

LEG. FINANCE - BILLS 1985 - 1986 2359
HB 182 cont. - CS HB 182

2359

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 5
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

RECEIVED
MAR 11 1981

Office of the Governor
Division of Internal Audit

CURRENT LAW
STATE

§ 09.50.070

CODE OF CIVIL PROCEDURE

§ 09.50.080

Escheat of personal property of intestate domiciled or resident in other state, 50 ALR2d 1376.

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

Uniform Disposition of Unclaimed Property Act, 98 ALR2d 304.

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.

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).

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).

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).

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).

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).

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

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)

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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).

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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).

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.

(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)

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)

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 with 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)

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 leavened 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 182

Uniform Law Memo



Published by the National Conference of Commissioners on Uniform State Laws

Winter 1981-82

NEW FOCUS on 'W.C. FIELDS ACT'

The 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, unpaid 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.

PROPOSED AMENDMENT FOR CS HB 182 (JUD)
By Rep. Adams

Page 27, after line 9, add a new subsection to read:

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

This amendment will allow the Department of Revenue to use program receipts to pay the operating expenses associated with generating revenue from unclaimed personal property. It is supported by the department.

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING
POUCH SA
JUNEAU, ALASKA 99811

April 22, 1986

Lou Ann Cutler
Professional Aide
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Subject: HB 182 Uniform
Unclaimed Property

Dear Ms. Cutler:

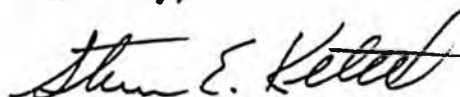
You requested information concerning the fiscal note and analysis of HB 182. Attached please find:

- 1) Detail for request of \$24.0 for advertising;
- 2) Updated sectional analysis of the Uniform Act contained in HB 182;
- 3) Proposal for amending the request for appropriation of personal services costs;
- 4) Governor's Office, Division of Internal Audit Report.

As of today, the Unclaimed Property Trust Fund has \$1,839,751. Upon repeal of AS 09.50.070-.160 and adoption of the Uniform Act, the bulk of these funds may be transferred to the general fund. HB 182 requires that a separate trust fund be established for the payment of claims, in the amount of \$100,000. If fiscal note funding is to come from program receipts I would recommend the trust fund initially be established with \$100,000 plus one-half of the authorized fiscal note appropriation. The remainder in trust will be transferred to the general fund.

If we can provide further information to you before Friday's hearing, please let me know.

Sincerely,



Steven E. Kettel
Chief of Audit Services
465-2320

SEK:sp
Enclosures
86-97

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

HB 182
Backup for Request Advertising \$24.0

The request for funding of advertising in the fiscal note for HB 182 was calculated as follows:

	<u>Actual Costs</u>	<u>Estimate</u>
75 reporting banks		
attorney general's experience	\$6,000	
credit unions	<u>3,000</u>	
Sub-total		9,000
Insurance Companies		9,000
Stock Transfer Agents		2,000
Utilities & Other Instate Businesses		<u>4,000</u>
Total	<u>\$9,000</u>	<u>\$24,000</u>

Note: At present, the Attorney Generals office only advertises lists of names received from banks and credit unions. Under HB 182, additional large volume reportings will be received from insurance companies, stock transfer agents and utilities. Also, the Attorney General's office, due to budget restraints only advertises in Fairbanks, Anchorage and Juneau newspapers. Under HB 182, we will advertise in every newspaper, including last known addresses of Anchorage in Anchorage paper, last known addresses from Ketchikan in their local paper, etc. This enhanced coverage will be somewhat more costly than the current method of advertising.

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

HB 182
Personal Services Costs

The Audit Division prepared a fiscal note to HB 182 on January 14, 1986 which would enable us to establish an Unclaimed Property program. We envision that the unit charged with carrying out the provisions of HB 182 will be responsible for the following broadly described functions:

1. Conducting instate seminars to inform the business community of its reporting responsibilities;
2. Data capture of abandoned owner's names and addresses from holder's reports, and other records maintenance procedures;
3. Advertising statewide to locate missing owners and conducting mailouts to last known addresses;
4. Making payment on claims received;
5. Safeguarding stocks, bonds, and other valuables received;
6. Searching State computer records, including PFD, driver's license, voter's registration, etc. for last known addresses;
7. Conducting auctions of unclaimed and abandoned property;
8. Forms design;
9. Random examinations of holder's reports and compliance projects to locate non-filers, especially out of state financial institutions;
10. Maintaining the Unclaimed Property Trust Fund, accounting for expenditures and periodically transferring funds to the General Fund.

To perform these tasks, it is essential that a program administrator position be created. This person's sole responsibility would lie in running the unclaimed property program. No other tax administration responsibilities would be given to this position. Our original fiscal note pegged this position at a Range 20, given the significant responsibilities this position would assume and the qualifications we would require of the incumbent. At a minimum, this position should have experience in the accounting field, with exposure to data processing and/or computer programming. Familiarity with banking and insurance law would be desirable, as would training or experience in public speaking and public relations. This position will, at the outset, be highly visible to the public, with exposure through radio and television media very likely, for the purpose of selling the program to the business community and Alaska citizens alike.

Our January, 1986 fiscal note also requested a Tax Examiner I, Range 10. This position would be responsible for examining reports filed by holders of unclaimed property, record keeping, handling telephone and correspondence inquiries from owners claiming their property, preparing disbursement checks, and searching State records for last known addresses.

The third position requested was a Clerk Typist III, Range 8. This position would perform primarily as a data entry clerk, data capturing the thousands of names, addresses, and account information from the holders reports. This position would also handle telephone inquiries, and prepare the name lists for newspaper advertisements.

We firmly believe that in the first year of the program all three positions will be necessary to handle all the details of the start up and to adequately serve the public's needs. However, if we were required to prioritize these positions in the face of a reduced fiscal note, the administrator position would rate as highest priority, and the Clerk Typist III as lowest priority.

If, as you say, we must cut back on the fiscal note, I propose the following reductions in order of priority:

	<u>9 months</u>	<u>12 months</u>
Current Fiscal Note Request (Personal Services)	\$ 95.2	\$ 113.6
Eliminate Clerk Typist III	(21.0)	(28.0)
Reduce Administrator to Range 18	<u>(5.0)</u>	<u>(6.7)</u>
Total as adjusted	<u>\$ 69.2</u>	<u>\$ 78.9</u>

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 1/14/86

REQUEST

Bill/Resolution No: HB 182 Page 1 of 6 (1)
Title: Uniform Unclaimed Property Act

FISCAL DETAIL

Agency Affected: Department of Revenue
BRU: Audit

Sponsor: Governor

Requestor: _____

Date of Request: January 14, 1986

Components:

Audit Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
100 PERSONAL SERVICES	-0-	95.2	113.6	113.6	113.6	113.6
200 TRAVEL	-0-	2.0	2.0	2.0	2.0	2.0
300 CONTRACTUAL	-0-	57.0	57.0	57.0	57.0	57.0
400 SUPPLIES	-0-	2.5	2.5	2.5	2.5	2.5
500 EQUIPMENT	-0-	7.5	4.0	-0-	-0-	-0-
600 LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
800 MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	164.2	179.1	175.1	175.1	175.1
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	2000.0	4000.0	2000.0	2000.0	2000.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	164.2	179.1	175.1	175.1	175.1
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	164.2	179.1	175.1	175.1	175.1

POSITIONS:

FULL-TIME	-0-	3.0	3.0	3.0	3.0	3.0
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS: Please see attached.

Prepared By: Steven E. Kette
Division: Audit Division

Phone: 465-2320

Date: January 14, 1986

Approved by Commissioner: [Signature]
Agency: Revenue

Date: January 14, 1986

Distribution (by Agency preparing fiscal note):

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

Analysis of Costs

<u>I. Personal Service Costs</u>	<u>9 month</u>	<u>12 month</u>
Clerk Typist III	21.0	28.0
Tax Examiner I	22.5	30.0
Unclaimed Property Administrator	<u>41.7</u>	<u>55.6</u>
Total	<u>\$95.2</u>	<u>\$113.6</u>
<u>II. Travel</u>		
Training and Seminars by NAUPA	<u>\$2.0</u>	
<u>III. Contractual</u>		
Advertising	24.0	
Postage	6.0	
Data Processing Costs	15.0	
Telecommunications	5.0	
Forms Design and Printing	<u>7.0</u>	
Total	<u>\$57.0</u>	
<u>IV. Supplies</u>		
DP supplies, envelopes, office supplies		
Software	2.5	
<u>V. Equipment</u>		
Wang mini-computer	4.0	
Wang Printer	<u>3.5</u>	
Total	<u>\$7.5</u>	

Description of Unclaimed Property Program

Passage of this bill will require the Department of Revenue to establish a system for handling abandoned property by developing an accounting and recordkeeping system, acquiring a communications network and advertising statewide to locate abandoned or unclaimed property owners. To perform these functions additional staffing in the form of a Clerk Typist III, a tax examiner and an unclaimed property administrator is necessary.

The unclaimed property program requires that annual reports of unclaimed property be filed by holders (banks, insurance companies, utilities). Upon receipt the department must process the information and prepare the data for capture by a Wang mini-computer. On March 1 and September 1 of each year, the department will advertise throughout the state the list of persons having unclaimed property held for them by the holder. We anticipate that respondents to the advertisement will first call and then write, providing sufficient information to prove ownership in the property. A statewide toll free number will be staffed by examiners which are linked with on-line data files and who will be able to assist in matching the owner with their property.

The examiner will assist in locating holders of unclaimed and abandoned property through a compliance effort, and will also review and audit reports filed by holders. Independent efforts to locate property owners will be made by cross-matching the names provided by holders with permanent fund dividend files, drivers license and fishing license records, and voter's registration lists.

Other states have joined to form two support organizations, in which the Department of Revenue will participate: the National Association of Unclaimed Property Administrators (NAUPA) and the Unclaimed Property Clearinghouse. NAUPA is an organization which provides training, an exchange of ideas and information, program development for new members and a lobbying effort at the national level. The Clearinghouse audits large holders, especially eastern stock transfer agents, on behalf of the member states.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : OS HB 182 (LHD)
 Title : "An Act relating to the disposition of unclaimed property and providing for an effective date."
 Sponsor : By Request of the Governor
 Requestor : House Judiciary Committee
 Date of Request : February 11, 1986

FISCAL DETAIL

Agency Affected : Department of Law
 BRU : Legal Services
 Components : Legal Services Operations

EXPENDITURES/REVENUES : (Thousands of Dollars)

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

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by : Richard I. Pegues, Director Phone : 465-3600
 Division : Administrative Services Division Date : 2/13/86
 Approved by Commissioner : Richard I. Pegues / AR /
Harold M. Brown, Attorney General Date : 2/13/86
 Agency : Department of Law

Distribution (by Agency preparing fiscal note) :

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 182

This bill clarifies, expands and streamlines existing statutes regarding unclaimed property. Although the bill will substantially increase the number of organizations reporting abandoned property, and make current voluntary reporting mandatory, the state's existing escheat process will be greatly simplified. For this reason, it does not appear that enactment of the bill will have a fiscal impact on the Department of Law. Certain provisions do empower the state to sue to enforce compliance with the reporting and the transfer of property requirements in the bill. The extent to which these provisions may have to be used cannot be predicted at this time. The bill does provide, however, that costs for such actions may be collected as part of the enforcement and collection process and that such costs be offset in this manner.

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST
 Bill/Resolution No.: HB 182, No. 2
 Title: Escheat

FISCAL DETAIL
 Agency Affected: Natural Resources
 Program Category Affected: NRMEC

Sponsor: _____
 Requestor: _____
 Date of Request: _____

BRU, Program or Subprogram(s) Affected:
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Ned Farquhar
 Division: Natural Resources
 Approved by Commissioner: [Signature]
 Agency: Natural Resources

Phone: 465-2400
 Date: February 4, 1985
 Date: February 4, 1985

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Offered: 4/11/86
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 182 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the disposition of unclaimed
7 property."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 06.05.470(x) is amended to read:
10 (x) Unclaimed funds remaining after the completion of the liq-
11 uidation by the department shall be handled in accordance with AS 34.-
12 45.110 - 34.45.780 [RETAINED FOR FIVE YEARS BY IT UNLESS SOONER
13 CLAIMED BY THE OWNER. AFTER THAT, THE REMAINING SUM SHALL BE TRANS-
14 FERRED TO THE GENERAL FUND].
15 * Sec. 2. AS 06.25.085 is amended to read:
16 Sec. 06.25.085. APPLICATION OF GENERAL BANKING LAWS. The pro-
17 visions of AS 06.05.005 - 06.05.085, 06.05.090 06.05.270, 06.05.307,
18 06.05.320 - 06.05.327, 06.05.405 - 06.05.425, 06.05.440 - 06.05.445,
19 [06.05.460,] 06.05.462, 06.05.465 - 06.05.515 and 06.05.525 - 06.05.-
20 545 apply to all trust companies engaged in any phase of the business
21 of banking as that term is defined by AS 06.05.340(3) or AS 06.25.100.
22 * Sec. 3. AS 10.15.520 is amended to read:
23 Sec. 10.15.520. DEPOSIT WITH DEPARTMENT OF AMOUNT DUE PERSONS
24 WHO CANNOT BE FOUND. Upon the voluntary or involuntary dissolution of
25 a cooperative, the portion of the assets distributable to a creditor,
26 member, shareholder or patron or other person unknown or who cannot be
27 found, or who is under a disability with [AND THERE IS] no person
28 legally competent to receive the distributive portion, shall be re-
29 duced to cash, and within six months after the final dividend in the

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

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

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

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

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

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

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

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

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

1 state and is subject to AS 38.95.200 - 38.95.270.

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

3 Sec. 13.16.381. DISPOSITION OF UNCLAIMED ESTATE BY PERSONAL
4 REPRESENTATIVE. When there is no taker of an intestate estate, or if
5 an heir, devisee, or claimant cannot be found and the missing person
6 has no conservator, the personal representative shall handle the

7 (1) unclaimed personal property of the estate in accordance
8 with AS 34.45.280 - 34.45.780; and

9 (2) unclaimed real property of the estate in accordance with
10 AS 38.05.

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

12 (a) If an heir, devisee, or claimant cannot be found, the per-
13 sonal representative shall distribute the share of personal property
14 of the missing person to the person's conservator, or if the person
15 has no conservator [ANY, OTHERWISE] to the Department [COMMISSIONER]
16 of Revenue to be deposited in the general fund as required by AS 34.-
17 45.370. Property distributable to the Department of Revenue under
18 this subsection is subject to AS 34.45.280 - 34.45.780. If notice to
19 the heir, devisee, or claimant, substantially equivalent to that
20 required by AS 34.45.310, has been given by the personal representa-
21 tive or other person, AS 34.45.310 does not apply [TO BECOME A PART OF
22 THE STATE ESCHEAT FUND].

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

24 (b) Real property distributable to a missing heir, devisee, or
25 claimant shall be distributed first to the conservator of the heir,
26 devisee, or claimant; if the heir, devisee, or claimant has no conser-
27 vator, the real property passes to the state. Real property reported
28 under this section is subject to AS 38.95.200 - 38.95.270.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 cease payment of interest.

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

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

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

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

1 the company.

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

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

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

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

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

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

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

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

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

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

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

20 (2) the address of each beneficiary; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Sec. 34.45.220. PROPERTY HELD BY AGENTS AND FIDUCIARIES. (a)

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

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

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

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

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

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

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

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

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

28 ARTICLE 4. REPORTING AND DISPOSITION OF PERSONAL PROPERTY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (e) The mailed notice must contain

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

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

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

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

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

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

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

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

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

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

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

1 a person whose claim was barred under AS 34.45.430.

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

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

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

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

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

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

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

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

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

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

14 ARTICLE 5. ADMINISTRATION OF ABANDONED PROPERTY.

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

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

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

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

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

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

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

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

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

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

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

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

1 property;

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

4 (3) reasonable service charges; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 ARTICLE 6. ENFORCEMENT AND PENALTIES.

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

9 Sec. 34.4'.460. INTERSTATE AGREEMENTS AND COOPERATION. (a) The
10 department may enter into agreements with other states to exchange
11 information needed to enable this or another state to audit or other-
12 wise determine unclaimed personal property that this state or another
13 state may be entitled to subject to a claim of custody. The depart-
14 ment may, by regulation, require the reporting of information needed
15 to enable compliance with agreements made under this section, and
16 prescribe the form for the report.

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

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

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

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

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

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

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

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

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ARTICLE 7. GENERAL PROVISIONS.

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

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

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

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

Sec. 34.45.730. REGULATIONS. The department shall adopt regulations necessary to carry out the provisions of AS 34.45.110 - 34.45.780.

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

1 Property Act.

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

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

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

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

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

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

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

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

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

1 credit union;

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

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

5 (B) a trustee, or

6 (C) indebted to another on an obligation;

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

14 (10) "intangible property"

15 (A) includes

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

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

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

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

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

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

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

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

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

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

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

22 (14) "property" means personal property;

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

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

1 or gas.

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

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

5 ARTICLE 5. REAL PROPERTY ESCHEATED TO STATE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Sec. 38.95.270. DEFINITION. In AS 38.95.200 - 38 95.270, "de-
13 partment" means the Department of Natural Resources.

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

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

26 * Sec. 14. AS 06.05.460; AS 09.50.070 - 09.50.160; AS 10.05.591; and
27 AS 34.45.030 are repealed.

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

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

Introduced: 2/8/85
Referred: Judiciary and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 182

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the disposition of unclaimed
7 property; and providing for an effective date."

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

9 * Section 1. AS 13.11.025 is amended to read:

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

12 (1) personal property in the intestate estate passes to the
13 state and is subject to AS 34.45.280(b) -- 34.45.780; if notice to
14 heirs, substantially equivalent to that required by AS 34.45.310, has
15 been given by the personal representative or other person, AS 34.45.-
16 310 does not apply;

17 (2) real property in the intestate estate passes to the
18 state and is subject to AS 38.05.600 -- 38.05.660.

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

20 Sec. 13.16.381. DUTY OF PERSONAL REPRESENTATIVE; NO TAKER OR
21 MISSING TAKER OF ESTATE. When there is no taker of an intestate
22 estate, or if an heir, devisee, or claimant cannot be found and the
23 missing person has no conservator, the personal representative shall
24 report to the state as follows:

25 (1) personal property must be delivered to the Department
26 of Revenue; and

27 (2) real property must be reported to the Department of
28 Natural Resources.

29 * Sec. 3. AS 13.16.600(a) is amended to read:

1 (a) If an heir, devisee, or claimant cannot be found, the per-
2 sonal representative shall distribute the share of personal property
3 of the missing person to the person's [HIS] conservator, if any,
4 otherwise to the Department [COMMISSIONER] of Revenue to be deposited
5 in the general fund as required by AS 34.45.370. Property distribut-
6 able to the Department of Revenue under this subsection is subject to
7 AS 34.45.280(b) -- 34.45.780. If notice to the heir, devisee, or
8 claimant, substantially equivalent to that required by AS 34.45.310,
9 has been given by the personal representative or other person, AS 34-
10 .45.310 does not apply [TO BECOME A PART OF THE STATE ESCHEAT FUND].

11 * Sec. 4. AS 13.16.600(b) is repealed and reenacted to read:

12 (b) Real property distributable to a missing heir, devisee, or
13 claimant must be distributed first to that person's conservator, if
14 any, and otherwise passes to the state. Real property reported under
15 this section is subject to AS 38.05.600 -- 38.05.660.

16 * Sec. 5. AS 34.45.030 is amended to read:

17 ARTICLE 1. UNCLAIMED PROPERTY IN POSSESSION OF CONSIGNEE OR BAILEE.

18 Sec. 34.45.030. SALE. If [THE] property held by a person de-
19 scribed in AS 34.45.010 is not claimed and taken away within one year
20 after the time it is received, the person having possession of the
21 property may sell the property in the manner provided in AS 34.45.-
22 010 -- 34.45.080, except that any property described in AS 34.45.-
23 110 -- 34.45.260 must be reported to the Department of Revenue accord-
24 ing to the provisions of AS 34.45.280 and is subject to AS 34.45.-
25 290 -- 34.45.780 [THIS CHAPTER].

26 * Sec. 6. AS 34.45.070(b) is amended to read:

27 (b) The district judge or magistrate shall hold the money in
28 trust for the owner of the property and shall pay it to the owner upon
29 the latter's making a written, verified claim to it, with proof of

1 [HIS] ownership, within six months after the date of the sale. If no
2 claim is made within six months after the date of the sale, the dis-
3 trict judge or magistrate [HE] shall immediately pay the excess pro-
4 ceeds to the Department of Revenue. Money from the sale of property,
5 which is required to be paid over to the Department of Revenue under
6 this section, is subject to the provisions of AS 34.45.280(b) and
7 34.45.330 -- 34.45.780. [THE DEPARTMENT OF REVENUE SHALL DEPOSIT THE
8 EXCESS PROCEEDS IN THE STATE TREASURY, AND THE OWNER, WITHIN SEVEN
9 YEARS AFTER THE DEPOSIT, MAY RECOVER THE MONEY FROM THE STATE.]

10 * Sec. 7. AS 34.45.090 is repealed and reenacted to read:

11 Sec. 34.45.090. FEES OF OFFICERS. The supreme court may by rule
12 set fees that may be charged by judicial officers and peace officers
13 for performance of duties under AS 34.45.040 -- 34.45.080.

14 * Sec. 8. AS 34.45 is amended by adding new sections to read:

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

16 Sec. 34.45.110. PROPERTY PRESUMED ABANDONED; GENERAL RULE. (a)
17 Except as otherwise provided in AS 34.45.120 -- 34.45.780, all intan-
18 gible property, including any income or increment derived from it,
19 less any lawful charges, that is held, issued, or owing in the ordi-
20 nary course of a holder's business and has remained unclaimed by the
21 owner for more than five years after it became payable or distribut-
22 able is presumed abandoned.

23 (b) Property is payable or distributable for the purposes of
24 AS 34.45.120 -- 34.45.780 notwithstanding the owner's failure to make
25 demand or to present any instrument or document required to receive
26 payment.

27 Sec. 34.45.120. GENERAL RULES FOR TAKING CUSTODY OF UNCLAIMED
28 INTANGIBLE PROPERTY. Unless otherwise provided in this chapter or by
29 other statute of this state, intangible property is subject to the

1 custody of this state as unclaimed property if the conditions raising
2 a presumption of abandonment under AS 34.45.110 and 34.45.150 --
3 34.45.260 are satisfied and

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

6 (2) the records of the holder do not reflect the identity
7 of the person entitled to the property and it is established that the
8 last known address of the person entitled to the property is in the
9 state;

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

12 (A) the last known address of the person entitled to
13 the property is in this state, or

14 (B) the holder is a domiciliary or a government or
15 governmental subdivision or agency of this state and has not
16 previously paid or delivered the property to the state of the
17 last known address of the apparent owner or other person entitled
18 to the property;

19 (4) the last known address of the apparent owner, as shown
20 on the records of the holder, is in a state that either does not
21 provide by law for the escheat or custodial taking of the property, or
22 its escheat or unclaimed property law is not applicable to the proper-
23 ty, and the holder is a domiciliary, government, or governmental
24 subdivision or agency of this state;

25 (5) the last known address of the apparent owner, as shown
26 on the records of the holder, is in a foreign nation and the holder is
27 a domiciliary, government, or governmental subdivision or agency of
28 this state; or

29 (6) the transaction out of which the property arose

1 occurred in this state and

2 (A) the last known address of the apparent owner or
3 other person entitled to the property is unknown, or the last
4 known address of the apparent owner or other person entitled to
5 the property is in a state that either does not provide by law
6 for the escheat or custodial taking of the property or its es-
7 cheat or unclaimed property law is not applicable to the prop-
8 erty, and

9 (B) the holder is a domiciliary of a state that either
10 does not provide by law for the escheat or custodial taking of
11 the property or its escheat or unclaimed property law is not
12 applicable to the property.

13 ARTICLE 3. CONDITIONS LEADING TO PRESUMPTION OF ABANDONMENT OF
14 PARTICULAR TYPES OF PERSONAL PROPERTY.

15 Sec. 34.45.140. TRAVELERS CHECKS AND MONEY ORDERS. (a) Subject
16 to (d) of this section, money payable on a travelers check that has
17 been outstanding for more than 15 years after its issuance is presumed
18 abandoned unless the owner, within the preceding 15 years, has commu-
19 nicated in writing with the issuer concerning it or otherwise indicat-
20 ed an interest as evidenced by a memorandum or other record, on file,
21 prepared by an employee of the issuer.

22 (b) Subject to (d) of this section, money payable on a money
23 order or similar written instrument, other than a third-party bank
24 check, that has been outstanding for more than seven years after its
25 issuance is presumed abandoned unless the owner, within the preceding
26 seven years, has communicated in writing with the issuer concerning it
27 or otherwise indicated an interest as evidenced by a memorandum or
28 other record, on file, prepared by an employee of the issuer.

29 (c) A holder may not deduct from the amount of a travelers check

1 or money order any charge imposed for failure to present the instru-
2 ment for payment unless there is a valid and enforceable written
3 contract between the issuer and the owner of the instrument under
4 which the issuer may impose a charge, and the issuer regularly imposes
5 such charges and does not regularly reverse or otherwise cancel them.

6 (d) Money payable on a travelers check, money order, or similar
7 written instrument, other than a third-party bank check, described in
8 (a) and (b) of this section is not subject to the custody of this
9 state as unclaimed property unless

10 (1) the records of the issuer show that the travelers
11 check, money order, or similar written instrument was purchased in
12 this state; or

13 (2) the issuer has its principal place of business in this
14 state and the records of the issuer do not show the state in which the
15 travelers check, money order, or similar written instrument was pur-
16 chased; or

17 (3) the issuer has its principal place of business in this
18 state, the records of the issuer show the state in which the travelers
19 check, money order, or similar written instrument was purchased and
20 the state of purchase either does not provide by law for the escheat
21 or custodial taking of the property or its escheat or unclaimed prop-
22 erty law is not applicable to the property.

23 (e) Notwithstanding any other provision of AS 34.45.110 --
24 34.45.780, (d) of this section applies to money payable on travelers
25 checks, money orders, and similar written instruments presumed aban-
26 doned after January 31, 1965, except to the extent that those sums
27 have been paid over to a state before January 1, 1974.

28 Sec. 34.45.150. CHECKS, DRAFTS, AND SIMILAR INSTRUMENTS ISSUED
29 OR CERTIFIED BY BANKING AND FINANCIAL ORGANIZATIONS. (a) Other than

1 money payable on an instrument that is subject to AS 34.45.140, money
2 payable on a check, draft, or similar instrument on which a banking or
3 financial organization is directly liable, including a cashier's check
4 and a certified check, which has been outstanding for more than five
5 years after it was payable or after its issuance if payable on demand,
6 is presumed abandoned. This presumption does not apply if the owner,
7 within the preceding five years, has communicated in writing with the
8 banking or financial organization concerning the instrument or has
9 otherwise indicated an interest as evidenced by a memorandum or other
10 record, on file, prepared by an employee of the organization.

11 (b) A holder may not deduct from the amount of an instrument
12 subject to this section a charge imposed for failure to present the
13 instrument for payment unless there is a valid and enforceable written
14 contract between the holder and the owner of the instrument under
15 which the holder may impose a charge, and the holder regularly imposes
16 such charges and does not regularly reverse or otherwise cancel them.

17 Sec. 34.45.160. BANK DEPOSITS AND MONEY IN FINANCIAL ORGANIZA-
18 TIONS. (a) A demand, savings, or matured time deposit with a banking
19 or financial organization, including a deposit that is automatically
20 renewable, and money paid toward the purchase of a share, a mutual
21 investment certificate, or any other intangible property interest in a
22 banking or financial organization is presumed abandoned unless the
23 owner, within the preceding five years has,

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

27 (2) communicated in writing with the banking or financial
28 organization concerning the property;

29 (3) otherwise indicated an interest in the property as

1 evidenced by a memorandum or other record, on file, prepared by an em-
2 ployee of the banking or financial organization;

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

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

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

15 (B) the banking or financial organization communicates
16 in writing with the owner with regard to the property that would
17 otherwise be abandoned under this subsection at the address to
18 which communications regarding the other relationship regularly
19 are sent.

20 (b) For purposes of (a) of this section, "property" includes
21 interest and dividends.

22 (c) A holder may not impose, with respect to property described
23 in (a) of this section, a charge due to dormancy or inactivity, or
24 cease ,ment of interest unless

25 (1) there is an enforceable written contract between the
26 holder and the owner of the property under which the holder may impose
27 a charge or cease payment of interest, and unless those charges are
28 reasonable;

29 (2) for property in excess of \$10, the holder, no more than

1 three months before the initial imposition of those charges or cessa-
2 tion of interest, has given to the owner written notice of the amount
3 of those charges at the last known address of the owner, stating that
4 those charges will be imposed or that interest will cease; however,
5 the notice required by this paragraph need not be given with respect
6 to charges imposed or interest ceased before the effective date of
7 this Act; and

8 (3) the holder regularly imposes such charges or ceases
9 payment of interest, and does not regularly reverse or otherwise
10 cancel the charges or retroactively credit interest with respect to
11 the property.

12 (d) Property described in (a) of this section which is automat-
13 ically renewable is matured for purposes of (a) of this section upon
14 the expiration of its initial time period. However, in the case of a
15 renewal to which the owner consents at or about the time of renewal by
16 communicating in writing with the banking or financial organization or
17 by otherwise indicating consent as evidenced by a memorandum or other
18 record on file, prepared by an employee of the organization, the prop-
19 erty is matured upon the expiration of the last time period for which
20 consent was given. If, at the time provided for delivery in AS 34.-
21 45.320, a penalty or forfeiture in the payment of interest would
22 result from the delivery of the property, the time for delivery is
23 extended until the time when no penalty or forfeiture would result.

24 Sec. 34.45.170. MONEY OWING UNDER LIFE INSURANCE POLICIES. (a)
25 Money held or owing under a life or endowment insurance policy or
26 annuity contract that has matured or terminated is presumed abandoned
27 if unclaimed for more than five years after the money became due and
28 payable as established from the records of the insurance company
29 holding or owing the money. However, property described in (c)(2) of

1 this section is presumed abandoned if unclaimed for more than two
2 years.

3 (b) If a person other than the insured or annuitant is entitled
4 to the money and the address of that person is not known to the compa-
5 ny, or it is not definite and certain from the records of the company
6 who is entitled to the money, it is presumed that the last known
7 address of the person entitled to the money is the same as the last
8 known address of the insured or annuitant according to the records of
9 the company.

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

14 (1) the company knows that the insured or annuitant has
15 died; or

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

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

21 (B) neither the insured nor any other person appearing
22 to have an interest in the policy has, within the preceding two
23 years, according to the records of the company, assigned, read-
24 justed, or paid premiums on the policy, subjected the policy to a
25 loan, corresponded in writing with the company concerning the
26 policy, or otherwise indicated an interest as evidenced by a
27 memorandum or other record, on file, prepared by an employee of
28 the company.

29 (d) For purposes of this section, the application of an

1 automatic premium loan provision or other nonforfeiture provision
2 contained in an insurance policy does not prevent a policy from being
3 matured or terminated under (a) of this section if the insured has
4 died or the insured or the beneficiary of the policy otherwise has
5 become entitled to the proceeds of the policy before the depletion of
6 the cash surrender value of a policy by the application of those
7 nonforfeiture provisions.

8 (e) If the laws of this state or the terms of the life insurance
9 policy require the company to give notice to the insured or the owner
10 that an automatic premium loan provision or other nonforfeiture pro-
11 vision has been exercised and the notice is to be given to an insured
12 or owner whose last known address, according to the records of the
13 company, is in this state but is undeliverable, the company shall make
14 a reasonable search to ascertain the policyholder's correct address to
15 which the notice must be mailed.

16 (f) Notwithstanding any other provision of law, if the company
17 learns of the death of the insured or annuitant and the beneficiary
18 has not communicated with the insurer within four months after the
19 death, the company shall take reasonable steps to pay the proceeds to
20 the beneficiary.

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

- 26 (1) the name of each beneficiary, or if a class of benefi-
27 ciaries is named, the name of each current beneficiary in the class;
28 (2) the address of each beneficiary; and
29 (3) the relationship of each beneficiary to the insured.

1 Sec. 34.45.180. DEPOSITS HELD BY UTILITIES. A deposit, includ-
2 ing any interest on it, made by a subscriber with a utility to secure
3 payment, or money paid in advance for utility services to be fur-
4 nished, less any lawful deductions, that remains unclaimed by the
5 owner for more than one year after the termination of the services for
6 which the deposit or advance payment was made is presumed abandoned.

7 Sec. 34.45.190. REFUNDS HELD BY BUSINESS ASSOCIATIONS. Except
8 to the extent otherwise ordered by a court or administrative agency,
9 money that a business association has been ordered by the court or
10 administrative agency to refund is presumed abandoned if it remains
11 unclaimed by the owner for more than one year after it became payable
12 in accordance with the final determination or order providing for the
13 refund, regardless of whether the final determination or order re-
14 quires the owner to make a claim for it.

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

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

28 (2) otherwise communicated with the association regarding
29 the ownership interest or a dividend, distribution, or other money