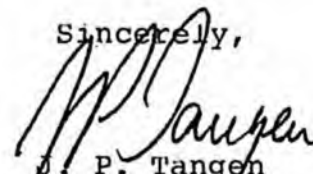
Dear Senators Faiks and Sackett:

On behalf of the American Council of Life Insurance, you are hereby requested to make the enclosed amendments to HB 182 now pending before your Committee.

I shall be pleased to attempt to answer any questions you may have with regard to these amendments.

Thank you for your consideration in this matter.

Sincerely,



J. P. Tangen
Attorney at Law

JPT:lyn/1

cc: Members of the Committee

ANALYSIS - CS FOR HOUSE BILL 182 (FINANCE)

In general this bill brings state law into line with the Uniform Unclaimed Property Act. It reforms procedures dealing with the reporting, collecting, and disposing of property which is unclaimed or otherwise considered abandoned by its owners.

Under current procedures, the Department of Law must obtain a court order to seize unclaimed property. Once the property is turned over to the state, it must be held in a trust fund for seven years. If after this period the owner cannot be found, the property is transferred into the general fund and can be converted into liquid assets and spent by the state.

The bill covers a wide range of intangible unclaimed property. This includes savings account deposits, travelers checks, insurance proceeds, utility deposits, and undistributed corporate dividends.

Under the bill, unclaimed property which is held by anyone will be presumed to be abandoned after a five year period. Exceptions exist for travelers checks (15 years), money orders (7 years), and stock dividends (after seven dividends over a seven year period).

After the property is presumed to be abandoned, the holder must file a report with the Department of Revenue and in most cases, turn the property over to this department. Once delivered, the holder is relieved of all liability for the subsequent handling of the property. However, the bill avoids the possibility of the state getting involved in defending lawsuits on behalf of the holder.

When received by the state, it must publish the names of persons who are believed to be the owners of the property and must take other efforts to locate them. During the entire time the state has custody of the property, the rightful owner may claim and recover that property or its value.

After receiving tangible personal property, within three years the state must sell it at a public sale. The

proceeds from these sales and all other unclaimed funds which are received by the Department will be deposited into the state's general fund. However, \$100,000 will be kept in a separate trust fund to pay the legitimate claims of any owners who may later appear.

Dormant bank accounts are often subject to a suspension of interest or to being "charged away" by a steady accumulation of service charges. The bill will prohibit these practices unless the bank and the customer have previously agreed to them, unless the bank charges are reasonable, and unless the bank has attempted to notify the owners of accounts containing more than \$10.00.

The procedures are somewhat different for real property which has been abandoned or unclaimed. The actual title to real estate will be transferred to the Department of Natural Resources. The Department then may sell, lease, exchange or otherwise transfer the property.

The bill contains procedures for other states who may have a claim to abandoned property to acquire the same. It also provides penalties for persons who fail to comply with the law.

UNIFORM UNCLAIMED PROPERTY ACT (1981)

If an individual abandons an automobile on a street in almost any city in the United States, it is generally a problem of litter, of junk. Nobody is likely to want it, although abandonment provides another person with the opportunity to take it if he wants to do so. Abandonment implies opportunity to others - an opportunity that most people don't bother about.

An automobile is tangible property, an object composed of steel, cloth, plastic, and other substances. Abandonment as a legal doctrine concerns property rights between people, and the object is merely the object of those rights, but having an object such as an automobile makes the task of determining rights relatively simple.

But what about intangible property? It poses a question of pure rights normally identified only by a piece of paper. For example, a share of stock has no tangible presence, only a certificate as evidence of its existence. Sometimes, the evidence may exist in the records of somebody, somewhere, and may not be in the hands of the owner (for example, uncertificated shares of stock). And values may be very great. Besides shares of stock, bank accounts, bank checks, and traveler's checks are other good examples of valuable intangible property. What happens when the rights represented are abandoned?

Actually, the problem is twofold. The first step is ascertaining that property is, in fact, abandoned. Has the owner relinquished the property, or is it simply that he or she, or a proper successor, has not notified the record keeper of the intent to continue as owner? If that question can be convincingly answered in the favor of abandonment, then the next question becomes, "Who gets it?"

Since 1954, the ULC has offered to the states an act known as the Uniform Disposition of Unclaimed Property Act. It was revised in 1966. Thirty-one states and the District of Columbia adopted a version of it. It answered the key questions in this manner. Abandonment would be presumed after notice to

owners and a sufficient time lapse (generally seven years) to signify that the original owner had, in fact, abandoned the intangible property. As to the second question, the state got it, but, in a sense, the original owner never lost it. The state took the property, held it for a prescribed time, and then disposed of it by sale. However, an original owner could show up and claim the property, or the proceeds of sale, at any time. The state performed a perpetual custodial function on behalf of the original owner.

In 1981, these general principles remain good. The Uniform Unclaimed Property Act (1981) conforms to them faithfully. Two distinct problems prompted a revision in 1981. These problems were: (1) jurisdiction over unclaimed property under the Act; and, (2) interstate cooperation. The 1981 revision remedies these problems. In addition, it updates the existing text of the earlier Acts, a matter of clarification, in the main.

The ULC was aware of the potential for "multiple liability" between states under the earlier Acts. They tied jurisdiction to the ability of a state's courts to assert personal jurisdiction over the holder (or debtor). The prior Acts left potential conflicts between states with a reciprocity provision.

In Texas v. New Jersey, 379 U.S. 670 (1965), the U.S. Supreme Court applied a different rule. The Court held that the state of the owner's last known address, as shown by the holder's books and records, has jurisdiction. After that case, the existing Uniform Act's basic jurisdictional approach was untenable. The 1981 revision realigns all of the jurisdictional content of the Act in conformity with Texas v. New Jersey, taking into account some tricky individual problems.

Interstate cooperation, also, needed some work beyond the basic problem of sorting out jurisdiction. There will be times when a state will become a custodian of property, to discover that another state should have been. A procedure for dealing with claims of other states is, therefore, needed. And more than simple reciprocity is essential to real resolution of interstate problems. The new Act attends to this issue, as well.

The 1981 Act addresses the problem of jurisdiction in this fashion. First, determine the last known address of the owner (or creditor). If that fails, then allow jurisdiction to vest, based on combinations of the domicile of the holder and the situs of the transaction out of which the property arose. Another key factor in determining jurisdiction is the fact

that the owner's last known address is in a jurisdiction without an escheat or custodial taking of property statute, or in a foreign country. These rules conform to the Texas v. New Jersey case and cover all contingencies.

Several new provisions enhance interstate cooperation. If a state has assumed custody of abandoned, intangible property, the 1981 Act provides another state with a procedure to claim it, if the second state can find grounds to assert its primacy over the initial state's assumption of custody.

In addition, the 1981 Act authorizes the unclaimed property administrator in each adopting state to enter into agreements with other states for exchange of information on claims, to enforce claims, and to sue for other states and allow other states to sue for his or her state. This provision allows states to pool resources in administering and enforcing this Act.

As the earlier Acts did, the 1981 Act basically provides a procedure for determining whether intangible property is abandoned, for transferring it to the state when it has been abandoned, and for an owner to reclaim it.

Each holder is required to report on property held beyond the time of its presumed abandonment. The debtor must notify the owner at his last known address, with a couple of exceptions. The unclaimed property administrator, then, has the further obligation of giving public notice of property transferred into the state's custody. Property is kept for a basic period, generally three years, and then is sold. Proceeds go to the general fund. As noted before, an owner or successor can claim the property while still held, or the proceeds after sale. No creditor is ever precluded from a claim. With updating, these provisions of the 1981 Act continue the principles of the earlier Acts.

Of particular importance is the factual question of abandonment. If property remains unused or unacknowledged for a specific period of time, its abandonment is presumed. The older Acts used a seven-year period as the general measure. The 1981 Act uses five years, in general. However, for specific types of property (i.e. utility deposits), the presumptive period is as short as one year. Seven years remain for certain property, such as stocks, and traveler's checks are not considered abandoned until fifteen years have passed. Each type of intangible property was studied to determine a relevant period after which abandonment could be presumed.

There are other improvements to the procedures, as well. The 1981 Act provides for civil enforcement with interest penalties based on the value of the property. This replaced the largely ineffective criminal provisions in the earlier Acts. The 1981 Act allows the unclaimed property administrator to destroy incidental property received that is of insubstantial commercial value. These are examples of updating provisions to be found in the 1981 Act.

The 1954 and 1966 Acts served the adopting states well, considering the subsequent legal problems. The ULC hopes the new Act, which solves those problems in an updated version, will prove even more useful to state government.

HB. 82

Uniform Law Memo



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NEW FOCUS on 'W.C. FIELDS ACT'

Uhe Uniform Unclaimed Property Act was one of four new proposals completed by Uniform Law Commissioners during their 1981 annual meeting. An article explaining that act follows. Outlines of the other three new proposals — Uniform Conservation Easement Act, Model State Administrative Procedure Act and Model Real Estate Cooperative Act — begin on page 10.

CHARLOTTE MOULTON

W.C. Fields had a lifelong phobia about theft and poverty, even after he became a world famous comedian and actor. At age 19, he decided to open a bank account everywhere he went.

According to biographer Robert Lewis Taylor, Fields began with banks in large cities and worked down to those that might occupy a corner of a village feed store.

"Sometimes he hopped off trains and opened an account while the engine took on water," Taylor says. "He piled the bank books in a corner of his wardrobe trunk and, for the most part, forgot them."

After Fields' death on Christmas Day 1946, his executors located 30 accounts. But his friends felt that much of his wealth was never found.

Millions of other Americans, most less wealthy than Fields, have forgotten money stashed in banks, savings and loan associations or credit unions. They have also neglected to provide addresses for dividend checks and have left safe-



deposit boxes unopened. Many have failed to collect utility deposits and racetrack winnings. Traveler's checks and money orders have remained uncashed, gift certificates unrepresented and airline

Fields Act RE-VIEWED

tickets unused. Proceeds of insurance policies have never reached beneficiaries because deaths went unreported.

This accumulation adds up to billions of dollars. Every state but Colorado has for years been claiming abandoned property after it has lain dormant for varying lengths of time. Thirty-one have used the Uniform Disposition of Unclaimed Property Act, adopted by ULC in 1954, revised in 1966 and often casually referred to as the "W. C. Fields Act."

At the August 1981 meeting in New Orleans, ULC put the finishing touches on a third version, which has already provided the ground work for a new law in the District of Columbia. There banks and savings and loan associations alone were said to be holding more than \$51.2 million in 43,000 accounts not touched for five years or more.

Like its predecessors, the 1981 Uniform Unclaimed Property Act lays down rules for determining when property is actually abandoned and — when it is — for determining which state gets it. The revision was needed to make the act conform to a 1965 U.S. Supreme Court decision, to strengthen its enforcement provisions and to encourage cooperation among states, particularly those which in the last decade have been energetically trying to pry dormant funds away from holders.

Streamlines Transfers

The 1981 act is designed to help locate rightful owners of abandoned property and to streamline its transfer to the states if they can't be found. The states act as permanent custodians and will return property to owners at any time. Until the owners show up, the funds go into the public treasury for the benefit of taxpayers instead of adding to the financial well-being of banks and other holders.

Under earlier acts, if a state court could assert personal jurisdiction over a property holder, the state could claim the holder's dormant funds. But the Supreme Court applied a different rule in *Texas v. New Jersey*, which dealt with a claim by four states to about \$26,000 in small debts owed

by Sun Oil Co. to about 1,730 small creditors over periods ranging from seven to 40 years.

Texas claimed on the ground that most of the amounts were on the books of Sun's offices in that state or were owed to persons whose last known address was in Texas; Florida, on behalf of persons whose last known address was there; New Jersey, because Sun was incorporated there; and Pennsylvania, as the state of the company's main office.

The Supreme Court ruled that the state of the owner's last known address was entitled to the funds.

A few states changed their laws to reflect the holding, but other statutes remained under a cloud. Many financial institutions argued that their duty was unclear and most made little effort to contact "missing" customers. Meanwhile state officials became increasingly aware of unclaimed property as a source of desperately needed revenue.

States which did press forward with revenue raising programs, which included serious attempts to find lost customers, were California, Florida, Illinois, Massachusetts and Minnesota.

Dormancy Shortened

A major consideration for ULC drafters was the length of the dormancy or holding period before a state takeover could occur. The prior act used seven years. Ten years was a common dormancy period for bank deposits but 13 states had longer ones with Delaware topping all others at 25 years.

The drafting committee chose five years, with exceptions of 15 years for traveler's checks, seven years for money orders and one year for unpaid wages, utility deposits, utility refunds and property held by the state itself.

After first attempting to notify owners in writing, all property holders are required under the 1981 act to file annually with a state administrator a list of property which has been ignored by the owner for the indicated dormancy period. The administrator then advertises property with a value of \$25 or more for two consecutive weeks in an appropriate local newspaper. For amounts of more than \$50, the administrator mails the owner a notice that his property is slated for state custody. Six months from the date of filing, amounts still unclaimed go to the administrator of the state where the apparent owner lives or lived.

If the address is not available, or if it's in a state without an unclaimed property act or in a foreign country, the state of the holder's domicile may take custody, pending proof that the funds belong

elsewhere. If the last-known-address state later enacts a law, the taking state must relinquish its take. Property such as gift certificates and unused airline tickets for which there is no last known address may be claimed by the state of purchase if the state where the issuer is incorporated does not have a pertinent law.

Interstate Cooperation

To save expense and help states collect out-of-state funds belonging to them, the 1981 act breaks new ground. It authorizes agreements under which states may exchange information and jointly audit holders or sue them. The administrator also may sue on behalf of another state and ask another state to do the same for him, provided the state making the request foots the bill.

The National Association of Unclaimed Property Administrators is active in developing such programs, which could simplify matters for holders as well, since they would likely file a single report to a group of states instead of to each separately.

The steady trend toward automation makes interstate cooperation easier and more rewarding. A number of states are already engaged in such joint efforts.

The agreements do not require the consent of Congress because under Supreme Court rulings they do not interfere politically with federal supremacy.

The Association issues a newsletter and sponsors informative annual meetings to keep interested per-

sons abreast of what is going on in the field. Any official dealing with unclaimed property may receive the newsletter by writing Ms. Vivian Herbert, Administrator of Unclaimed Property Division, State Treasurer's Office, P.O. Box 3-R, Richmond, VA 23207.

To correct a weakness in earlier versions of the act, holders are given considerable economic incentive to obey the law. Although states are free to fix an interest penalty for non-compliance, drafters suggested 18 per cent, or 10 per cent above the annual rate of discount — in effect on the date the property should have been paid or delivered — for the most recent issue of 52-week U.S. Treasury bills.

Non-Reporting Penalties

For willful non-reporting, a penalty ranging from \$100 to \$5,000 a day is mentioned. For willful failure to pay or deliver property, the act exacts a civil penalty of 25 per cent of value. A state could also impose criminal penalties but the drafters felt economic sanctions would be more effective.

The 1981 act requires a holder searching for dormant funds to check his records back 10 years from the date the law is passed. If the funds have already been turned over to a non-eligible state, the state that should get them may claim them. Penalties are *not* retroactive.

Massachusetts' experience shows how a state can add income without hiking taxes and at the

KEY POINTS

In addition to imposing record-keeping obligations on property holders, other key features of the 1981 act:

- Provide that upon reasonable notice an administrator may examine any holder's records, regardless of a holder's claim to have no reportable property.
- Require an administrator to hold most property for a year before selling it at public auction within the second year. Stocks will generally be held three years with missing owners entitled to dividends and interest for this period.

- Recommend that a state maintain a separate trust fund of not less than \$100,000 to insure payment of belated claims.

- Bar activity by heir finders (who for a fee locate owners of dormant funds) for two years after state receipt of the property.

- Provide for lawsuits by owners aggrieved at an administrator's decision.

- Presume that proceeds of a life insurance policy are abandoned if the company knows the insured has died. Under the old version, proceeds usually were not reportable until the 103rd anniversary of the decedent's death.

- Allow the administrator to destroy incidental property received that is of insubstantial commercial value.

FIELDS ACT Re-Viewed

same time provide windfalls to many missing or forgetful property owners.

From 1950 to 1975, when the law specified a 14-year dormancy period, state receipts averaged \$250,000 a year. Payouts for the entire period were \$350,000. The dormancy period was then reduced — first to 10 years, then to seven in 1980 — and audits of holders were stepped up. Receipts in 1980 climbed to \$25 million, 25 to 30 per cent of which is expected to be paid to owners. In 1981 the dormancy period was cut to five years.

Illinois Experience

Illinois took in \$8.7 million in the fiscal year ended June 30, 1981, about \$953,000 of which was unearthed by state examiners and should have been reported earlier. Payments on 1,994 claims totaled \$903,000. Over three years, examinations have resulted in a take of \$2.9 million, according to Michael E. Fryzel, Administrator of the Unclaimed Property Division of the Illinois Department of Financial Institutions.

Since the law was enacted in 1962, Illinois has received \$74.3 million and has paid out \$5.9 million on 10,029 claims. Most of the funds have come from banks, followed by savings and loan associations, credit unions, insurance companies and retail establishments and other business corporations — in that order.

A major concern of ULC drafters was the widespread bank practice of discontinuing interest and imposing service charges on dormant accounts without adequately informing depositors of what to expect. Small accounts were simply wiped out.

It has been argued that the cost of posting interest and mailing statements for small accounts more than justifies this practice.

Charlotte Moulton, U.S. Supreme Court correspondent for United Press International 1949-78, now acts as a consultant to the Uniform Law Commissioners.

"I don't consider that a valid argument," said Fryzel. "These banks pay simple interest of five to six per cent on accounts while for years they have had use of the depositors' money invested at 12, 13 or 14 per cent. Statements and posting are part of the cost of doing business and they knew that when they took the accounts."

Fryzel said a suit by Illinois against the Lakeview Trust and Savings Bank in Chicago declares that a financial institution must have a valid, written, enforceable contract with its customers before it can stop interest on and service charge dormant accounts; and that if the bank pays back the interest and charges when an account is reactivated, the state must be treated the same way when dormant funds are turned over.

A precedent was established by a California suit against the giant Bank of America which resulted in a 1980 court order that an estimated \$20 million in service charges, interest and penalties be returned to customers.

In a highlight of the bank's lax performance, California Controller Ken Cory found his own name on the list of "missing" depositors, as well as those of actress Lucille Ball, comedian Bob Hope and former Gov. Edmund G. Brown, Sr.

In Florida persons reported unlocatable have included Gov. D. Robert Graham and former state Supreme Court Justice Fred Karl.

Safe Box Surprises

Those abandoned safe-deposit boxes yield some of the more dazzling examples of unclaimed property.

Among the discoveries of Virginia officials were a rare Fairchild fountain pen with a 14K point and mother-of-pearl staff; and a ring, perhaps a copy of royal jewelry, dating from the French Revolution. For appraisals of such finds, the state has gone afield as far as the curator of gems at the Smithsonian Institution and the Louvre in Paris. Auctions of safe-deposit box items are in progress in New York City.

Virginia struck a small "gold mine" in 1980 in the form of almost \$7,000 in gold-backed Liberty Bonds and coupons — some dating to 1917. The U.S. Treasury redeemed them.

HB 182
Uniform Unclaimed Property Act

Historical Note

Thirty-one states, (Alaska not included) and the District of Columbia enacted either the 1954 Uniform Disposition of Unclaimed Property Act or the 1966 revision. These Acts served well as evidence by their numerous adoptions. However, the era of stability was ended with a U.S. Supreme Court decision; Texas v. New Jersey, 379 U.S. 674 (1965).

In the last decade states have become increasingly aware of the opportunities for collecting and returning to their residents unclaimed money and using the "windfall" unreturned funds as general fund receipts for the benefit of citizens of the State. Accordingly several states have sought to enforce their unclaimed property laws with enhanced vigor. They have found, however, that obtaining compliance with the law has been extremely difficult. In some instances the uncertain status of unclaimed property statutes in the wake of Texas v. New Jersey accounts for the high degree of noncompliance; many holders feel they do not know what is required of them. In addition, the enforcement provisions of the Uniform Act are inadequate and have not served to encourage compliance with the Act.

The Uniform Act served its time. However, to conform the Uniform Act expressly to the Supreme Court ruling in Texas v. New Jersey a comprehensive revision was desirable, and was enacted in 1981.

Prepared by:
Department of Revenue
Audit Division
April 22, 1986

UNIFORM UNCLAIMED PROPERTY

AS 34.45.110

This section establishes as a general proposition that all intangible property held or owing in the ordinary course of the holder's business is within the coverage of this Act. This section provides that unless a different time period is specified all intangible property which has remained unclaimed for more than five years is presumed abandoned. Sections .130 -.260 deal with specific types of property and prescribable the events which raise a presumption of abandonment.

The general dormancy period of Alaska's current escheat property law is seven years. Some legislatures have recently shortened that time period. Given the greater mobility of the population in 1985 as compared with that of a quarter century ago when the seven year dormancy period was first established, a reduction of the general dormancy period to five years is warranted. Additionally, the experiences of those states with shorter abandonment periods reveal that they are able to return to owners a substantially higher percentage of property reported as abandoned. There are exceptions in this Act to the five year dormancy period, however. For instance, statistical evidence indicates that a period of 15 years continues to be appropriate in the case of travelers checks. A majority of travelers checks will ultimately be presented for payment within the 15 year period. Also, in certain instances a shorter period is appropriate. For instance, the likelihood of finding the owner of a payroll check is materially decreased after one year. Hence, Section .250 has a one year dormancy period for unpaid wages.

Subsection (b) is intended to make clear that property is reportable notwithstanding that the owner, who has lost or otherwise forgotten his entitlement to property, fails to present to the holder evidence of his ownership or to make a demand for payment. Since the holder is indemnified against any loss resulting from the delivery of the property to the Department, no possible harm can result in requiring that holders turn over property, even though the owner has not presented proof of death or surrendered the insurance policy, savings account passbook, the gift certificate, winning racing ticket, or other memorandum of ownership.

A draft issued by a property or casualty insurance company as an offer of settlement of a claim for property damage or personal injury is not subject to the presumption of abandonment if the offer was not accepted by the payee. In this situation, the draft never became payable or distributable. The issue of whether a draft is accepted by a payee is a question of fact that is not addressed by the Act.

AS 34.45.120

This section describes the general circumstances under which a state may claim abandoned intangible property. (There is a special provision for travelers checks and money orders in Section .140). This section closely follows the language of Texas v. New Jersey, in which the court reasoned that unclaimed property is an asset of the creditor and should generally

be paid to the creditor state, i.e., the state of residence of the apparent owner. Consistent with that reasoning it held that unclaimed intangible property is subject to escheat or custody as unclaimed property first by the state of the owner's last known address. If that state cannot claim the property, the state of the holder's domicile is entitled to it.

Consistent with the court's concern for a simple rule which would avoid the complexities of proving domicile and residence the court established the priority on the basis of information contained in the holder's records. Recognizing that the holder's records might be incomplete, the court's ruling permits a claimant state to prove by other means that the last known address of the owner is within its boundaries. Where the holder's records do not show the owner's last address, the second priority claimant, the state of domicile of the holder, is entitled to claim the property. The state of the owner's last known address can later assume custody from the state of the holder's domicile by showing that the last known address of the owner is within its borders. Likewise, if the state of last known address does not have an unclaimed property law which applies to the property, the state of the holder's domicile can take the property, again subject to the right of the state of last known address to recover the property if and when it enacts an unclaimed property or escheat law.

Paragraph (1) restates the factual situation in Texas v. New Jersey. As the court there said ". . . the address on the records of a debtor, which in most cases will be the only one available, should be the only relevant last known address." If the holder's records are erroneous and the owner is in another state, that other state can reclaim the property pursuant to Section 25.

Paragraph (2) covers the situation in which the identity of the person entitled to the property is unknown, but it is established, either through the holder's records or by some other means, that the property was owned by or payable to a person whose last known address was within the claiming state. Reunification of the owner with his property in this circumstance is impossible, and insofar as that issue is concerned, it makes no difference whether the property is delivered to the state of the holder's domicile or the state of the owner's last known address. However, following the equitable concept of distributing unclaimed property among creditor states the subsection directs that, where there is no record of a name but there is a record of last known address, the state of last known address can claim the property.

Paragraph (3) is the secondary rule of Texas v. New Jersey. The Supreme Court ruled that, when property is owed to persons for whom there are no addresses, the property will be subject to escheat by the state of the holder's domicile, provided that another state may later claim upon proof that the last known address of the person entitled to the property was within its borders.

Paragraph (4) provides that, if the law of the state of the owner's last known address does not provide for escheat or taking custody of the unclaimed property or if that state's escheat or unclaimed property law is not applicable to the property in question, the property is subject to claim by the state in which the holder is domiciled. In that instance, the state of the owner's last known address may thereafter claim the property if it enacts an applicable unclaimed property law.

Paragraph (5) provides that, when the last known address of the apparent owner is a foreign nation the state in which the holder is domiciled may claim the property.

Paragraph (6) provides for a situation in which neither of the priority claims discussed in Texas v. New Jersey can be made, but the State has a genuine and important contact with the property.

Gift certificates, unused airline tickets, and other property for which there is no last known address may be claimed by the state of purchase if the state of corporate domicile does not have an abandoned property law covering the property in question under paragraph (6).

Wholly foreign transactions are excluded from the coverage of the Act.

AS 34.45.140

This section concerns travelers checks and money orders which are unclaimed. Subsections (a) and (b) deal with the requirements for presuming this property abandoned. Although the general dormancy period has been reduced for many kinds of property, the 15 year period for travelers checks and the seven year period for money orders is retained. Statistical and economic evidence has shown that these periods continue to be appropriate.

Subsection (c) prohibits holders from reducing outstanding Travelers check and money order balances through service charges unless a written contract had been entered into.

Subsection (d) and (e) adopt the rules, including the dates, provided by congressional legislation which determine the state entitled to claim sums payable on travelers checks, money orders, and similar instruments, see Pub. L. 93-495, §§ 603, 604 (Oct. 28, 1974), 88 Stat. 1525-26, 12 U.S.C. §§ 2501 et seq. The congressional action was in response to the Supreme Court decision in Pennsylvania v. New York, 407 U.S. 206 (1972), which held that the state of corporate domicile was entitled to escheat money orders when there was no last known address of the purchaser although the property had been purchased in other states. Subsection (d) substitutes as the test for asserting a claim to travelers checks and money orders the place of purchase rather than the state of incorporation of the issuer.

AS 34.45.150

This section covers checks and similar instruments issued or certified by banking and financial organizations. Checks and other instruments issued by persons other than banking and financial organizations are covered generally by Section .110. Bank checks are presumed abandoned after five years.

AS 34.45.160

This section covers bank accounts. Bank deposit accounts are generally presumed abandoned unless the depositor has within the past seven years, increased or decreased the account balance or had other written communication with the bank or financial organization. Activity by an owner with another account in the bank or another active relationship between the owner and the holder such as a loan will prevent abandonment.

Subsection (b) forbids a bank, for instance, from imposing service charges on dormant or inactive accounts, or closing the payment of interest.

Subsection (c) prevents a certificate of deposit with automatic renewal provisions from being treated as perpetually exempt from a presumption of abandonment. The subsection also insures that no interest penalty will result from the delivery of such property during the interest term then in effect.

AS 34.45.170

Subsections (a) and (b) require that money held owing under life insurance or endowment insurance policies is presumed abandoned if unclaimed for more than five years after the money became due. The last known address is the address of the insured unless the records of the company show the address of the beneficiary.

Paragraph (1) of subsection (c) provides that proceeds of a life insurance policy are presumed abandoned if the insurer is aware that the insured has died even though actual proof of death has not been furnished to the insurer. Paragraph (2) provides that the policy proceeds are payable if the limiting age under the mortality table on which the reserve is based is reached and there has been no activity with respect to the policy for 2 years.

Subsection (d) provides that the application of an automatic premium loan provision will not be used to consume the proceeds of a policy and prevent the policy from being matured under subsection (a) if the insured has died or if the beneficiaries have otherwise become entitled to the proceeds of the policy.

Subsection (e) imposes an affirmative duty upon the insurer to ascertain a correct address of an insured who fails to receive notice of the exercise of the non-forfeiture option. In these cases it is expected that as a result of the search the insurer will become aware that the insured is deceased. Subsection (f) then requires the insurer to attempt to locate the beneficiaries and pay the policy proceeds.

Subsection (g) provides for the insurer to request the addresses of beneficiaries if the insured changes a beneficiary designation. Most insurance companies do not request address information for beneficiaries. Since in many instances the initial beneficiary resides in the same household as the insured and the administrative burden of accumulating address information is thought to be considerable, the obligation to obtain the address is deferred until such time as a change of beneficiary occurs. By making the commencement date of this subsection 2 years after enactment, insurers will be provided sufficient time within to undertake the necessary administrative steps to implement this provision.

AS 34.45.180

This section requires utility companies to presume abandonment of deposits that remain unclaimed for more than one year after termination of service.

AS 34.45.190

This section provides that court or administrative agency ordered refunds which remain unclaimed for more than one year are presumed abandoned. The short dormancy period of one year is justified since no possible advantage can occur to the owner by leaving his property with the holder, and failure to claim a refund is strong evidence that the property has been abandoned.

AS 34.45.200

This section covers underlying shares of stock and principal amounts of debt securities, i.e., stock certificates in the possession of the record owner. Dividends and other distributions are to be reported pursuant to AS 34.45.110.

Several states have enacted specific provisions for the presumption of abandonment of underlying share certificates. Typical is the provision of California (Cal. Civ. Pro. Code § 1516) which provides that the underlying intangible interest is presumed abandoned if the owner has not contacted the company within the abandonment period and he cannot be found whether or not dividends on that interest are paid. Connecticut, Florida, Indiana, Massachusetts, Montana, New York, Rhode Island, Wisconsin and Virginia also have specific provisions for the presumption of abandonment of underlying shares. States with escheat laws similar to New Jersey's would be entitled to claim underlying shares on the Standard Oil precedent.

This section establishes a longer dormancy period (seven years) for this property than for other property covered by this Act. Further this section requires that there must be at least seven consecutive dividend checks issued during this period of dormancy which remain uncashed. Additionally, the presumption of abandonment will not arise in the event the missing owner has communicated with the association. In this regard, the communication would normally be with an agent of the association such as a transfer agent or a dividend disbursing agent. Of course, such communication would satisfy the provision of this section. This section combines both a period of inactivity, seven years, with the requirement that distributions paid on the underlying intangible interest remain unclaimed, thus avoiding concerns that abandonment should not be presumed where a shareholder has not contacted a non-dividend paying company.

If the conditions leading to a presumption of abandonment have occurred, the holder (issuer of the security) must report to the State and if the holder has in its records an address of the owner, it must send written notice to the owner in an effort to reunite the owner with his property. Thereafter the Department may give notice by advertising the existence of the property and send mailed notice to owners of property valued at \$50 or more.

Many owners will be located through the publication and mail notice requirements of the Act. In the event abandonment is presumed and the owner subsequently appears, there are at least 3 formal opportunities to reunite that owner with the issuer before a duplicate certificate is turned over to the Department.

If the owner is not located, however, a duplicate certificate is issued to the Department pursuant to Section 320 (d) and the original certificate will be cancelled. Thereafter, if the owner appears, the duplicate certificate may be claimed from the Department.

The issuer who delivers a duplicate certificate under the Act is protected, because upon delivery it is relieved of all liability to the extent of the value of the property delivered under Section 20. If any person thereafter makes a claim against the holder, the Department is required to indemnify the holder against any liability on the claim. The required indemnity is complete, and it is not restricted to the value of the property turned over.

Subsection (e) would not require the reporting of interests enrolled in dividend reinvestment plans unless the owner has other stock which is not in dividend reinvestment and which would be presumed abandoned under Section .200.

AS 34.45.210

This section provides a dormancy period of 1 year for intangible property distributable during the course of dissolution of a business association.

AS 34.45.220

This section provides that intangible property held by agents and fiduciaries is presumed abandoned after a five year period after the property became payable or distributable. Intangible property is not "payable or distributable" under subsection (a) if the fiduciary possesses merely the discretion to pay or distribute property and has not exercised the discretion.

Subsection (d) is designed to clarify the status of transfer agents. That is, they are agents for the business association and the Department must look to the principal, the business association, as the holder, unless they have contractually undertaken the obligation to report the property. A later section provides that the department is authorized to examine the records of the holder or records relating to the holder which are in the possession of the transfer agent. See Section .290.

AS 34.45.230

This section provides that property held by the courts, municipalities or governmental agencies is presumed abandoned after one year.

AS 34.45.240

This section provides that both gift certificates and credit memos are covered under abandoned property law if unclaimed for five years.

AS 34.45.250

This section covers wages unclaimed or unpaid. The abandonment period is only 1 year since the chance of locating a missing owner of a wage check materially decreases with the passage of time.

AS 34.45.260

This section provides that all property held in safe depository boxes and remaining unclaimed for five years after the lease or rental period expires is presumed abandoned. This section is not intended to cover property left in place other than safekeeping repositories, for example, airport lockers or field warehouses. Its coverage is limited to safe deposit boxes in banks or other financial institutions.

AS 34.45.280

This section requires holders of abandoned property to report to the Department of Revenue only property with a value of \$25 or more.

Before filing its report, the holder must send written notice to the apparent owner, if the owner's claim is not barred by the statute of limitations, the property has a value of \$50 or more, and the holder's records do not disclose the address to be inaccurate.

The subsection requires that the notice be sent not more than 120 days before the filing of the report.

AS 34.45.290

This section is designed to facilitate compliance with the Act. Subsection (a) provides for the filing of a negative report if the Department requires such a report and will minimize disruption which would otherwise be caused to the holder if an examination of records instead were conducted by the Department.

Subsection (b) provides the Department the authority to conduct examinations of holders.

Subsection (c) is intended to provide a useful method whereby the Department can conduct a single examination of a dividend disbursing agent or transfer agent serving in such capacity for numerous business associations. This section, together with Section .460, will enable several states to conduct joint examinations of numerous holders at one time, saving substantial expense and thus permitting examinations which might otherwise be economically unfeasible.

Subsection (d) permits the use of estimates in instances where the holder has failed to report and deliver property that is abandoned and no longer has records with which to prepare such a report. Additionally, if the holder fails to maintain records of the last known address, states can assert claims based on any other records which might exist. This subsection does not resolve the issue of whether the domiciliary state of the holder can also claim the property from the holder.

It is the experience of other states that many holders are not retaining records of addresses of owners. This section makes it mandatory that holders maintain addresses if they initially had an address. The experience of several states has confirmed that substantial amounts of unclaimed property, for which at one time the holder had records of address, are now subject to claim only by the domiciliary state of the holder since the recorded address has not been retained.

This subsection does not require that the holder in the first instance obtain the address of the owner. For example, a record of the address of the purchaser or recipient of a gift certificate customarily is not obtained, and is not required.

Initially, the period for which records of address must be obtained is established at 10 years from the date the property was first reportable as abandoned property. For example, in the case of property that would be reportable in the aggregate without the name and address of the apparent owner, a state might adopt a rule providing for a relatively short record retention period on condition that the holder maintain a record sufficient to satisfy the requirements of Texas v. New Jersey that there be a last known address or that the State can prove that the last known address of the creditor was within its borders.

Subsection (b) is designed to ensure that the information required for asserting a claim to travelers checks and money orders is retained by the issuers of travelers checks and money orders.

Subsections (a) and (b)(3) of AS 34.45.310 set forth the dates by which the Department must publish the names of missing owners and mail notification to the last known address of each owner.

Subsection (c) and (d) have set \$50 as the minimum value required for advertising and notification.

AS 34.45.320

This section requires the holder to pay over the property within six months after reporting its existence. However, if the holder does not know the owner's name or the value of the property is less than \$25, then the property must be turned over to the Department at the time of filing the report. The notification provisions of sections .290 and .310 often stimulate owners to claim their property and the retention period of six months permits the holder to honor these claims.

Subsection (d) provides that the holder of an underlying stock interest presumed abandoned shall deliver a duplicate certificate to the Department. Upon delivery the holder is relieved of all liability to any person occasioned by the reappearance of the original certificate or the issuance of the duplicate certificate.

AS 34.45.330

This section states that when property is turned over to the State, the holder is relieved of all liability for any turnover made in good faith. Subsection (e) sets forth a definition of good faith which allows the holder to rely on its records if they meet reasonable commercial standards of practice in the industry.

The section also permits the holder to obtain reimbursement for claims it elected to pay to owners who appeared after the property was turned over.

If after turnover, any person or another state makes a claim on the holder, the State, upon request, is required to defend the holder and indemnify him against any liability. This provision is particularly important in light of the underlying share provisions of section .200.

AS 34.45.340

This section provides that an owner will be entitled to dividends, interest or other increment realized or accruing on the property during the period of time held by the Department.

AS 34.45.360

This section provides that within 3 years of receipt the Department will sell abandoned property. Subsection (c) provides an exception, that securities will generally be held a minimum of 1 year.

If the security is one which has been presumed abandoned pursuant to section .200 the Department is expected to hold the security for 3 years. It is permitted to sell the security within this 3 year period, but the missing owner is entitled to receive the proceeds of the sale or the market value of the securities at the time the claim is made. Thus there is a genuine incentive for the Department to hold this property for the requisite three year period.

Subsection (b) permits the Department to sell securities at prevailing prices directly to the issuing companies.

AS 34.45.370

This section provides that the Department will retain in a separate trust fund an amount not less than \$100,000 from which prompt payment of allowable claims shall be made.

AS 34.45.380

This section provides that if a valid claim to property turned over to the Department is made, the Department is to return the property or, if it has been sold, to pay the net proceeds of sale. If the claim is for an underlying share interest presumed abandoned under section .200 and the Department has sold the property within 3 years, the claimant is entitled to the net proceeds of sale or the market value of the property at the time claim was made, whichever is higher, together with any additional amount payable under section .340. Subsection (c) provides that the Department will pay over to the claimant the property it holds less costs incurred in connection with the sale.

Subsection (d) sets forth provisions which provide for the payment of interest and requires the Department to pay interest on property which was interest bearing to the owner. The rate of interest will be fixed at the rate prescribed in AS 45.45.010 or the rate on the unclaimed instrument.

AS 34.45.390

Paragraph (a)(1) provides that, if property was paid to the state of the holder's domicile because the last known address of the owner was unknown and it is later established that the last known address of the person entitled to the property was in another state, the state of domicile should pay over to the state of last known address.

Paragraph (a)(2) provides that if the state of the last known address subsequently enacts an unclaimed property law which covers the property, the taking state must turn it over.

Paragraph (a)(3) provides that the state of the actual owner can reclaim this property from the taking state.

Paragraph (a)(4) provides that property initially claimed under a "contracts" test because there was no last known address and the state of domicile had no applicable unclaimed property law may be reclaimed by the state of corporate domicile if it enacts an applicable unclaimed property law.

Subsection (c) provides that the state that initially receives the property and which is requested to remit it to another state should be indemnified by the claiming state.

AS 34.45.400

This section provides a remedy for both holders and owners in disagreement with an action made by the Department. These appeal rights mirror those established under tax law.

AS 34.45.410

Subsection (a) allows the Department to decline to take property of minimal value.

Subsection (b) authorizes the Department to assume custody of property prior to the time for presuming abandonment. This enables them to take possession of property, such as the contents of a safe deposit box repository, when the holder is terminating business but the property is not yet reportable. The property must be held by the Department until the abandonment period runs and then the property will be subject to the other provisions of the Act.

AS 34.45.420

This section provides for the disposition of property which has no commercial value. As an example, the contents of safety deposit boxes often include such items as rent receipts, personal correspondence and lapsed insurance policies.

Under this section the Department would be free to retain property having no commercial value. Further, the Department could transfer it to other agencies or institutions which might have an interest in the property because of its historical value or other independent significance.

This section provides that the Department in exercising its discretion in disposing of such property is not subject to a claim by the missing owner.

AS 34.45.430

This section is written to ensure that although the owner's claim against the holder may be barred by the statute of limitations prior to the effective date of the Act, the holder is not relieved of his obligation to pay abandoned property to the Department. Even though the statute of limitations has run before the effective date of the Act, the holder must report and deliver the property to the state if the holder does not regularly enforce the statute.

AS 34.45.450

This section allows Alaska to use the courts outside this State to enforce this Act.

AS 34.45.460

This section provides for cooperation among the many states that have unclaimed property laws.

In many instances holder apparently fail to report based on the correct assumption that individual and distant states will not go to the expense of auditing records. This section will permit spreading the very real expense of conducting audits among several collecting states and the pooling of information which should make enforcement of the Act less burdensome to the State and potentially less burdensome to the major corporate holders.

Action by one state for another is expressly permitted by this section. In some cases the administrator of a state may deem it wise to seek council in a foreign jurisdiction.

AS 34.45.470

This section provides monetary penalties which may be assessed against holders failing to turnover unclaimed property.

AS 34.45.700

This section provides that the Department has 24 months in which to locate owners of abandoned property before permitting heir finders access to the Department's records of unclaimed property.

AS 34.45.710

This section excludes from coverage all foreign transactions.

AS 34.45.720

Subsection (a) provides that if a state had an unclaimed property law prior to the adoption of this Act, a holder is not relieved of his duty to report and pay over the property abandoned under the Act then existing.

Subsection (b) deals with the problem of how far back a holder must check his records to determine what property not subject to the prior Act must be paid to the State under this Act. The period chosen is six years. A holder is required to pay to the State any property which six years before the date of enactment would have been payable in the enacting state if this Act had been in effect. For example, if Alaska enacts the new Act effective January 1, 1987 for property not previously presumed abandoned, the holder must report it if, as of January 1, 1981, it had been unclaimed for the abandonment period.

However, some property subject to this Act but which was not covered by a prior Act may have been paid to another state. If a holder has already paid this property to another state under its then existing unclaimed or abandoned property laws, it is not required to pay again this to this State. Nothing in this section, however prohibits this State from making a claim on the state to which the property was originally paid.

AS 34.45.730

This section provides the Department the authority to adopt regulations to carry out the provisions of the legislation.

AS 34.45.750

This section provides that if a holder fails to make a report under the Act or makes a false report, the Department may make a report from the information it is able to obtain.

AS 34.45.770

This section provides definitions for important terms used in the Act.

REVIEW OF THE
DEPARTMENT OF REVENUE AND DEPARTMENT OF LAW
UNCLAIMED PROPERTY

STATE OF ALASKA
OFFICE OF THE GOVERNOR
DIVISION OF INTERNAL AUDIT



04-15

INTRODUCTION

Unclaimed property is property which has been abandoned by its owner. In Alaska, unclaimed property reverts to the State after seven years. Alaska Statutes provide:

"When no claim of ownership has been made to bank deposits, cash or personal property for more than seven years, the property escheats to and becomes the property of the state." (AS 09.50.070)

The statutes also provide a general means for obtaining unclaimed property by providing:

"When the attorney general is informed or has reason to believe that any real or personal property has escheated to the state, he shall bring an action in the superior court to establish whether or not the property has escheated to the state." (AS 09.50.100)

The Department of Law has the administrative authority for implementing the unclaimed property program. Implementation includes locating and recovering unclaimed property and returning it to the rightful owners. No procedures exist for locating unclaimed property. The Department of Revenue only has the authority to receive and account for unclaimed property.

CURRENT LAW IS NOT BEING IMPLEMENTED

The unclaimed property act is not being implemented because the Department of Revenue does not require reporting of unclaimed property and the Department of Law seldom attempts recovery if unclaimed property is reported.

Reporting

The Department of Revenue does not request reporting of unclaimed property because the Department does not have the administrative authority by law to recover property. The Department of Law has authority to recover unclaimed property but rarely has brought action in superior court. Consequently, the property reverting to the state is only that which routinely is forwarded by probate court and from holders voluntarily forwarding unclaimed property.

Recovery

The Department of Law seldom brings action in superior court to recover unclaimed property because of time and economic restraints. Although the amount of unclaimed property is large, it consists of hundreds of sources, each of which would require separate action in the court. Even when some of these sources can be combined, the amount of resources necessary to implement the current law is too great and the procedures are abandoned. As a result most holders of unclaimed property either continue to hold the property or take it into income either directly or by assessing fees.

About three years ago the Department of Law began an action to recover unclaimed property held by banks in Alaska. Although progress is being made, no property as yet has been recovered. This cumbersome, time consuming process is further complicated by strong resistance of the holders. The administrative authority for the law lies with the Department of Law. This is not a normal function of the department. It rightfully belongs with the Department of Revenue.

ALASKA UNCLAIMED PROPERTY
STATUTES NEED UPDATING

The current unclaimed property statutes are insufficient because they do not apply to all unclaimed property. In addition, the statutes are not consistent with model unclaimed property laws, conflict with other Alaska statutes and do not provide a system for locating owners and returning their property.

Unclaimed Property Laws
Do Not Include All Unclaimed
Property

A large amount of unclaimed property is not being recovered by Alaska under current laws because current laws do not apply to all unclaimed property. The laws have never been interpreted to include property in state agencies, insurance companies claims and proceeds, utility company deposits, and stock companies' stock and dividends.

The Sitka Pioneers' Home has about \$55,000 in bank accounts belonging to deceased residents who left no will or heirs. The State jail system has several thousands of dollars of cash abandoned by former inmates.

The state agencies have indicated they do not know where to forward this property or even if they are legally allowed to release the property to other than the rightful owners.

In the past eight years, the Department of Revenue has received only \$425,000 in unclaimed property. Most of this property comes from estates of persons who left no will or heirs and also from an annual remittance by two national traveler's check companies. These companies include Alaska in the remittance of unclaimed property even though current Alaska statutes do not require direct remittance. We estimate that \$4 million in potential unclaimed property is available as of today and an additional \$500,000 annually.

Model Unclaimed Property Act
Provides Guidelines which Would
be Beneficial to Alaska

The National Association of Unclaimed Property Administrators (NAUPA) has proposed a model Uniform Unclaimed Property Act (UUPA). NAUPA is an association of unclaimed property administrators from 35 states. Their goal is to establish similar laws between states through the creation of a uniform unclaimed property act.

Alaska has also proposed an Unclaimed Property Act (HB206), first submitted in 1979. Although this bill was not enacted, passage of a revised Alaska Unclaimed Property Act would provide direction to Alaska's unclaimed property program. However, several sections of the original HB206 need to be updated, changed or deleted to be consistent with the revised UUPA. The Department of Law is drafting a substitute bill and should consider changing the time limits for when property escheats to the state.

Except for traveler's check companies, the time limit in the proposed Unclaimed Property Act is seven years. NAUPA recommends reducing from seven to five years for the time limits when property escheats to the state.

For traveler's check companies, the proposed act sets the time limit at fifteen years. The trend of the unclaimed property administrators is to reduce the time requirement on traveler's check companies to ten years or less. Fifteen years appears to be too long a period of time creating greater difficulty in locating the owner. The two companies currently voluntarily submitting traveler's checks do so after only eight years of inactivity.

Conflict with State Banking Code

A conflict exists between the unclaimed property law AS 09.50.070 (Code of Civil Procedures) and AS 06.05.460 (Alaska Banking Code). AS 06 requires that every bank, upon request, report to the Department of Commerce and Economic Development, deposits which have not been added to or reduced for ten years or more. AS 09 requires that when no claim of ownership has been made for bank deposits for more than seven years, the property escheats to the state. Not only does the time limit conflict, but also the holder could be required to submit information to two separate departments.

No Attempt Made to Locate and Return Property to Owners

The current law does not require the state to attempt to locate and return unclaimed property to the rightful owners. Occasionally there is a claim against escheated property and it is returned. No one is assigned to try to locate owners and no attempts such as published lists of owners are made by the state.

INTERNAL CONTROL

Internal control over receipt of unclaimed property is weak (or is non-existent) because only one employee is assigned to this function. The Department of Revenue acts as the holder of property received either from the superior court or directly from other sources. One employee is assigned, on a part time basis, to process all incoming remittances and inquiries. Approximately five hours per month is devoted to the entire

function. Without proper internal control and accountability of the employee handling these funds, property could be easily delayed or even diverted from reaching the state treasury.

The procedures currently used are as follows: (1) the property, normally in check form, is entered on a perpetual ledger; (2) a file is established containing a copy of the remittance check and a cover letter. The owner's name and occasionally the last known address is provided; (3) a cross-index card containing the remitter and owner names is made to facilitate locating a file; and, (4) the property is transmitted to the state treasury.

RECOMMENDATIONS

We recommend that:

1. The Departments of Revenue and Law:
 - a. Pursue new legislation whereby the Department of Revenue would be given administrative authority to:
 - (1) Locate unclaimed property
 - (2) Recover unclaimed property
 - (3) Require annual reporting by holders of unclaimed property, thereby creating a source to identify, locate and recover unclaimed property.
 - b. Include provisions for locating the rightful owners of escheated property and facilitate its return.
 - c. Include in the proposed legislation, authorization to use the Alaska Administrative Code.
 - d. Use the revised model act of the NAUPA as a guide in preparing proposed legislation including:
 - (1) Implementing a workable system of administering the duties directed by new legislation.
 - (2) Reducing the time limit when property escheats to the state to ten years or less for travelers check companies and five years for all other property.
 - e. Eliminate conflicts with the Alaska Banking Code.
2. The Department of Revenue:
 - a. Establish internal controls including:
 - (1) A logging in of property received and its monitoring to insure timely processing.
 - (2) A cross-check system with the Alaska superior court including signing for and being held accountable for all property sent and received.

- (3) A separation of duties for the receipt and processing of funds received.
 - (4) Maintenance of an expanded ledger including the current perpetual ledger if necessary and/or a ledger maintained for each fiscal year.
 - (5) An annual report containing a recap of property anticipated to be recovered, property received, the disposition of property received and retained by the State, property returned to the owners together with success ratios. This report could and should be used both inside the department as an effective measurement of the program and outside the department to inform the public of the program's purpose.
 - (6) An alphabetical owner's list, published for the benefit of the public, including the last known names and addresses of the owners of record.
 - (7) A policy/procedures manual.
- b. Assign one additional position at a minimum to:
- (1) Answer correspondence when a form letter is not appropriate.
 - (2) Identify and locate holders of unclaimed property through correspondence already on file, further correspondence, annual reports and other sources.
 - (3) Bring these sources to the attention of the attorney general.
 - (4) Enforce current and future statutes and regulations.
 - (5) Begin to locate the owners of escheated property.

MEMORANDUM

State of Alaska

TO: John O'Meara
State Internal Auditor
Office of the Governor

DATE: March 26, 1981

FILE NO: J-77-031-81

TELEPHONE NO: 465-3690

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Unclaimed Property

By: 
Sarah T. Kavasharov
Assistant Attorney General

This is in response to your letter of March 23, 1981, requesting our response to the recommendations made in your final report on unclaimed property. The Department of Law concurs in the recommendations and has worked with the Department of Revenue to draft new legislation to be introduced this session. The new legislation contains provisions to implement all the recommendations made in your final report. The legislation does not yet have a bill number, but will go to the governor's office in final form for introduction within a day or two from today's date. We can send a detailed description of the proposed legislation, taken from our analysis of the bill done for the governor, if you wish it.

STK/jb

RECEIVED
MAR 31 1981

Office of the Governor
Division of Internal Audit

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 9, 1981

John O'Meara
State Internal Auditor
Office of the Governor
Pouch A
Juneau, Alaska 99811

Dear Mr. O'Meara:

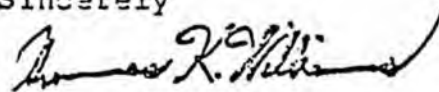
This is in response to your memorandum dated February 26, 1981, regarding the issue of abandoned property in Alaska. The Department of Revenue recognized this problem several years ago and proposed legislation which was introduced by the Governor for the past two sessions of the Legislature. Unfortunately, this legislation was not acted upon by the Legislature in either session.

In anticipation of the present Legislative session, this department in conjunction with the Department of Law, has prepared a comprehensive act based on the model act of NAUPA. I'm confident that this act will resolve all the statutory problems which your audit identified.

With regard to your recommendations regarding the procedural changes recommended, all of these changes will be adopted if the proposed legislation is passed by the Legislature. If the legislation does not pass we will be required to seek additional staffing to implement the recommendations. Since the budget request for FY 82 is already submitted, we will not be able to request any additional positions until FY 83.

I appreciate your staff's review of this issue and hope that your recommendations will provide the needed impetus to obtain favorable action by the Legislature on the proposed law changes.

Sincerely



Thomas K. Williams
Commissioner
(907) 465-2300

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Office of the Governor
Division of Internal Audit

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§ 09.50.070

CODE OF CIVIL PROCEDURE

§ 09.50.080

CURRENT LAW
STATE

Escheat of personal property of intestate domiciled or resident in other state, 50 ALR2d 1375.

Uniform Disposition of Unclaimed Property Act, 98 ALR2d 304.

State regulation of land ownership by alien corporation, 21 ALR4th 1329.

Sec. 09.50.070. Property subject to escheat. When no claim of ownership has been made to bank deposits, cash, or personal property for more than seven years, the property escheats to and becomes the property of the state. (§ 14.01 ch 101 SLA 1962; am § 2 ch 78 SLA 1972):

Cross references. — For passing of intestate estate to state if there is no taker,

see AS 13.11.025; for escheat of unclaimed assets of an estate, see AS 13.16.600.

NOTES TO DECISIONS

Escheats are purely statutory. Kennedy v. Gatz, 194 F. Supp. 795.

It is strictly within the power of the state to prescribe the conditions of escheat. Kennedy v. Gatz, 194 F. Supp. 795 (D. Alas. 1961).

Article does not qualify contracts of banks with depositors. This article does not qualify any contract between a national bank and its customer, but deals only with property the title to which has failed under a rule substantially as of the common law. Territory of Alas. v. First Nat'l Bank, 22 F.2d 377 (9th Cir. 1927).

Escheat vests on death of intestate. — The escheat actually occurs, or takes place, or becomes vested immediately upon the death of the intestate; the right instantly accrues to the sovereign, as some of the authorities express it, as "the last heir"; and the proceedings required by law, in the nature of office found, are merely proceedings to establish by legal proof that right which has already accrued or become vested or fixed. United States v. Fish, 5 Alaska 31 (1914).

Subject to being divested if heirs later establish claim. — As to real estate the escheat actually occurs or becomes vested immediately upon the death of the

intestate, subject to be divested if there are in fact heirs who later make themselves known. Kennedy v. Gatz, 194 F. Supp. 795 (D. Alas. 1961).

Presumption that heirs exist is rebutted by showing no probate proceedings or claim. — While the presumption obtains that a decedent leaves next of kin capable of inheriting, this presumption is rebutted by the absence of the deceased for a period of 10 years without any claim made for the property or institution of probate proceedings and default in asserting claim, after notice, after a show cause order in escheat proceedings. Territory of Alas. v. First Nat'l Bank, 41 F.2d 186 (9th Cir. 1930).

Death is presumed from absence and intestacy presumed from no administration proceedings. — Upon the proof of absence for the statutory period the presumption of death arises, and with the presumption of death, when no administration has been had, for more than 10 years, which is longer than the statutory period, the presumption of intestacy must obtain. Territory of Alas. v. First Nat'l Bank, 41 F.2d 186 (9th Cir. 1930).

Sec. 09.50.080. Enforcement of rights by state. The state may maintain an action to recover the possession of escheated property, or for the enforcement of its rights to the property. (§ 14.02 ch 101 SLA 1962)

Sec. 09.50.090. Transmittal of personal property to state. [Repealed, § 5 ch 78 SLA 1972.]

Sec. 09.50.100. Action by attorney general. When the attorney general is informed or has reason to believe that any real or personal property has escheated to the state, the attorney general shall bring an action in the superior court to establish whether or not the property has escheated to the state. (§ 14.04 ch 101 SLA 1962)

Sec. 09.50.110. Time within which to claim escheated property. Within seven years after the judgment, a person not a party to the escheat proceeding may bring an action in the superior court to prove the person's claim to the property. If the plaintiff establishes the claim and that the plaintiff had no knowledge of the prior escheat proceeding, the court shall award the property to the plaintiff. If it is determined that the plaintiff is entitled to the property or the proceeds from the sale of the property, the commissioner of revenue shall deliver the property or the proceeds to the plaintiff upon payment of the costs of the escheat proceedings, the cost of sale and other expenses connected with the conversion of the property to cash. The rents, profits, interest, or dividends which accrue to the state during its possession of the property are the property of the state and may not be recovered. The time limitation of seven years does not apply to a minor or person of unsound mind, but that person may bring an action to prove a claim only within one year after the disability ceases. (§ 14.05 ch 101 SLA 1962)

NOTES TO DECISIONS

Right of heir is foreclosed if claim is not made. — The right of the heirs is no greater than the right of the owner, and when the right of the owner escheats by reason of absence, the right of the heir is foreclosed, if claim is not made, after an order to show cause is published in escheat proceedings. *Territory of Alas. v. First Nat'l Bank*, 41 F.2d 186 (9th Cir. 1930).

Proof required. — Proof should be clear and conclusive, both as to the identity of the deceased and his relationship to the petitioners, in order to effect recovery of moneys left by deceased and covered into the state treasury by escheat. In re *Miller's Estate*, 8 Alaska 542 (1935).

Proof must be clear and convincing. — Persons seeking the return of property escheated to the state as unclaimed have the burden of proving their relationship to the decedent by clear and convincing evidence. *Waks v. State*, Sup. Ct. Op. No. 111 (File No. 163), 375 P.2d 136 (1962).

And must be of a higher degree than preponderance of the evidence. — Public policy dictates that a higher degree of proof than a preponderance of the evidence should be required of one seeking to establish a claim to money or other property of a decedent which has escheated to the state. *Waks v. State*, Sup. Ct. Op. No. 111 (File No. 163), 375 P.2d 136 (1962).

Facts asserted must be highly probable. — The claimants must induce belief in the mind of the judge or jury that the facts which they assert are not merely probably true, but that they are highly probable. *Waks v. State*, Sup. Ct. Op. No. 111 (File No. 163), 375 P.2d 136 (1962).

But not true beyond a reasonable doubt. — The claimants are not required to discharge the greater burden of persuasion that the facts asserted are almost certainly true, true beyond a reasonable doubt, or conclusive. *Waks v. State*, Sup. Ct. Op. No. 111 (File No. 163), 375 P.2d 136 (1962).

§. [Repealed,

Claimant's recovery limited by statute. — Upon establishment of the heirship the claimant becomes entitled to what the statute gives him and no more. Kennedy v. Gatz, 194 F. Supp. 795 (D. Alas. 1961).

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Sec. 09.50.120. Sale of property by state. (a) The commissioner of revenue may sell personal property which has escheated to the state as the commissioner considers advantageous and shall execute the proper conveyance. When the value of the property exceeds \$50, the sale shall be at public auction to the highest and best bidder after public notice of the time and place of the auction has been given by posting notices in three public places in the political subdivision where the property is to be sold, and by publication once in a newspaper of general circulation nearest the place of sale 10 days before the auction.

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(b) The commissioner of revenue may sell real property which has escheated to the state with the approval of the governor, and the governor shall sign the conveyance on behalf of the state. Sale of real property shall be at public auction to the highest and best bidder after public notice of the time and place of the auction has been given by publication once a week for four weeks in a newspaper of general circulation nearest the property to be sold. (§ 14.06 ch 101 SLA 1962)

Sec. 09.50.130. Claims to escheated property of value of \$1,000 or less. When property or the proceeds from the sale of the property which has escheated to the state amounts to \$1,000 or less and a rightful owner is discovered and makes a written claim to the property, supported by convincing proof of ownership, the commissioner of revenue, with approval of the attorney general, shall either return the property if still unliquidated, or issue a voucher for the amount of the proceeds or for the amount of money which has escheated in favor of the owner. (§ 14.07 ch 101 SLA 1962; am § 3 ch 78 SLA 1972)

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Sec. 09.50.140. Duty of banks and financial institutions to report escheated property. Every bank, banker, or financial institution having custody of a fund or other property to which no owner is known to them or the owner of which has not been heard from by them for more than seven years shall inform the attorney general of that fact. (§ 14.08 ch 101 SLA 1962)

hly prob- uce belief that the it merely re highly . Op. No. (1962). sonable required rden of rted are d a rea- Vaks v. No. 163),

NOTES TO DECISIONS

Requiring bank to report is reasonable. — The mere requirement that banking associations furnish information touching the status of certain of their accounts, as provided in this section is not an undue or unreasonable interference with the conduct of their business. Territory of Alas. v. First Nat'l Bank, 22 F.2d 377 (9th Cir. 1927).

Bank account may not be disturbed until adjudged escheated. — The attorney general cannot disturb any bank account, or the bank's full control over it, unless and until, with the information he seeks from the bank, or otherwise, he shall have secured a valid judicial determination that the depositor died intestate, without heirs, in which case the deposit,

like other property, is subject to escheatment. In essence the result is the same as where, in the case of an administered estate, the probate court requires the deposit to be delivered to the administra-

tor, and ultimately, upon a finding of no heirs, turns it over to the state. Territory of Alas. v. First Nat'l Bank, 22 F.2d 377 (9th Cir. 1927).

Sec. 09.50.150. Escheat of money or property of defunct organizations or corporations. When an organization or corporation becomes defunct and leaves money or property belonging to it, and no person institutes a proceeding to have the money or property distributed within four years after the organization becomes defunct, the money or property escheats to the state and shall be delivered to the commissioner of revenue. If the person in possession of the money or property refuses to deliver it to the state, the attorney general shall bring an action to recover the money or property for the state. (§ 14.09 ch 101 SLA 1962)

Sec. 09.50.160. Recovery by claimant of money or property of defunct organizations or corporations. A person having a claim or interest in money or property of a defunct organization or corporation may bring an action for recovery of escheated money or property only within seven years after the corporation or organization becomes defunct. (§ 14.10 ch 101 SLA 1962)

Article 3. Abatement of Lewd Houses

Section	Section
170. Abatement of places used for immoral act	210. Order of abatement
180. Injunction	220. Proceeds of sale
190. Dismissal	230. Release of premises to owner
200. Contempt proceeding	240. Fine for contempt as lien on premises

Collateral references. — 24 Am. Jur. 66 C.J.S., Nuisances, §§ 45, 77, 102 — 2d, Disorderly Houses, §§ 23 — 36. 169.

Sec. 09.50.170. Abatement of places used for immoral act. A person who erects, establishes, continues, maintains, uses, owns, or leases a building, structure, or other place used for the purposes of lewdness, assignation, or prostitution or any other immoral act is guilty of maintaining a nuisance, and the building, structure, or place, or the ground itself in or upon which or in any part of which the lewdness, assignation, or prostitution is conducted, permitted, or carried on, continues or exists, and the furniture, fixtures, and other contents constitute a nuisance and may be enjoined and abated. (§ 20.01 ch 101 SLA 1962)

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the disposition of unclaimed real and personal property. A detailed analysis of the bill and its relationship to current statutes follows. In addition, the official commentary on the Uniform Unclaimed Property Act (1981), by the National Conference of Commissioners on Uniform State Laws (NCCUSL), should be consulted with regard to the portion of the bill that deals with unclaimed personal property.

The personal property portion of the bill is derived in large part from the Uniform Unclaimed Property Act (1981) which the NCCUSL has approved and recommended for enactment by all states. The 1981 Act is a revision of the NCCUSL's 1966 Uniform Disposition of Unclaimed Property Act.

This bill applies to a wider range of abandoned intangible personal property than does the present AS 09.50.070, and provides for simple transfer of the custody of the personal property from the holder to the state, rather than transfer of the title. Savings accounts, deposits, drafts, money orders, traveler's checks, and safe deposit box contents are among the various property interests held by banking or financial organizations or by business associations which are covered by the bill (proposed AS 34.45.110, 34.45.140, 34.45.150, 34.45.160, 34.45.260). Also included is money owed by an insurance company, specifically including money owed under a life insurance policy or annuity agreement (proposed AS 34.45.170); deposits and refunds held by utilities (proposed AS 34.45.180); undistributed dividends, stock, and payments relating to a debt, held by a corporation (proposed AS 34.45.200); intangible personal property held by private fiduciaries (proposed AS 34.45.220), public officers, and state courts (proposed AS 34.45.230); and any

unclaimed property of a dissolved corporation (proposed AS 34.45.210).

In general, any of these property interests that have been abandoned might be claimed by the state if it is established that the amount held and owed belongs to a person whose last known address was in this state, or if the holder of the property is domiciled in this state (proposed AS 34.45.120 and 34.45.140). Holders of these property interests would be subject to the reporting requirements of the bill, which are set out in proposed AS 34.45.280. Abandonment would generally be presumed to have occurred if the owner has not claimed the property or contacted the holder in any way concerning it for a period of five years (proposed AS 34.45.110), except that a 15-year period is established for travelers checks and a seven-year period is established for money orders (proposed AS 34.45.140). Also, special provisions are made for abandonment of stock certificates or similar ownership interests in a business association. Stocks may be presumed abandoned (proposed AS 34.45.200) only if at least seven dividends have been paid and unclaimed in a seven-year period; otherwise the period would continue to run until seven dividends have been paid and not claimed. Proposed AS 34.45.200 distinguishes between dividends themselves (or any other money) that may simply be transferred to the department after five years, and the underlying interest in a business association (usually shares) which represents an interest greater than money.

The period currently prescribed in AS 09.50.070 for presumption of abandonment is seven years for all property. The NCCUSL drafting committee recommends a five-year period for most property, with exceptions as discussed. Most other states now either employ a five-year period or are considering it.

Holders of property would be required to file an annual report with the Department of Revenue (proposed AS 34.45.280) after first sending a notice to the last known address of each owner whose property is presumed abandoned (proposed AS 34.45.280(e)). The department would then be required to publish a list of the names of owners believed to have abandoned property interests under the bill, and to otherwise exercise due diligence to ascertain the whereabouts of the owners (proposed AS 34.45.310). Except in certain narrowly defined circumstances, the holders would then be required to pay or deliver the reported property to the department (proposed AS 34.45.320). After that, the holders would be relieved of all liability related to the disposition of the abandoned property (proposed AS 34.45.330). An

owner may forever claim personal property from the department (proposed AS 34.45.380). Also, a person might make a claim in court against the department, but not against the holder (proposed AS 34.45.330).

Under the bill, insurance companies would be required to report proceeds owed to an insured or to a beneficiary under the general provisions of proposed AS 34.45.110. Life insurance companies are specifically covered in proposed AS 34.45.170, which applies a five-year abandonment period to money due and payable under a life or endowment insurance policy or an annuity contract. Most life insurance policies provide for the cash surrender value of a policy to be automatically used to pay any premium payments which the insured has failed to make (or contain other nonforfeiture provisions such as extended term insurance or reduced paid-up life insurance). If an insured has stopped making premium payments because he or she has died, and if the beneficiaries are unaware of the existence of the policy, the cash surrender value of the policy will almost invariably be exhausted before the insured's age reaches the limiting age according to the mortality table on which the reserve is based. Proposed AS 34.45.170(d) provides that a nonforfeiture provision cannot prevent a policy from being matured or terminated under the provisions of proposed AS 34.45.170(a) if the insured has died or the insured or beneficiary has otherwise become entitled to the proceeds of the policy before depletion of the cash surrender value of the policy.

Within three years after receipt of abandoned personal property, the department must sell it to the highest bidder at public sale (proposed AS 34.45.360(a)), except that some types of securities held by the department must be held at least one year (proposed AS 34.45.360(c)); other types must be held at least three years before sale (proposed AS 34.45.360(d)).

The proceeds from sale of abandoned personal property, along with all other funds received by the department under the bill, would be deposited in the general fund of the state, but \$100,000 would be retained in a separate trust fund. The department would be required to make prompt payment from the trust fund of a claim, that it determined to be valid, brought by owners of property that had been turned over to the department (proposed AS 34.45.370 -- 34.45.380). The department would be authorized to determine the merits of a claim to abandoned personal property (proposed AS 34.45.380), and an owner aggrieved by a decision of the department would be required to follow established grievance

procedures of the department and then, if not satisfied, could appeal the department's final decision (proposed AS 34.45.400).

Another state would also be able to make claims to abandoned personal property if it appeared that the property should escheat to that state rather than to the State of Alaska (proposed AS 34.45.390). This section (as well as proposed AS 34.45.110 -- 34.45.140) codifies court decisions determining rights among states to claim abandoned property. Under the bill, the Department of Revenue would be required to adopt regulations to carry out the provisions of the bill (proposed AS 34.45.730), would be authorized to examine the books and records of a person whom the department had reason to believe had failed to report property subject to the bill (proposed AS 34.45.290), and could bring an action to compel delivery of property wrongfully withheld by a holder (proposed AS 34.45.450). The bill provides for the possibility of civil penalties for those who fail to comply with the provisions of the bill; criminal sanctions would be incurred by those who wilfully refuse to pay or deliver property or perform other duties as required under the bill (proposed AS 34.45.470).

The procedures set out in the Uniform Act are designed to safeguard the interests of both the state and the rightful owner of the property, if any. In the first place, the reporting requirements that would be imposed upon a holder, combined with the broader investigation and enforcement powers of the Department of Revenue and the addition of criminal penalties for wilful failure to pay or deliver, would make it possible for the state to ascertain the whereabouts of abandoned property held in this state and claim it. Under existing law, the department has no express enforcement power either to locate or to claim abandoned property. The Department of Law instead must bring an action in superior court to claim any amount of unclaimed property, including amounts under \$1. There is no specific provision in the current law authorizing any department to locate abandoned property, and only financial institutions are expressly required to report unclaimed property (AS 09.50.140).

The expansion of the categories of personal property affected by the Act would help to obtain greater revenue for the state. At the same time, the Act would serve the public purpose of re-uniting owners, or heirs of owners, with their property. Correspondence with Minnesota, a leader in implementation of an earlier version of the Uniform Act, and our own experience shows that approximately 25 percent of aban-

done property is ultimately claimed by rightful owners. The bill satisfies the requirements of due process by requiring both a holder and the department to comply with mailing and notification procedures that are reasonably aimed at locating the real owner of unclaimed personal property. Furthermore, the bill is custodial in nature in that an owner retains the right to establish and claim an interest in personal property or the proceeds from the sale of personal property from the department at any time in the future (proposed AS 34.45.380). It would be necessary for the legislature to appropriate an amount equivalent to a portion of the program receipts to cover the mailing and publication costs of notice to owners and the costs relating to sale of property and to hearings.

Minnesota reported in 1979 that the annual volume of unclaimed property in that state exceeds \$6,000,000. The Alaska Department of Law, acting under the reporting requirements currently contained in AS 09.50.140, received abandoned account reports from several Alaska banks totaling approximately \$345,000 in 1980, \$580,000 in 1981, \$440,000 in 1982, \$654,541 in 1983, and \$852,197 in 1984. These figures deal with only one category of unclaimed property and appear to be understated because of the suspension of interest payments and levying of service charges. Current law contains no prohibition against suspending interest or "charging away" dormant accounts through levying of service charges. The bill has provisions covering both practices. It would prohibit the suspension of interest payments or levying of service charges except under the same terms that the bank's contract with the customer allows charges or suspension of interest (proposed AS 34.45.160(c)). The state would then stand in the shoes of the customer when the five-year period has run, claiming any interest due, without deductions for service charges except those agreed upon between the bank and the customer.

The bill would allow for reciprocal action by states in that the attorney general may bring an action in our courts on behalf of another state to claim property belonging to the other state, and the department may request that the attorney general of another state bring a similar action on our behalf in the other state (proposed AS 34.45.460). The state on whose behalf an action is brought would be required to pay the expenses of an action in another state. Important modifications in this bill also allow for states to claim property from each other (proposed AS 34.45.390) and clarify which state has a superior claim to some types of intangible property that were the subject of conflicting state claims under older versions of the Uniform Act

(proposed AS 34.45.120 -- 34.45.140, 34.45.170, 34.45.220, and 34.45.390). These sections reflect codification of several recent court opinions, including opinions of the United States Supreme Court, resolving conflicting claims among states. The official comments of the NCCUSL offer additional explanation of the purposes of and the need for the parts of the bill that deal with personal property.

Section 8 of the bill differs from the Uniform Act, upon which it is largely based, in the following respects (other differences are wording changes only and not substantive):

1. Proposed AS 34.45.160(c)(1) adds a requirement to that proposed by the Uniform Act covering service charging of bank accounts. The Uniform Act provides only that any charges deducted on abandoned accounts must be the same as those agreed upon by the bank and its customer in a valid written contract; the attached bill adds a requirement that the agreed-upon charges also be reasonable.

2. Under the Uniform Act a bank or financial organization that begins to impose charges or stops paying interest has to notify the owner of the account at the owner's last known address if the account contains more than \$2. The attached bill increases the minimum amount to \$10 (proposed AS 34.45.160(c)(2)).

3. The Uniform Act provides that the department will both "defend and indemnify" a holder who pays or delivers abandoned property in good faith to the department. The attached bill relieves a reporting holder of liability and requires the department to indemnify a holder. But the wording of the bill also avoids the possibility of the state getting involved in defending lawsuits on behalf of a holder. At the same time that it protects a holder from unwarranted lawsuits, it also protects the rights of claimants (because a claimant may file a claim against the department; proposed AS 34.45.330 and 34.45.380). Similar wording in proposed AS 34.45.360(d) protects a holder, or transfer agent of a holder, from liability for the value of appreciation in securities.

4. The provisions of the Uniform Act regarding claimant remedies have been changed to conform to established hearing and grievance procedures of the department (proposed AS 34.45.400).

5. The provisions of the Uniform Act regarding both civil and criminal penalties (for failure to file reports, filing false reports, or failure to deliver abandoned

property) have been changed to be consistent with other statutes governing penalties for violations of department regulations and laws governing the department, and to be consistent with Alaska's new Criminal Code (proposed AS 34.45.470).

Sections 1 -- 6 of the bill amend existing law in AS 13.11, AS 13.16, and AS 34.45. AS 13.11.025 and AS 13.16.600 cover property of a deceased person which is not claimed in a probate proceeding. AS 13.16.381 creates a duty of the personal representative of a deceased's estate to report unclaimed property to the state. The current language in AS 34.45 deals with tangible personal property left in the care of certain bailees or consignees. The bill amends these provisions to make certain personal property unclaimed in these situations subject to the same provisions for intangible property described earlier in this letter. Specifically, the amendments incorporate the reporting and claims procedures and administrative powers provided for by the Uniform Act. Like the Uniform Act, they make the state the custodian only of personal property or the proceeds from sale of personal property; the rightful owner's property interest would never be lost.

Section 9 of the bill deals with escheat of real property. Administration of the real property escheat program is transferred from the Department of Revenue to the Department of Natural Resources. The basic requirements for escheat of real property remain unchanged. Real property escheats to the state under the intestacy laws if a person dies leaving no will and no known heirs, or if a corporation or other organization becomes defunct and real property remains undistributed four years after the organization has become defunct.

The real property escheat program differs in concept from the unclaimed personal property program in that there is an actual transfer of title to the state rather than a custodial holding of property by the state. This requires a judicial determination of escheat. An heir or other person entitled to escheated real property can appear up to seven years after the determination of escheat and claim the property or the value of the property. After that period the state has no further obligation to potential takers of the property. The reason for this difference in approach is to clear title to real property.

The major difference between the existing real property escheat statutes and the proposed statutes is in the management of the property by the state. The bill provides

that the Department of Natural Resources "may sell, lease, exchange, assign, or otherwise manage real property that has escheated to the state consistent with applicable provisions of [AS 38]." AS 38.05.630. The existing statute provides only that escheated real property may be sold.

Under this bill, the department is required to make a written finding that it is in the best interests of the state either to

1. obtain an appraisal of the property and sell, lease, exchange, assign, or otherwise manage the property, including retention in state management; or
2. retain the property without obtaining an appraisal.

Property that has been retained but not appraised must be returned to a qualified heir or other taker who appears within seven years after the determination of escheat. When property has been disposed of or retained with an appraisal, the heir or other taker is entitled to the established value of the property. The established value is the appraised value less expenses of sale, unless the property sold for less than the appraised value at a public sale to the highest bidder.

Proceeds from the sale of escheated real property are placed in an escheated real property trust account. After the redemption period has passed, unclaimed money in the trust account may be transferred to the land disposal income account, AS 38.04.022, in the general fund.

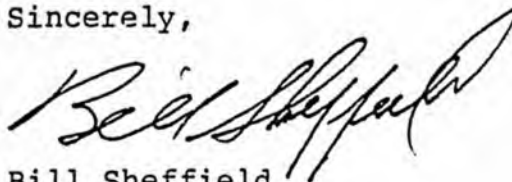
The department may, in its discretion, offer state land of value comparable to the established value to the heir or other taker in place of the established value. If the heir or other taker rejects the land of comparable value or the department does not offer it, the department must pay the established value from the escheated real property trust account.

Section 10 of the bill repeals the current escheat law contained in AS 09.50.070 -- 09.50.160; repeals AS 06.05.460, which contains reporting provisions for banks which conflict with the reporting provisions in the Uniform Act; and repeals AS 10.05.591, which contains reporting provisions for corporations which conflict with the Uniform Act.

Section 11 of the bill provides that property already delivered to the state or already the subject of escheat proceedings would not be subject to the new provisions.

This bill, then, provides a wholesale revamping of Alaska's laws on this subject. It updates and fills in gaps in our current law, and provides for desirable uniformity among the states in an area of law that cannot realistically be handled by each state in isolation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield". The signature is written in dark ink and is positioned above the printed name and title.

Bill Sheffield
Governor