

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

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

4 (e) If a holder pays or delivers property to the department in  
5 good faith and another person subsequently claims the property from  
6 the holder or another state claims the property under the laws of the  
7 other state relating to escheat or unclaimed property, the department,  
8 upon receiving written notice of the claim, shall defend the holder  
9 against the claim and indemnify the holder against liability on the  
10 claim.

11 (f) Property removed from a safe deposit box or other safekeep-  
12 ing repository is received by the department subject to the holder's  
13 right under this subsection to be reimbursed for the actual cost of  
14 the opening and to a valid lien or contract providing for the holder  
15 to be reimbursed for unpaid rent or storage charges. For charges  
16 other than the actual cost of the opening, the department shall rein-  
17 burse or pay the holder an amount no greater than the value of the  
18 property recovered less the department's selling cost.

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

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

22 (2) the person delivering the property was not a fiduciary  
23 then in breach of trust in respect to the property, and had a reason-  
24 able basis for believing, based on the facts then known to the person,  
25 that the property was abandoned for the purposes of this chapter; and

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

29 Sec. 34.45.340. CREDITING OF DIVIDENDS, INTEREST, OR INCREMENTS

1 TO OWNER'S ACCOUNT. Except as provided under AS 34.45.360 ) for  
2 appreciation of securities, if property other than money is paid or  
3 delivered to the department under AS 34.45.110 - 34.45.430, the owner  
4 is entitled to receive from the department dividends, interest, or  
5 other increments realized or accruing on the property at or before the  
6 department's liquidation or conversion of the property into money.

7 ARTICLE 5. ADMINISTRATION OF ABANDONED PROPERTY.

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

21 (b) Securities listed on an established stock exchange must be  
22 sold at prices prevailing at the time of sale on the exchange. Other  
23 securities may be sold over the counter at prices prevailing at the  
24 time of sale or by another method the department considers advisable.

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

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

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

18 Sec. 34.45.370. DEPOSIT OF MONEY. Except as otherwise provided  
19 by this section, the department shall promptly deposit in the general  
20 fund of the state all money received under AS 34.45.110 - 34.45.780,  
21 including the proceeds from the sale of abandoned property under  
22 AS 34.45.360. The department shall retain in a separate trust fund an  
23 amount not less than \$100,000 from which the department shall make  
24 prompt payment of allowed claims. Before making the deposit, the  
25 department shall record the name and last known address of each person  
26 appearing from the holders' reports to be entitled to the property and  
27 the name and last known address of each insured person or annuitant  
28 and beneficiary and, with respect to each policy or contract listed in  
29 the report of an insurance company, its number, the name of the

1 company, and the amount due. The department shall make the records  
2 available for public inspection at all reasonable business hours.

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

7 (b) The department shall consider each claim after it is filed  
8 and shall give written notice to the claimant if the claim is denied  
9 in whole or in part. The notice may be given by mailing it to the ad-  
10 dress, if any, stated in the claim as the address to which notices are  
11 to be sent. If an address for notices is not stated in the claim, the  
12 notice may be mailed to the address, if any, of the claimant as stated  
13 in the claim. A notice of denial need not be given if the claim fails  
14 to state both the address to which notices are to be sent and the  
15 address of the claimant.

16 (c) If a claim is allowed, the department shall pay or deliver  
17 to the claimant the property or the amount the department actually  
18 received, or the net proceeds if it has been sold by the department,  
19 together with an additional amount required by AS 34.45.340. For the  
20 purposes of determining net proceeds after sale of the property, the  
21 department may deduct

22 (1) costs incurred in connection with the sale of the  
23 property;

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

26 (3) reasonable service charges; and

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

29 (d) If a claim is allowed and the property claimed was

1 interest-bearing to the owner on the date of surrender by the holder,  
2 the department also shall pay interest at the rate prescribed in  
3 AS 45.45.010 or a lesser rate the property earned while in the pos-  
4 session of the holder. Interest begins to accrue when the property is  
5 delivered to the department and ceases on the expiration of 10 years  
6 after delivery or the date on which payment is made to the owner,  
7 whichever is earlier. The department may not pay interest on inter-  
8 est-bearing property for a period occurring before the effective date  
9 of this Act.

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

15 (f) Unless another state files a claim to recover the property,  
16 if the identity of the owner of the property is known, the department  
17 shall apply the fair market value of the property to satisfaction of  
18 the child support obligations of the owner.

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

22 (1) this state took custody of the property because the  
23 records of the holder did not reflect the last known address of the  
24 apparent owner when the property was presumed abandoned under this  
25 chapter, the person entitled to the property was in the other state,  
26 and under the laws of the other state the property escheated to or was  
27 subject to a claim of abandonment by that state;

28 (2) the last known address of the apparent owner or other  
29 person entitled to the property, as reflected by the records of the

1 holder, is in the other state and under the laws of the other state  
2 the property has escheated to or become subject to a claim of abandon-  
3 ment by that state;

4 (3) the records of the holder were erroneous in that they  
5 did not accurately reflect the actual owner of the property and the  
6 last known address of the actual owner is in the other state and under  
7 the laws of the other state the property escheated to or was subject  
8 to a claim of abandonment by the other state;

9 (4) this state took custody of the property under AS 34.-  
10 45.120(6), and, under the laws of the state of domicile of the holder,  
11 the property has escheated to or become subject to a claim of aban-  
12 donment by the state of domicile; or

13 (5) the property is the sum payable on a traveler's check,  
14 money order, or other similar instrument of which this state took  
15 custody under AS 34.45.140, and the instrument was purchased in the  
16 other state, and, under the laws of the other state, the property  
17 escheated to or became subject to a claim of abandonment by the other  
18 state.

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

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

26 Sec. 34.45.400. ACTION TO ESTABLISH CLAIM. (a) A person ag-  
27 grieved by a decision or action of the department under this chapter  
28 may apply to the department within 60 days after the mailing date of  
29 the department's notice to the person, giving notice of the grievance

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and requesting an informal conference. At the conference the person aggrieved may present arguments and evidence relevant to the decision or action of the department. If the department determines that a correction is warranted, the department shall make the correction.

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

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

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

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

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

Sec. 34.45.410. ELECTION TO TAKE DELIVERY. (a) The department

1 may decline to receive property reported under this chapter. If the  
2 department elects not to receive custody of the property, the depart-  
3 ment shall notify the holder within 120 days after the holder files  
4 the report required under AS 34.45.280.

5 (b) A holder, with the written consent of the department and  
6 upon terms prescribed by the department, may report and deliver prop-  
7 erty before the property is presumed abandoned. Property delivered  
8 under this subsection shall be held by the department and is not pre-  
9 sumed abandoned until the property would otherwise be presumed aban-  
10 doned under this chapter.

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

19 Sec. 34.45.430. PERIODS OF LIMITATION. The expiration, before  
20 or after the effective date of this Act, of a period of time specified  
21 by contract, statute, or court order, during which a claim for money  
22 or property may be made or during which an action or proceeding may be  
23 commenced or enforced to obtain payment of a claim for money or to  
24 recover property, does not prevent the money or property from being  
25 presumed abandoned, and does not affect a duty to file a report or to  
26 pay or deliver abandoned property to the department as required by  
27 AS 34.45.110 - 34.45.430.

28 ARTICLE 6. ENFORCEMENT AND PENALTIES.

29 Sec. 34.45.450. ENFORCEMENT. The department may bring an action

1 in a court of competent jurisdiction to enforce AS 34.45.110 - 34.45.-  
2 780.

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

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

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

23 (d) At the request of another state, the attorney general of  
24 this state may bring an action in the name of the other state in a  
25 court of competent jurisdiction to enforce the unclaimed property laws  
26 of the other state against a holder in this state of property subject  
27 to escheat or a claim of abandonment by the other state. An action  
28 may be brought under this subsection only if the other state has  
29 agreed to pay expenses incurred by the attorney general of this state

1 in bringing the action.

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

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

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

21 (c) A person who wilfully refuses after written demand by the  
22 department to pay or deliver property to the department as required  
23 under this chapter is guilty of a class A misdemeanor.

24 ARTICLE 7. GENERAL PROVISIONS.

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

29 Sec. 34.45.710. FOREIGN TRANSACTIONS. AS 34.45.110 - 34.45.780

1 do not apply to property held, due, and owing in a foreign country and  
2 arising out of a foreign transaction.

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

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

17 Sec. 34.45.730. REGULATIONS. The department shall adopt regu-  
18 lations necessary to carry out the provisions of AS 34.45.110 - 34.-  
19 45.780.

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

25 Sec. 34.45.750. REPORT BY DEPARTMENT UPON FAILURE TO MAKE REPORT  
26 OR MAKING FALSE REPORT. If a person fails to submit a report as  
27 required under AS 34.45.110 - 34.45.780, or makes, wilfully or other-  
28 wise, a false report, the department shall make the report from the  
29 information it obtains under AS 43.05.050. A report made by the

1 department is prima facie good and sufficient for all legal purposes.

2 Sec. 34.45.760. DEFINITIONS. In AS 34.45.110 - 34.45.780,  
3 unless the context requires otherwise,

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

7 (2) "banking organization" means a bank, trust company,  
8 savings bank, industrial bank, land bank, safe deposit company, pri-  
9 vate banker, or an organization defined by other applicable laws as a  
10 bank or banking organization;

11 (3) "business association" means a nonpublic corporation,  
12 joint stock company, investment company, business trust, partnership,  
13 or association for business purposes of two or more individuals,  
14 whether or not for profit, including a banking organization, financial  
15 organization, insurance company, or utility;

16 (4) "commissioner" means the commissioner of the Department  
17 of Revenue;

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

19 (6) "domicile" means the state of incorporation of a corpo-  
20 ration and the state of the principal place of business of an unincor-  
21 porated person;

22 (7) "financial organization" means a savings and loan  
23 association, cooperative bank, building and loan association, or  
24 credit union;

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

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

28 (B) a trustee, or

29 (C) indebted to another on an obligation;

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

8 (10) "intangible property" includes

9 (A) money, checks, drafts, deposits, interest, divi-  
 10 dends, and income;

11 (B) credit balances, customer overpayments, gift  
 12 certificates, security deposits, refunds, credit memos, unpaid  
 13 wages, unused airline tickets, and unidentified remittances;

14 (C) stocks and other intangible ownership interests in  
 15 business associations;

16 (D) money deposited to redeem stocks, bonds, coupons,  
 17 and other securities, or to make distributions;

18 (E) amounts due and payable under the terms of insur-  
 19 ance policies; and

20 (F) amounts distributable from a trust or custodial  
 21 fund established under a plan to provide health, welfare, pen-  
 22 sion, vacation, severance, retirement, death, stock purchase,  
 23 profit-sharing, employee savings, supplemental unemployment  
 24 insurance, or similar benefits;

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

28 (12) "owner" means a depositor in the case of a deposit, a  
 29 beneficiary in the case of a trust other than a deposit in trust, a

1 creditor, claimant, or payee in the case of other intangible property,  
2 or a person having a legal or equitable interest in property subject  
3 to AS 34.45.110 - 34.45.780; the term includes a person's legal rep-  
4 resentative;

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

10 (14) "property" means personal property;

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

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

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

21 \* Sec. 8. AS 38.05 is amended by adding new sections to read:

22 ARTICLE 12A. REAL PROPERTY ESCHEATED TO STATE.

23 Sec. 38.05.600. REAL PROPERTY SUBJECT TO ESCHEAT. (a) Real  
24 property in an intestate estate for which no taker can be found and  
25 real property devised by will for which no devisee, heir, or other  
26 claimant can be found escheats to the state.

27 (b) Real property of a defunct organization or corporation, for  
28 which no proceeding for distribution instituted has been instituted  
29 within four years after the organization becomes defunct, escheats to

1 the state.

2 Sec. 38.05.610. ENFORCEMENT OF RIGHTS BY DEPARTMENT. (a) When  
3 the department is informed or has reason to believe that real property  
4 has escheated to the state, the department shall bring an action in  
5 superior court to establish whether the property has escheated to the  
6 state.

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

10 Sec. 38.05.620. JUDGMENT OF ESCHEAT. (a) If the superior court  
11 determines that the real property has escheated to the state, the  
12 superior court shall issue a judgment of escheat.

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

15 Sec. 38.05.630. MANAGEMENT OF ESCHEATED REAL PROPERTY BY DEPART-  
16 MENT. (a) After a judgment of escheat under AS 38.05.620, the de-  
17 partment may sell, lease, exchange, assign, or otherwise manage real  
18 property that has escheated to the state. In determining the proper  
19 disposition of escheated real property the department shall, within  
20 two years after the judgment of escheat under AS 38.05.620, make a  
21 written finding that it is in the best interests of the state: either  
22 to

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

26 (2) retain the real property in state management without  
27 obtaining an appraisal.

28 (b) The appraised value of property handled under (a)(1) of this  
29 section, or the selling price from a sale under AS 38.05.055 if it is

1 lower, less the expenses of sale or appraisal, is the established  
2 value of the property for purposes of redemption by an heir or other  
3 taker under AS 38.05.640.

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

7 Sec. 38.05.640. TIME WITHIN WHICH TO CLAIM ESCHEATED REAL PROP-  
8 ERTY. (a) Within seven years after a judgment of escheat under  
9 AS 38.05.620, a person who is not a party to the escheat proceeding  
10 may bring an action in the superior court to prove the person's claim  
11 to the real property. If the plaintiff establishes the claim and  
12 establishes that the plaintiff had no knowledge of the prior escheat  
13 proceeding, the court shall award the plaintiff the property if it has  
14 been managed under AS 38.05.630(a)(2), or the appraised value of the  
15 property under AS 38.05.630(b) if the property has been managed under  
16 AS 38.05.630(a)(1).

17 (b) If it is determined that the plaintiff is entitled to the  
18 property, the department shall deliver the property to the plaintiff.  
19 The rents, profits, interest, or dividends that accrue to the state  
20 during its possession of the property are the property of the state  
21 and may not be recovered.

22 (c) If it is determined that the plaintiff is entitled to the  
23 appraised value of property that has been disposed of under AS 38.-  
24 05.630(a)(1), at the department's discretion it may offer to the  
25 plaintiff land owned by the state and available for disposal that is  
26 of comparable value to the appraised value under AS 38.05.630(b). If  
27 the department does not offer land of comparable value, or if the  
28 plaintiff refuses the department's offer, the plaintiff is entitled to  
29 the value of the property as established under AS 38.05.630(b).

1 (d) The time limitation of seven years does not apply to a minor  
2 or an incapacitated person as defined by AS 13.26.005(1), but such a  
3 person must bring an action to prove the person's claim to the real  
4 property within one year after the incapacity ceases.

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

9 Sec. 38.05.650. PROCEEDS OF SALE OR REDEMPTION. The department  
10 shall deposit the proceeds of real property sold under AS 38.05.630-  
11 (a)(1) less the expenses of sale, including attorney fees and ap-  
12 praisal and publication costs in an escheated real property trust  
13 account. The department shall maintain the proceeds in the account  
14 for a period of at least seven years after the date of the judgment of  
15 escheat. The department may use money in the trust account to pay  
16 claims made under AS 38.05.640.

17 Sec. 38.05.660. DISPOSITION OF SALE PROCEEDS SEVEN YEARS AFTER  
18 THE JUDGMENT OF ESCHEAT. Seven years after the judgment of escheat,  
19 net proceeds from the sale of escheated real property may be trans-  
20 ferred from the escheated real property trust account to the general  
21 fund and credited to the land disposal income account under AS 38.-  
22 04.022, unless a person who was the owner or one of the owners of the  
23 property when the property escheated to the state has outstanding  
24 child support obligations, in which case the proportion of the net  
25 proceeds that is attributable to the ownership interest of the person  
26 shall be applied to the satisfaction of the child support obligations  
27 and the balance remaining after the satisfaction shall be credited to  
28 the land disposal income account.

29 \* Sec. 9. AS 06.25.085 is amended to read:

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Sec. 06.25.085. APPLICATION OF GENERAL BANKING LAWS. The provisions of AS 06.05.005 - 06.05.085, 06.05.090 06.05.270, 06.05.307, 06.05.320 - 06.05.327, 06.05.405 - 06.05.425, 06.05.440 - 06.05.445, [06.05.460,] 06.05.462, 06.05.465 - 06.05.515 and 06.05.525 - 06.05.545 apply to all trust companies engaged in any phase of the business of banking as that term is defined by AS 06.05.540(3) or AS 06.25.100.

\* Sec. 10. AS 06.05.460; AS 09.50.070 - 09.50.160; AS 10.05.591; and AS 34.45.090 are repealed.

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

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 182 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the disposition of unclaimed  
7 property."

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

9 \* Section 1. AS 06.05.470(x) is amended to read:

10 (x) Unclaimed funds remaining after the completion of the liq-  
11 uidation by the department shall be handled in accordance with AS 34.-  
12 45.110 - 34.45.780 [RETAINED FOR FIVE YEARS BY IT UNLESS SOONER  
13 CLAIMED BY THE OWNER. AFTER THAT, THE REMAINING SUM SHALL BE TRANS-  
14 FERRED TO THE GENERAL FUND].

15 \* Sec. 2. AS 06.25.085 is amended to read:

16 Sec. 06.25.085. APPLICATION OF GENERAL BANKING LAWS. The pro-  
17 visions of AS 06.05.005 - 06.05.085, 06.05.090 06.05.270, 06.05.307,  
18 06.05.320 - 06.05.327, 06.05.405 - 06.05.425, 06.05.440 - 06.05.445,  
19 [06.05.460,] 06.05.462, 06.05.465 - 06.05.515 and 06.05.525 - 06.05.-  
20 545 apply to all trust companies engaged in any phase of the business  
21 of banking as that term is defined by AS 06.05.540(3) or AS 06.25.100.

22 \* Sec. 3. AS 10.15.520 is amended to read:

23 Sec. 10.15.520. DEPOSIT WITH DEPARTMENT OF AMOUNT DUE PERSONS  
24 WHO CANNOT BE FOUND. Upon the voluntary or involuntary dissolution of  
25 a cooperative, the portion of the assets distributable to a creditor,  
26 member, shareholder or patron or other person unknown or who cannot be  
27 found, or who is under a disability wich [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

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

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

(6) the transaction out of which the property arose occurred in the state and

(A) the last known address of the apparent owner or other person entitled to the property is unknown, or the last known address of the apparent owner or other person entitled to the property is in a state that either does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law does not apply to the property, and

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

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

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

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

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

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

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

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

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

(3) the issuer has its principal place of business in the state, the records of the issuer show the state in which the traveler's check, money order, or similar written instrument was purchased and the state of purchase either does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

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

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

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

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

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

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

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

(3) otherwise indicated an interest in the property as evidenced by a memorandum or other record, on file, prepared by an employee of the banking or financial organization;

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

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

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

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

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

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cease payment of interest.

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

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

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

(b) If a person other than the insured or annuitant is entitled to the money and the address of that person is not known to the company, or it is not definite and certain from the records of the company who is entitled to the money, it is presumed that the last known address of the person entitled to the money is the same as the last known address of the insured or annuitant according to the records of

the company.

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

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

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

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

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

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

(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,

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

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

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

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

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

none of which has been claimed by the owner. If seven dividends, distributions, or other payments are paid during the seven-year period, the ownership interest is presumed abandoned at the end of the seven-year period. If seven dividends, distributions, or other payments are not paid during the seven-year period, the period continues to run until there have been seven dividends, distributions, or other payments that have not been claimed by the owner.

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

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

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

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

dissolution of a business association that remains unclaimed by the owner for more than one year after the date specified for final distribution is presumed abandoned.

Sec. 34.45.220. PROPERTY HELD BY AGENTS AND FIDUCIARIES. (a) Intangible property and income or increment derived from the intangible property held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within five years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record, on file, prepared by the fiduciary.

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

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

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

Sec. 34.45.230. PROPERTY HELD BY COURTS AND PUBLIC AGENCIES. Intangible property held for the owner by a court, state, municipality or other government, governmental subdivision or agency, public corporation, or public authority, that remains unclaimed by the owner for more than one year after becoming payable or distributable, is presumed abandoned.

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

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

Sec. 34.45.250. WAGES. Unpaid wages, including wages represented by un-presented payroll checks, owing in the ordinary course of the holder's business and that remain unclaimed by the owner for more than one year after becoming payable are presumed abandoned.

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

#### ARTICLE 4. REPORTING AND DISPOSITION OF PERSONAL PROPERTY.

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

person holding personal property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under AS 34.45.110 - 34.45.430, shall report to the department concerning the property as provided in this section.

(b) The report must be verified and must include

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

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

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

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

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

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

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

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

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

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

(1) the holder has in its records an address for the apparent owner that the holder believes to be accurate,

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

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

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

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

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

(b) The department, at reasonable times and upon reasonable notice, may examine the records of a person if the department has reason to believe that the person has not complied with the provisions of this chapter. The department may conduct the examination even if the person believes that the person does not possess property reportable or deliverable under this chapter. The department may use the information obtained under this subsection only for the purposes of this chapter. The department, or a current or former officer, employee, or agent of the department, may not disclose information that is viewed or obtained during the course of an examination under this subsection and that is confidential under state or federal law or regulation, unless the disclosure is necessary to carry out the purposes of this chapter.

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

(d) If, after the effective date of this Act, a holder fails to maintain the records required by AS 34.45.300 and the records of the holder available for the periods subject to AS 34.45.110 - AS 34.45.780 are insufficient to permit the preparation of a report, the department may require the holder to report and pay the amount that is reasonably estimated from the available records.

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

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

Sec. 34.45.310. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY. (a) The department shall publish a notice not later than the March 1 following the submission of the report required by AS 34.45.280, or in the case of property reported by life insurance companies, not later than the September 1 following the submission of the report. The notice shall be published at least once a week for two consecutive weeks in a newspaper of general circulation in the area of the state in which the last known address of a person to be named in the notice is located. If no address is listed or the address is outside the state, the notice shall be published in a newspaper of general circulation in the area in which the holder of property has its principal place of business in the state.

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

(1) the names, in alphabetical order, and last known address, if any, of persons listed in the reports and entitled to notice

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

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

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

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

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

(e) The mailed notice must contain

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

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

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

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

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

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

(c) Property reported under AS 34.45.280 for which the holder is not required to report the name of the apparent owner shall be delivered to the department when the report is filed.

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

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

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

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

1 a person whose claim was barred under AS 34.45.430.

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

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

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

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

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

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

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

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

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

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

#### ARTICLE 5. ADMINISTRATION OF ABANDONED PROPERTY.

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

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

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

(c) Unless the department considers it to be in the best interest of the state to do otherwise, the department shall hold all securities that have been delivered to the department, other than those presumed abandoned under AS 34.45.200, for at least one year before the department may sell the securities.

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

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

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

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

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

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

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

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

property;

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

(3) reasonable service charges; and

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

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

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

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

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

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

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

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

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

(4) this state took custody of the property under AS 34.45.120(6), and, under the laws of the state of domicile of the holder, the property has escheated to or become subject to a claim of abandonment by the state of domicile; or

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

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

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

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

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

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

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

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

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

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

department was correct, the court shall confirm that decision. If incorrect the court shall determine the amount that the person aggrieved is entitled to recover and shall order the repayment. The department shall immediately pay the amount due and attach a certified copy of the judgment to the payment.

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

(b) A holder, with the written consent of the department and upon terms prescribed by the department, may report and deliver property before the property is presumed abandoned. Property delivered under this subsection shall be held by the department and is not presumed abandoned until the property would otherwise be presumed abandoned under this chapter.

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

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

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

ARTICLE 6. ENFORCEMENT AND PENALTIES.

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

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

(b) To avoid conflicts between the department's procedures and the procedures in other jurisdictions that enact the Uniform Unclaimed Property Act, the department, so far as is consistent with the purposes, policies, and provisions of this chapter, shall, before adopting, amending, or repealing regulations, advise and consult with administrators in other jurisdictions that enact, substantially, the Uniform Unclaimed Property Act, and shall take into consideration the rules of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act.

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

(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. (1) 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.

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

Property Act.

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

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

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

(2) "banking organization" means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or an organization defined by other applicable laws as a bank or banking organization;

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

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

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

(6) "domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person;

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

credit union;

(8) "holder" means a person, wherever organized or domiciled, who is

(A) in possession of property belonging to another,

(B) a trustee, or

(C) indebted to another on an obligation;

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

(10) "intangible property"

(A) includes

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

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

(iii) stocks and other intangible ownership interests in business associations;

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

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

(vi) amounts distributable from a trust or custodial fund established under a plan to provide health,

welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee savings, supplemental unemployment insurance, or similar benefits;

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

(11) "last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail;

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

(13) "person" means an individual, business association, state, municipality or other government, including the United States government, subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or other legal or commercial entity;

(14) "property" means personal property;

(15) "state" means a state, district, commonwealth, territory, insular possession, or other area subject to the legislative authority of the United States;

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

or gas.

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

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

ARTICLE 5. REAL PROPERTY ESCHEATED TO STATE.

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

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

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

(b) The department may maintain an action to recover the possession of escheated property, or for the enforcement of the state's right to the property.

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

(b) A court order approving settlement of an estate that distributes real property to the state is a judgment of escheat.

Sec. 38.95.230. MANAGEMENT OF ESCHEATED REAL PROPERTY BY DEPARTMENT. (a) After a judgment of escheat under AS 38.95.220, the department may sell, lease, exchange, assign, or otherwise manage real

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 38.95.260. DISPOSITION OF SALE PROCEEDS SEVEN YEARS AFTER

THE JUDGMENT OF ESCHEAT. Seven years after the judgment of escheat, net proceeds from the sale of escheated real property may be transferred from the escheated real property trust account to the general fund and credited to the land disposal income account under AS 38.04.022, unless a person who was the owner or one of the owners of the property when the property escheated to the state has outstanding child support obligations, in which case the proportion of the net proceeds that is attributable to the ownership interest of the person shall be applied to the satisfaction of the child support obligations and the balance remaining after the satisfaction shall be credited to the land disposal income account.

Sec. 38.95.270. DEFINITION. In AS 38.95.200 - 38.95.270, "department" means the Department of Natural Resources.

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

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

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

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

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

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House Bill

Suggested Amendment

March 3, 1985

AS 10.25.065 Unclaimed Distributions, Redemptions, or Payments.

A distribution of net margins by a cooperative or a redemption of payment based upon a security, which remains unclaimed for more than one (1) year after the date authorized for payment, redemption or retirement, may be forfeited by the board. The amount forfeited may revert to the cooperative if, at least six (6) months prior to the declared date of forfeiture, notice that the payment is available has been mailed to the last known address of the person shown by the cooperatives records to be entitled to it or, if the address is unknown, is published as provided by law for the publication of summons.

A M E N D M E N T

Offered in the HOUSE

By *Sund*

TO: HB 182

Page 18, line 12, following "chapter.":

Insert: "The department, or a current or former officer, employee, or agent of the department, may not disclose information that is viewed or obtained during the course of an examination under this subsection unless the disclosure is necessary to carry out the purposes of this chapter."

AMENDMENT

OFFERED in the House

By Gruenberg

To: CS HB 182 (Jud)

Pge 40, line 12, preceeding "value"  
delete "established" and insert "appraised".

Page 40, line 12, following "AS 38.95.230"  
Delete "(b)" and insert "(a)(1)"

A M E N D M E N T

Offered in the HOUSE

By M.M.Miller and Gruenberg

TO: HB 182

Page 8, line 24, following "interest", delete "unless" and insert "."

Page 8, line 25 - Page 9, line 11, delete all material

Amendment to HB 182

- 1) AS 34.45.330 (e) becomes (f), (f) becomes (g), (g) becomes (h) and add a new section (e) to read:

If the holder pays or delivers property to the department in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.

- 2) AS 34.45.720 (b) change "2" to 6.

Amendments to HB 182

- I. AS 34.45.330 (e) becomes (f), (f) becomes (g), (g) becomes (h) and add a new section (e) to read:

If the holder pays or delivers property to the department in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.

11. AS 34.45.720 (b) changed to read ...abandoned [within the] during the six - [two] year period preceding the effective date of this Act, ...

Amendment to CSHB182 (Judiciary)

Work Draft (Bannister 3/21/86)

P.7, line 18 delete "five" and add "seven" before the word "years"

See attached sheet for explanation

### Explanation of "five" to "seven" years

The Alaska Credit Union League supports the amendment of the five-year period to seven years before presuming that deposits and funds in financial organizations are abandoned.

The Alaska Credit Union League represents all of Alaska's federal and state chartered credit and their over 370,000 members statewide. Under this amendment deposits and funds in active accounts in credit unions and banks would become reportable and presumed abandoned after seven instead of five years. The seven-year period is what applies to these accounts under present law. The financial institutions are used to reporting on this basis presently, and this time period is working well under present law.

This amendment also would make deposits and funds in these accounts reportable under the same seven-year time frame as money orders (P.5, line 18). More importantly, as Sharon Ellis of the Credit Union League testified, seven years gives the financial institution additional time to reach and evoke a response from many contented credit union members who have been receiving monthly or quarterly statements but have felt no need to communicate with the institution on an on-going basis. Between five and seven years, Ms. Ellis said she had experience with members communicating with her credit union after a five-year period of inactivity. No credit union wants to have to tell a member to call or deal with some state official in Juneau to get the return of funds which the members believed the credit union was holding for him or her.

This change would also relieve somewhat the administrative burden imposed by this new legislation, a burden which falls unevenly on the small as well as the large credit unions.

The Department of Revenue has no objection, as stated on the record, to this amendment.

A M E N D M E N T

#3

Offered in the HOUSE

By Gruenberg

TO: CSHB 182 (Jud)

Page 3, line 9, following "(b)":

Delete: "and (e)"

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

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

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

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

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

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 8, 1986

SUBJECT: Requested language for CSHB 182(Jud)

TO: Representative M. Mike Miller  
Chair, Judiciary Committee

FROM: Theresa L. Bannister *TB*  
Legislative Counsel

This memo accompanies the CS that you requested for HB 182. Please note that the language of the last sentence of Sec. 34.45.380(b) (page 27) has not been changed according to the request. The requested language for that sentence would have deleted "both" and substituted "or" for "and". This would have allowed the department not to give the required notice even if the claimant gave one address. The present language allows the department not to give the notice if the claimant doesn't give either address.

If I can be of further assistance, please advise.

TLB:mkr  
m4/084

Enclosure

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 3, 1986

SUBJECT: Revised CSHB 182(Jud)

TO: Representative M. Mike Miller  
Chair, Judiciary Committee

FROM: Theresa Bannister *TB*  
Legislative Counsel

This memo accompanies a revised version of CSHB 182(Jud). Please note that the article dealing with real property escheated to the state has been placed in the Miscellaneous Provisions chapter of Title 38, Public Lands. Please also note that there are changes in the internal citations and language of Sec. 38.95.230 - 38.95.240, in sec. 12 of the bill, to clarify and implement the earlier substitution of "appraised" for "established" in several places in Sec. 38.95.240. These changes occur at page 39, line 19 and page 40, line 2, and in (c) on page 40. In addition, the use of "established value" in subsection (c) on page 40 appears to contradict the court's determination, and to penalize the plaintiff, because "established value" is less than "appraised value". Please examine the subsection to see if it accurately expresses the committee's intention.

If I can be of further assistance, please advise.

TLB:csh  
c6/062

TESTIMONY OF GLACIER HIGHWAY ELECTRIC ASSOCIATION

ON HB 182

April 4, 1986

I am speaking today on behalf of the members of the Glacier Highway Electric Association. We are a non-profit electric cooperative serving the electric power needs of approximately 1400 member-consumers who reside in the northern sector of the City and Borough of Juneau. Our cooperative was organized in 1946 because the privately owned utility serving the communities of Juneau and Douglas considered a line extension to Auke Bay residents to be unprofitable.

Rural electric cooperatives such as ours, borrow development funds from the federal Rural Electrification Administration (REA) and the National Rural Utilities Cooperative Finance Corporation (CFC). One criterion imposed by our lenders is that we operate with a specific margin, or what would otherwise be a profit for an investor-owned utility. In effect, our members have always paid more for their electric power than was necessary to break even in order to satisfy the financial requirements of our lenders. Our By-Laws provide that over time, as our financial surpluses permit, these margins will be returned to the members under the title Capital Credits. In the intervening years, however, these margins provide our cooperative with the working capital necessary for improvements and expansion of our power system. Our members consider these margins as their investment in the long term financial vitality of their cooperative.

Obviously, our attempt to return Capital Credits to member-consumers of the 1950's and 60's will result in a significant portion falling under the provisions of unclaimed property laid out in HB 182. We had planned that unclaimed Capital Credits would be used to retire further obligations to our members. For example, we have allocated about \$78,000 to retire Capital Credits through 1965. We anticipate that probably half of the \$78,000 in credit will be unclaimed. Consequently, we had hoped to apply the unclaimed balance to the Capital Credit obligations for 1966.

Raising working capital is a major problem for all non-profit organizations. A loss of financial resources of the organization as provided for in HB 182 constitutes a substantial hardship for non-profit organizations such as Glacier Highway Electric Association. Although it is true that unclaimed property returned to the State eventually benefits all residents of Alaska, these measures substantially undermine the ability of non-profit organizations to meet their specific goals.

In the case of Glacier Highway Electric Association, this year marks the first time in our 40 year history that we have attained sufficient financial well being to consider retiring capital credits. If our unclaimed capital credits cannot be recycled to retire subsequent year's credits, our ability to attain a more current status in our Capital Credits retirement program will be substantially curtailed. Essentially, we will have to place an additional burden on our member-consumers in the form of higher electric rates, in order to cover the loss of unclaimed Capital Credits.

In this light, we wish to lend our support to the Alaska Rural Electric Cooperative Association's proposed amendment to HB 182 providing for an exemption for electric cooperatives. Naturally, we would also support a broader exemption for all non-profit organizations.

In summary, we believe that our cooperative was formed in order to pool the resources of its members to provide themselves with electric power. Each member contributes revenues through his or her electric bill, not only to pay the daily costs of providing electric service, but also to insure the long term financial health of the organization. Consequently, we believe that our members would expect their capital investments to remain with the cooperative rather than revert to the general revenues of the state.

Thank you for your attention to this matter.

Alexander Høke, President  
Board of Directors  
Glacier Highway Electric Association

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 21, 1986

SUBJECT: Draft of CSHB 182(Jud)  
TO: Representative M. Mike Miller  
Chair, Judiciary Committee  
FROM: Theresa L. Bannister *TB*  
Legislative Counsel

This memo accompanies the draft of CSHB 182(Jud). The following statutes dealing with unclaimed property still need to be examined before the CS is finalized, in order to determine if and how they are affected by the bill:

- AS 06.05.465, dealing with safe deposit boxes;
- AS 10.15.520, dealing with cooperative assets upon dissolution;
- AS 12.36.030, dealing with unclaimed property used as evidence;
- AS 12.65.110, dealing with unclaimed property of certain deceased persons;
- AS 13.16.705, dealing with shares in native corporations;
- AS 15.13.070, dealing with campaign contributions;
- AS 30.30.140, dealing with sales proceeds from abandoned vessels;
- AS 45.50.380, dealing with copyrighted works.

If I can be of further assistance, please advise.

TLB:mkr  
m4/037

Enclosure

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date 1/14/86

REQUEST

Bill/Resolution No: HB 182  
Title: Uniform Unclaimed Property Act

Sponsor: Governor  
Requestor: \_\_\_\_\_  
Date of Request: January 14, 1986

FISCAL DETAIL

Agency Affected: Department of Revenue  
BRU: Audit

Components:  
Audit Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<u>OPERATING</u>						
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-
<u>TOTAL OPERATING</u>	-0-	164.2	179.1	175.1	175.1	175.1
<u>CAPITAL</u>	-0-	-0-	-0-	-0-	-0-	-0-
<u>REVENUE</u>	-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-
<u>TOTAL</u>	-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. Kettel  
Division: Audit Division

Phone: 465-2320  
Date: January 14, 1986

Approved by Commissioner: Sherry D. Sturdale  
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	\$95.2	\$113.6
<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.

ANALYSIS OF LEGISLATION  
RELATING TO UNCLAIMED PROPERTY

This bill applies to a wider range of abandoned intangible personal property than does the present AS 09.50.070, and provides for simple transfer of the custody of the property from the holder to the state rather than transfer of the title. Savings accounts, deposits, drafts, money orders, traveler's checks, safe deposit box contents, and wages are among the various property interests held by banking or financial organizations or by business associations which are covered by the bill (AS 34.45.110-160). Also included is money owed by any insurance or annuity agreement (AS 34.45.170), deposits held by utilities (AS 43.45.180), refunds held by business associations (AS 34.45.190), undistributed dividends, stock, and payments relating to a debt held by a corporation (AS 43.45.200), unclaimed property of a dissolved corporation (AS 43.45.210), intangible property held by fiduciaries, agents, courts and public agencies (AS 43.45.220-230), and unclaimed gift certificates. In general, any of these abandoned property interests may be claimed by the state if the records of the holder indicate that the amount held belongs to a person whose last known address was in this state. Holders of these property interests would be subject to the reporting requirements of the bill as set out in AS 34.45.280.

Abandonment would generally be presumed to have occurred if the owner has not claimed the property or contacted the holder in any way concerning it for a period of seven years (AS 34.45.110), except that a fifteen year period is established for traveler's checks, and a one year period is set for deposits held by utilities, unclaimed wages and property held by courts and public agencies. Stock may be presumed abandoned (AS 43.45.200) if at least seven dividends have been paid and unclaimed in a seven year period; otherwise the period continues to run until seven dividends have been paid and unclaimed.

Holders of property would be required to file an annual report with the Department of Revenue (AS 34.45.280) after first sending a notice to the last known address of each owner whose property is presumed abandoned. The department would then be required to publish a list of the names of owners believed to have abandoned property interests under the bill, and to otherwise exercise due diligence to ascertain the whereabouts of the owners (AS 34.45.310). The holder would then be required to pay or deliver the reported property to the department (AS 34.45.320). Thereafter, the holders would be relieved of all liability related to the disposition of the abandoned property. An owner may forever claim personal property from the department. Also, a person may make a claim in court against the department, but not against the holder (AS 34.45.330).

## Unclaimed Property Bill Analysis

Page 2

AS 34.45.170 provides that proceeds of a life insurance policy are presumed abandoned if the insurer is aware that the insured has died even though actual proof of death has not been furnished to the insurer. Subsection (d) provides that the application of an automatic premium loan provision will not be used to consume the proceeds of a policy and prevent the policy from being matured under subsection (a) if the insured has died or if the beneficiaries have otherwise become entitled to the proceeds of the policy.

The bill allows the department to offer to sell all abandoned personal property, within three years of receipt, except securities which generally must be held one year (AS 34.45.360). If the department sells any property, it must sell to the highest bidder at public sale.

The proceeds from the sale of personal property, along with all other funds received by the department under the bill would be deposited in the general fund of the state, but \$100,000 would be retained in a separate trust fund (AS 34.45.370). The department would be required to make prompt payment from the trust fund for any claim it determines to be valid, brought by the owners of the property. The department is authorized to hold a hearing to determine the merits of any claim to abandoned property; an owner aggrieved by a decision of the department would be required to follow established grievance procedures of the department and may appeal the department's final decision (AS 34.45.400).

Another state may make a claim to abandoned property if it appears the property should escheat to that state (AS 34.45.460). This section (as well as section 34.45.120), codifies court decisions determining rights among states to claim abandoned property. The bill would allow for reciprocal action by states in that the attorney general may bring an action in our courts on behalf of another state, and the department may request that the attorney general of another state bring a similar action on our behalf in the other state.

The Department of Revenue is authorized to adopt regulations to carry out the provisions of the bill (AS 34.45.730), may examine the books and records of a person whom the department has reason to believe had failed to report property subject to the bill (AS 34.45.290), and may bring an action to compel delivery of property wrongfully withheld by a holder (AS 34.45.450). The bill provides civil penalties for those who fail to comply with the provisions of the bill. Criminal sanction would be incurred by those who knowingly make false reports or refuse to deliver property as required under the bill (AS 34.45.470).

This bill has been patterned after the Uniform Unclaimed Property Act (1981). The procedures set out in the Uniform Act are designed to safeguard the interests of both the state and the rightful owner of the property, if any. The reporting requirements imposed upon a holder, combined with the broader investigation and enforcement powers of the Department of Revenue makes it possible for the state to ascertain the whereabouts of abandoned property held in the state. Under existing law, the department has no express enforcement power either to locate or claim abandoned property. The Department of Law instead must bring an action in superior court to claim any amount of unclaimed property, including amounts under \$1. There is no specific provision in the current law authorizing any department to locate abandoned property and only financial institutions are expressly required to report unclaimed property (AS 09.50.140).

The official comments of the National Conference of Commissioners on Uniform State Laws offer additional explanation of the purposes of and the need for each part of this bill, and are available from the Department of Revenue.

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : HB 182  
 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						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-

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

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

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**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 (FIR)  
 Approved by Commissioner: 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
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		-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 Phone: 465-2400  
Division: Natural Resources Date: February 4, 1985

Approved by Commissioner: [Signature] Date: February 4, 1985  
Agency: Natural Resources

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

7/1/84