

## STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 481 - L.D. 1544

**An Act To Enact the Maine Revised Unclaimed Property Act****Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 4 MRSA §8-A, sub-§2**, as amended by PL 2003, c. 20, Pt. T, §2, is further amended to read:

**2. Unclaimed property.** To provide, after reasonable notice to interested parties or their attorneys, for the transfer to the Treasurer of State for disposition as unclaimed property in the manner provided by Title 33, ~~sections 1958 and 1959~~ chapter 45 of property in the possession or custody of the courts of this State as a result of civil or criminal litigation.

**Sec. 2. 8 MRSA §1032**, as amended by IB 2009, c. 2, §40, is further amended to read:

**§1032. Payment of credits by slot machine or casino operator**

A slot machine operator or casino operator shall redeem credits for players who earn credits on a slot machine or table game located on the premises of that slot machine facility or casino in accordance with rules adopted by the board. A slot machine operator or casino operator may not redeem a credit slip more than 365 days from the date of issuance. The funds reserved for the payment of such a credit slip or expired unclaimed jackpot must be retained by the slot machine operator or casino operator and treated as gross slot machine income or gross table game income and do not constitute property subject to the requirements of Title 33, chapter 44 45.

**Sec. 3. 9-B MRSA §161, sub-§2, ¶K**, as amended by PL 2001, c. 262, Pt. B, §3, is further amended to read:

K. The examination or furnishing of any financial records by a financial institution authorized to do business in this State or credit union authorized to do business in this State to any officer, employee or agent of the Treasurer of State for use solely in the exercise of that officer's, employee's or agent's duties under Title 33, chapter 44 45;

**Sec. 4. 9-B MRSA §428**, as amended by PL 2001, c. 211, §13, is further amended to read:

**§428. Inactive deposits or accounts**

All moneys in unclaimed accounts in each financial institution authorized to do business in this State must be disposed of according to Title 33, chapter ~~41~~ 45.

**Sec. 5. 10 MRSA §3751, last ¶**, as amended by PL 2003, c. 20, Pt. T, §4, is further amended to read:

The contents of an opened safe or box, if unclaimed, must be disposed of according to Title 33, chapter ~~41~~ 45.

**Sec. 6. 10 MRSA §3953**, as amended by PL 2003, c. 20, Pt. T, §5, is further amended to read:

**§3953. Disposal of residue**

After satisfying the lien and the reasonable costs and expenses accrued, the residue must be disposed of according to Title 33, chapter ~~41~~ 45.

**Sec. 7. 10 MRSA §4009**, as amended by PL 2003, c. 20, Pt. T, §6, is further amended to read:

**§4009. Disposal of proceeds**

Money paid into court may be paid over to the person legally entitled to it, on motion and order of the court. If it is not called for at the first term after it is paid into court, it must be presumed unclaimed and disposed of according to Title 33, chapter ~~41~~ 45.

**Sec. 8. 12 MRSA §12661, sub-§3**, as amended by PL 2017, c. 164, §22, is further amended to read:

**3. Removal of abandoned ice fishing shacks.** A person may not leave a structure on another person's land without permission from the landowner. Notwithstanding the provisions of Title 33, chapter ~~41~~ 45 and Title 17, section 2263-A, a landowner on whose property an ice fishing shack is left in violation of this section may remove or destroy the shack. The landowner may recover any costs of removing or destroying the shack from the owner of the shack in a civil action.

**Sec. 9. 13-C MRSA §1440**, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

**§1440. Deposit with Treasurer of State**

Assets of a dissolved corporation that should be transferred to a creditor, claimant or shareholder of the corporation who can not be found or who is not competent to receive the assets must be reduced to cash and deposited with the Treasurer of State or other appropriate state official for safekeeping in accordance with Title 33, chapter ~~41~~ 45.

When the creditor, claimant or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the Treasurer of State or other appropriate state official shall pay the creditor, claimant or shareholder or that person's representative that amount.

**Sec. 10. 14 MRSA §2901, last ¶**, as enacted by PL 2003, c. 149, §8, is amended to read:

If the trustee discloses possession of goods, effects or credits of the principal defendant, or by virtue of default is adjudged trustee, and the trusteed funds are not collected or released within 7 years, they must be presumed abandoned under Title 33, chapter 41 ~~45~~ unless the trustee is served with a certificate of the clerk of the appropriate court, between 30 and 90 days prior to such date, evidencing that the principal action is still pending.

**Sec. 11. 14 MRSA §6324**, as amended by PL 2003, c. 20, Pt. T, §10, is further amended to read:

**§6324. Proceeds of sale**

After first deducting the expenses incurred in making the sale, the mortgagee shall disburse the remaining proceeds in accordance with the provisions of the judgment. The mortgagee shall file a report of the sale and the disbursement of the proceeds therefrom with the court and shall mail a copy to the mortgagor at the mortgagor's last known address. This report need not be accepted or approved by the court, provided that the mortgagor or any other party in interest may contest the accounting by motion filed within 30 days of receipt of the report, but any such challenge may be for money only and does not affect the title to the real estate purchased by the highest bidder at the public sale. Any deficiency must be assessed against the mortgagor and an execution must be issued by the court therefor. In the event the mortgagee has been the purchaser at the public sale, any deficiency is limited to the difference between the fair market value of the premises at the time of the public sale, as established by an independent appraisal, and the sum due the mortgagee as established by the court with interest plus the expenses incurred in making the sale. Any surplus must be paid to the mortgagor, the mortgagor's successors, heirs or assigns in the proceeding. If the mortgagor has not appeared personally or by an attorney, the surplus must be paid to the clerk of courts, who shall hold the surplus in escrow for 6 months for the benefit of the mortgagor, the mortgagor's successors, heirs or assigns and, if the surplus remains unclaimed after 6 months, the clerk shall pay the surplus to the Treasurer of State to be credited to the General Fund until it becomes unclaimed under the ~~Uniform~~ Maine Revised Unclaimed Property Act, and report and pay it to the State in accordance with that Act.

**Sec. 12. 23 MRSA §156, next to the last ¶**, as affected by PL 1997, c. 508, Pt. A, §3 and amended by Pt. B, §5, is further amended to read:

After the appeal period from the decree of the State Claims Commission or a judgment of any court has expired, any sum of money directed by a decree of the commission or by a judgment of any court to be paid over that remains unclaimed for 60 days must be disposed of consistent with Title 33, chapter 41 ~~45~~.

**Sec. 13. 24-A MRSA §3486, sub-§14**, as amended by PL 2003, c. 344, Pt. D, §16, is further amended to read:

14. The provisions of Title 33, chapter ~~41~~ 45 apply to any unclaimed payment to which a shareholder may be entitled under this section.

**Sec. 14. 24-A MRSA §4551, first ¶**, as amended by PL 2017, c. 129, §1, is further amended to read:

All unclaimed money held and owing by any life insurer doing business in this State must be disposed of according to Title 33, chapter ~~41~~ 45. Before disposing of any unclaimed money in accordance with Title 33, chapter ~~41~~ 45, a life insurer doing business in this State shall comply with this section.

**Sec. 15. 25 MRSA §3503-B**, as enacted by PL 2003, c. 77, §1, is amended to read:

**§3503-B. Bicycle disposal**

Notwithstanding section 3503, a local legislative body in a municipality may dispose of unclaimed bicycles in a manner decided by that body and is exempt from Title 33, chapter ~~41~~ 45 with respect to unclaimed bicycles.

**Sec. 16. 25 MRSA §3504**, as affected by PL 1997, c. 508, Pt. A, §3 and amended by Pt. B, §6, is further amended to read:

**§3504. Deposit of proceeds**

Proceeds of the sale of the property at public auction, less reimbursement to the law enforcement agency and others authorized of the reasonable expenses of custody, must be disposed of according to Title 33, chapter ~~41~~ 45.

**Sec. 17. 27 MRSA §601, sub-§1**, as amended by PL 2011, c. 263, §1, is further amended to read:

**1. Property to be considered abandoned; definition.** Any tangible property held by a museum within the State that is held for 3 years or more without a written gift or loan agreement, or after expiration of a written loan agreement, and to which a person has not made claim is considered to be abandoned and, notwithstanding Title 33, chapter ~~41~~ 45, becomes the property of the museum, as long as the estimated market value of the material is less than \$100 or the museum has complied with subsection 2. The estimated market value must be determined by a qualified appraiser, and a written copy of the determination must be retained in the museum's permanent records.

As used in this section, "museum" means an organization that is operated by a nonprofit corporation, public agency or educational institution primarily for educational, scientific, historic preservation, cultural or aesthetic purposes and that owns, cares for, exhibits, studies, archives and catalogues tangible property and includes, but is not limited to, historical societies, archives and art, history, science and natural history organizations.

**Sec. 18. 29-A MRSA §754, sub-§4, ¶B**, as affected by PL 1997, c. 508, Pt. A, §3 and amended by Pt. B, §7, is further amended to read:

B. After expiration of the 30-day notice period, the Secretary of State may dispose of the vehicle at public auction or report the vehicle as abandoned under Title 33, chapter 44 ~~45~~.

**Sec. 19. 30-A MRSA §3106, sub-§1, ¶A**, as enacted by PL 1999, c. 667, §1, is amended to read:

A. "Covered property" means all tangible property, other than tangible property described in Title 33, section ~~4954~~ 2065, located in or on real estate acquired by a political subdivision through tax delinquency proceedings pursuant to Title 36 or through any similar procedure created by statute for the collection of unpaid taxes, assessments, expenses or charges. "Covered property" includes all tangible property, other than tangible property described in Title 33, section ~~4954~~ 2065, located in or on real estate that has been determined to be a dangerous building pursuant to Title 17, chapter 91, subchapter ~~IV~~ 4.

**Sec. 20. 30-A MRSA §3862, sub-§3**, as amended by PL 2003, c. 20, Pt. T, §17, is further amended to read:

**3. Proceeds.** After using the proceeds from the sale to satisfy the lien and any costs that may accrue, the keeper shall dispose of any remainder according to Title 33, chapter 44 ~~45~~.

**Sec. 21. 33 MRSA c. 41**, as amended, is repealed.

**Sec. 22. 33 MRSA c. 45** is enacted to read:

## **CHAPTER 45**

### **MAINE REVISED UNCLAIMED PROPERTY ACT**

#### **SUBCHAPTER 1**

#### **GENERAL PROVISIONS**

##### **§2051. Short title**

This chapter may be known and cited as "the Maine Revised Unclaimed Property Act."

##### **§2052. Definitions**

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings.

**1. Administrator.** "Administrator" means the Treasurer of State.

**2. Administrator's agent.** "Administrator's agent" means a person with which the administrator contracts to conduct an examination under subchapter 10 on behalf of the administrator. "Administrator's agent" includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.

**3. Apparent owner.** "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued or owing by the holder.

**4. Business association.** "Business association" means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship or other business entity, whether or not for profit.

**5. Confidential information.** "Confidential information" means records, reports and information that are confidential under section 2212.

**6. Domicile.** "Domicile" means:

A. For a corporation, the state of its incorporation;

B. For a business association, other than a corporation, whose formation requires a filing with a state, the state of its filing;

C. For a federally chartered entity, the state of its home office; and

D. For any other holder, the state of its principal place of business.

**7. Electronic.** "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

**8. E-mail.** "E-mail" means a communication by electronic means that is automatically retained and stored and may be readily accessed or retrieved.

**9. Financial organization.** "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization or credit union.

**10. Game-related digital content.** "Game-related digital content" means digital content that exists only in an electronic game or electronic game platform. "Game-related digital content":

A. Includes:

(1) Game-play currency such as a virtual wallet, even if denominated in United States currency; and

(2) The following if for use or redemption only within the game or platform or another electronic game or electronic game platform:

(a) Points accrued through game play, which may be referred to as gems, tokens, gold and similar names; and

(b) Digital codes; and

B. Does not include an item that the issuer:

(1) Permits to be redeemed for use outside a game or platform for:

(a) Money; or

(b) Goods or services that have more than minimal value; or

(2) Otherwise monetizes for use outside a game or platform.

**11. Gift obligation.** "Gift obligation" means a record evidencing an obligation of a business association arising from a transaction between the business association and a consumer to provide goods or services at a future date for a specified amount shown in the record.

A. A gift obligation:

(1) Is a bearer instrument not associated with an account holder or individual;

(2) May be decreased in value only by redemption for merchandise, goods or services; and

(3) Unless required by law, may not be redeemed for or converted into money or otherwise monetized.

B. "Gift obligation" does not include account credits or account balances, including credits or balances funded by gift obligations.

**12. Holder.** "Holder" means a person obligated to hold property subject to this Act for the account of, or to deliver or pay to, the owner.

**13. Insurance company.** "Insurance company" means an association, corporation or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection and workers' compensation insurance.

**14. Loyalty obligation.** "Loyalty obligation" means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services. "Loyalty obligation" does not include:

A. A record that may be redeemed for money or otherwise monetized by the issuer;

B. A gift obligation; or

C. A stored-value obligation.

**15. Mineral.** "Mineral" means gas, oil, coal, oil shale, other gaseous, liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources and any other substance defined as a mineral by law of this State other than this Act.

**16. Mineral proceeds.** "Mineral proceeds" means an amount payable for extraction, production or sale of minerals or, on the abandonment of the amount, an amount that becomes payable after abandonment. "Mineral proceeds" includes an amount payable:

A. For the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty and delay rental;

B. For the extraction, production or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment and production payment; and

C. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement.

**17. Money order.** "Money order" means a payment order for a specified amount of money. "Money order" includes an express money order and a personal money order on which the remitter is the purchaser. "Money order" does not include a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.

**18. Municipal bond.** "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

**19. Net obligation value.** "Net obligation value" means the original purchase price or original issued value of a stored-value or gift obligation, plus amounts added to the original price or value, if applicable, minus amounts used and any service charge, fee or dormancy charge permitted by law.

**20. Nonfreely transferable security.** "Nonfreely transferable security" means a security that cannot be delivered to the administrator by the Depository Trust and Clearing Corporation or similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. "Nonfreely transferable security" includes a worthless security.

**21. Owner.** "Owner" means a person that has a legal, beneficial or equitable interest in property subject to this Act or the person's legal representative when acting on behalf of the person. "Owner" includes:

A. A depositor, for a deposit;

B. A beneficiary, for a trust other than a deposit in trust;

C. A creditor, claimant or payee, for other property; and

D. The lawful bearer of a record that may be used to obtain money, a reward or a thing of value.

**22. Payroll card.** "Payroll card" means a record that evidences a payroll card account as defined in Regulation E, 12 Code of Federal Regulations, Part 1005, as amended.

**23. Person.** "Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency or instrumentality or other legal entity, whether or not for profit.

**24. Property.** "Property" means tangible property described in section 2065 or a fixed and certain interest in intangible property held, issued or owed in the course of a holder's business or by a government or governmental subdivision, agency or instrumentality. "Property":

A. Includes all income from or increments to the property;

B. Includes property referred to as or evidenced by:

(1) Money, interest or a dividend, check, draft, deposit or payroll card;

(2) A credit balance, customer's overpayment, stored-value obligation, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds or unidentified remittance;

(3) A security, except for:

(a) A worthless security; or

(b) A security that is subject to a lien, legal hold or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold or restriction restricts the holder's or owner's ability to receive, transfer, sell or otherwise negotiate the security;

(4) A bond, debenture, note or other evidence of indebtedness;

(5) Money deposited to redeem a security, make a distribution or pay a dividend;

(6) An amount due and payable under an annuity contract or insurance policy; and

(7) An amount distributable from a trust or custodial fund established under a plan to provide a health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefit; and

C. Does not include a loyalty obligation or game-related digital content.

**25. Putative holder.** "Putative holder" means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to this Act or the administrator or a court makes a final determination that the person is or is not a holder.

**26. Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. "Record," with regard to records of a holder, includes records maintained by a 3rd party that has contracted with the holder.

**27. Security.** "Security" means:

A. A security as defined in Title 11, Article 8-A;

B. A security entitlement as defined in Title 11, Article 8-A, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:

(1) Registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;

(2) Payable to the order of the person; or

(3) Specifically indorsed to the person; or

C. An equity interest in a business association not included in paragraph A or B.

**28. Sign.** "Sign" means, with present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or

B. To attach to or logically associate with the record an electronic symbol, sound or process.

**29. State.** "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

**30. Stored-value obligation.** "Stored-value obligation" means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services or money will be provided to the owner of the record in the amount of the value or amount shown in the record. "Stored-value obligation":

A. Includes a record that contains or consists of a microprocessor chip, magnetic strip or other means for the storage of information, that is prefunded and the value or amount of which is decreased on each use and increased by payment of additional consideration; and

B. Does not include a loyalty obligation, a gift obligation or game-related digital content.

**31. United States savings bond.** "United States savings bond" means property, tangible or intangible, in the form of a savings bond issued by the United States Treasury whether in paper form, electronic form or paperless form, along with all the proceeds of the savings bond.

**32. Utility.** "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise or license for the following public services:

A. Transmission of communications or information;

B. Production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas; or

C. Provision of sewage or septic services or trash, garbage or recycling disposal.

**33. Worthless security.** "Worthless security" means a security of which the cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this Act.

**§2053. Inapplicability to foreign transaction**

This Act does not apply to property held, due and owing in a foreign country if the transaction out of which the property arose was a wholly foreign transaction.

**§2054. Rulemaking**

The administrator may adopt rules to implement and administer this Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**SUBCHAPTER 2**

**PRESUMPTION OF ABANDONMENT**

**§2061. When property presumed abandoned**

Subject to section 2070, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified:

**1. Traveler's check.** A traveler's check, 15 years after issuance;

**2. Money order.** A money order, 7 years after issuance;

**3. State or municipal bond.** A state or municipal bond, bearer bond or original issue discount bond, 3 years after the date the bond matures or is called or the obligation to pay the principal of the bond arises, whichever is earlier;

**4. Debt of a business association.** A debt of a business association, 3 years after the obligation to pay arises;

**5. Payroll card or demand, savings or time deposit.** A payroll card or demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the maturity of the deposit, except that a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;

**6. Money or credit owed.** Money or a credit owed to a customer as a result of a retail business transaction, 3 years after the obligation arose;

**7. Amount owed on insurance policy or annuity contract.** An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, 3 years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant:

A. With respect to an amount owed on a life or endowment insurance policy, 3 years after the earlier of the date:

(1) The insurance company has knowledge of the death of the insured; and

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

B. With respect to an amount owed on an annuity contract, 3 years after the date the insurance company has knowledge of the death of the annuitant;

**8. Distributable property.** Property distributable by a business association in the course of dissolution, one year after the property becomes distributable;

**9. Property held by a court.** Property held by a court, including property received as proceeds of a class action, one year after the property becomes distributable;

**10. Property held by a government.** Property held by a government or governmental subdivision, agency or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one year after the property becomes distributable;

**11. Wages, commissions, bonuses or reimbursements.** Wages, commissions, bonuses or reimbursements to which an employee is entitled or other compensation for personal services, one year after the amount becomes payable;

**12. Deposit or refund owed by a utility.** A deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable;

**13. Prearranged funeral or burial plan.** Notwithstanding subsection 5, property contained in a prearranged funeral or burial plan described in Title 32, section 1401, including deposits containing funds from such a plan, 3 years after the death of a person on whose behalf funds were paid into the plan;

**14. Nonactivated stored-value obligation or electronic payment medium.** Funds represented by a nonactivated stored-value obligation or other nonactivated electronic payment medium that require activation for use, one year after the funds would have otherwise first been available to the owner; and

**15. Property not specified.** Property not specified in this section or sections 2062 to 2072, 3 years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises, whichever is earlier.

**§2062. When tax-deferred retirement account presumed abandoned**

**1. Presumed abandoned after 3 years.** Subject to section 2070, property held in a pension account or retirement account that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner 3 years after the later of:

A. The later of the following dates:

(1) Except as in subparagraph (2), the date a communication sent by the holder by first class United States mail to the apparent owner is returned to the holder as undeliverable by the United States Postal Service; and

(2) If the returned communication is resent within 30 days, the date the resent communication was returned as undeliverable by the United States Postal Service; and

B. The earlier of the following dates:

(1) The date the apparent owner becomes 70 1/2 years of age; and

(2) If the federal Internal Revenue Code of 1986, as amended, requires distribution to avoid a tax penalty, the date the holder:

(a) Receives confirmation of the death of the apparent owner in the ordinary course of its business; or

(b) Confirms the death of the apparent owner under subsection 2.

**2. Confirmation of death of apparent owner.** If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner and subsection 1, paragraph B applies, the holder shall attempt not later than 90 days after receipt of the notice or indication to confirm whether the apparent owner is deceased.

**3. Confirmation of apparent owner's interest.** If the holder does not send communications to the apparent owner of an account described in subsection 1 by first class United States mail on at least an annual basis, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an e-mail not later than 2 years after the apparent owner's last indication of interest in the property. However, the holder promptly shall attempt to contact the apparent owner by first class United States mail if:

A. The holder does not have information needed to send the apparent owner an e-mail or the holder believes that the apparent owner's e-mail address in the holder's records is not valid;

B. The holder receives notification that the e-mail was not received; or

C. The apparent owner does not respond to the e-mail within 30 days after the e-mail was sent.

### **§2063. When other tax-deferred account presumed abandoned**

**1. Presumed abandoned after 3 years.** Subject to section 2070 and except for property described in section 2062, property held in an account or plan, including a health savings account, that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner 3 years after the earlier of:

A. The date, if determinable by the holder, specified in the income tax laws and regulations of the United States by which distribution of the property must begin to avoid a tax penalty, with no distribution having been made; and

B. Thirty years after the date the account or plan was opened.

**2. Presumed abandoned after 2 years.** If the owner is deceased, property under subsection 1 is presumed abandoned 2 years from the earliest of:

- A. The date of the distribution or attempted distribution of the property;
- B. The date of the required distribution as stated in the plan or trust agreement governing the plan; and
- C. The date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty.

**§2064. When custodial account for minor presumed abandoned**

**1. Presumed abandoned after 3 years.** Subject to section 2070, and except as provided in subsection 3, property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act, if it is unclaimed by or on behalf of the minor on whose behalf the account was opened, is presumed abandoned 3 years after the later of:

- A. The date a communication sent by the holder by first class United States mail to the custodian of the minor on whose behalf the account was opened is returned as undeliverable to the holder by the United States Postal Service or, if the communication is resent within 30 days after the date the first communication is returned as undeliverable, the date the first communication was returned as undeliverable; and
- B. The date on which the custodian is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened.

**2. Confirmation of custodian's interest.** If the holder does not send communications to the custodian of the minor on whose behalf an account described in subsection 1 was opened by first class United States mail on at least an annual basis, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an e-mail not later than 2 years after the custodian's last indication of interest in the property. However, the holder promptly shall attempt to contact the custodian by first class United States mail if:

- A. The holder does not have information needed to send the custodian an e-mail or the holder believes that the custodian's e-mail address in the holder's records is not valid;
- B. The holder receives notification that the e-mail was not received; or
- C. The custodian does not respond to the e-mail within 30 days after the e-mail was sent.

**3. If undeliverable, presumed abandoned after 3 years.** If first class United States mail sent under subsection 2 is returned as undeliverable to the holder by the United States Postal Service, the property is presumed abandoned 3 years after the later of:

- A. The date a 2nd consecutive communication to contact the custodian by first class United States mail is returned to the holder as undeliverable by the United States Postal Service; and

B. The date established by subsection 1, paragraph C.

4. No longer subject to section. When the property in the account described in subsection 1 is transferred to the minor on whose behalf the account was opened or to the minor's estate, the property in the account is no longer subject to this section.

**§2065. When contents of safe deposit box presumed abandoned**

Tangible property held in a safe deposit box or other safekeeping depository in this State in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law are presumed abandoned if the property and proceeds remain unclaimed by the owner for more than 3 years after expiration of the lease or rental period on the box or other depository.

**§2066. When stored-value obligation presumed abandoned**

1. Presumed abandoned after 3 years. Subject to section 2070, the net obligation value of a stored-value obligation is presumed abandoned on the latest of 3 years after:

A. December 31st of the year in which the obligation is issued or additional funds are deposited into it;

B. The most recent indication of interest in the obligation by the apparent owner; and

C. A verification or review of the balance by or on behalf of the apparent owner.

2. Amount presumed abandoned. The amount presumed abandoned in a stored-value obligation is the net obligation value at the time it is presumed abandoned.

3. No period of limitation, charges or fees; exceptions, disclosure. Notwithstanding section 2112, fees, charges or a period of limitation may not be imposed on stored-value obligations, except that the issuer may charge a transaction fee for the initial issuance and for each occurrence of adding value to an existing stored-value obligation. These fees must be disclosed in a separate writing prior to the initial issuance or referenced on the stored-value obligation.

4. Redemption; balance in cash. If a stored-value obligation is redeemed in person and a balance of less than \$5 remains following redemption, at the consumer's request the merchant redeeming the stored-value obligation must refund the balance in cash to the consumer. This subsection does not apply to a stored-value obligation with an initial value of \$5 or less, or a stored-value obligation that is not purchased but provided as a promotion or as a refund for merchandise returned without a receipt.

**§2067. When gift obligation presumed abandoned**

1. Presumed abandoned after 2 years. Subject to section 2070, a gift obligation is presumed abandoned 2 years after December 31st of the year in which the obligation arises or the most recent transaction involving the obligation occurs, whichever is later.

2. Amount unclaimed is 60%. The amount unclaimed of a gift obligation is 60% of the net obligation value at the time it is presumed abandoned.

**3. Not presumed abandoned; sales by a single issuer under \$250,000.** A gift obligation is not presumed abandoned if it was sold by a single issuer who in the past calendar year sold no more than \$250,000 in face value of gift obligations. Sales of gift obligations are considered sales by a single issuer if the sales were by businesses that operate either:

A. Under common ownership or control with another business or businesses in the State; or

B. As franchised outlets of a parent business.

**4. No period of limitation for redemption.** A period of limitation may not be imposed on the owner's right to redeem the gift obligation.

**5. No charges or fees; exception, disclosure.** Notwithstanding section 2112, fees or charges may not be imposed on gift obligations, except that the issuer may charge a transaction fee for the initial issuance. The fee must be disclosed in a separate writing prior to the initial issuance or referenced on the gift obligation.

**6. Redemption; balance in cash.** If a gift obligation is redeemed in person and a balance of less than \$5 remains following redemption, at the consumer's request the merchant redeeming the gift obligation must refund the balance in cash to the consumer. This subsection does not apply to a gift obligation with an initial value of \$5 or less.

#### **§2068. When security presumed abandoned**

**1. If communications sent at least annually, presumed abandoned after 3 years.** Subject to section 2070, if the holder sends communications to the apparent owner of a security by first class United States mail on at least an annual basis, a security is presumed abandoned 3 years after the later of:

A. The date a communication sent by the holder by first class United States mail to the apparent owner is returned to the holder as undeliverable by the United States Postal Service; and

B. If the communication is resent within 30 days after the first communication is returned, the date the resent communication is returned as undeliverable to the holder by the United States Postal Service.

**2. If no communications sent, duty to confirm owner's interest not later than 2 years.** If the holder does not send communications to the apparent owner of a security by first class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an e-mail not later than 2 years after the apparent owner's last indication of interest in the security. However, the holder promptly shall attempt to contact the apparent owner by first class United States mail if:

A. The holder does not have information needed to send the apparent owner an e-mail or the holder believes that the apparent owner's e-mail address in the holder's records is not valid;

B. The holder receives notification that the e-mail was not received; or

C. The apparent owner does not respond to the e-mail within 30 days after the e-mail was sent.

**3. If confirmation returned undeliverable, presumed abandoned after 3 years.**

If first class United States mail sent under subsection 2 is returned to the holder as undeliverable by the United States Postal Service, the security is presumed abandoned 3 years after the latest indication of interest by the apparent owner in the security.

**§2069. When related property presumed abandoned**

At and after the time property is presumed abandoned under this Act, any other property right or interest accrued or accruing from the property and not previously presumed abandoned is also presumed abandoned.

**§2070. Indication of apparent owner**

**1. Period of abandonment.** The period after which property is presumed abandoned is measured from the later of:

- A. The date the property is presumed abandoned under this subchapter; and
- B. The latest indication of interest by the apparent owner in the property.

**2. Indication of interest.** Under this Act, an indication of an apparent owner's interest in property includes:

- A. A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;
- B. An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;
- C. Presentment by the apparent owner of a check or other instrument of payment of a dividend, interest payment or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security or interest in a business association;
- D. Activity by the apparent owner in the account in which the property is held, including accessing the account balance, or a request by the apparent owner to increase, decrease or otherwise change the amount or type of property held in the account;
- E. A deposit into or withdrawal from an account at a financial organization by the apparent owner, including an automatic withdrawal previously authorized or an automatic reinvestment of dividends or interest;
- F. Subject to subsection 4, payment by the apparent owner of a premium on an insurance policy; and
- G. For deposits in which the apparent owner has another relationship or account with the holder:

(1) The fact that the apparent owner has indicated interest with respect to the other relationships or accounts; or

(2) The fact that there is a memorandum or other record on file prepared by the holder indicating that the holder has communicated in writing with the apparent owner with regard to the deposit at the address to which communications regarding the other relationships or deposits are regularly sent.

**3. Action of agent.** Action by an agent of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.

**4. Nonforfeiture provision.** Application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy is not an indication of interest in the policy and does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before depletion of the cash surrender value of the policy by application of the provision.

**§2071. Deposit account for proceeds of insurance policy or annuity**

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check-writing or draft-writing privileges for the beneficiary of the policy or contract and, under a supplementary contract not involving annuity benefits other than death benefits, the proceeds are retained by the insurance company or the financial organization where the account is held, the policy or contract includes the assets in the account.

**§2072. When United States savings bonds are presumed abandoned**

**1. Presumed abandoned.** Notwithstanding section 2061, subsection 9 and sections 2112 and 2131, a United States savings bond subject to this chapter or held or owing in this State by any person is presumed abandoned in this State if:

A. The last known address of the owner of the United States savings bond is in this State; and

B. The United States savings bond has remained unclaimed for 3 years after its date of final maturity.

**2. Escheat; procedure.** United States savings bonds that are presumed abandoned and unclaimed under subsection 1, including bonds in the possession of the administrator, and those lost, stolen or destroyed bonds registered to persons with last known addresses in this State, escheat to the State 3 years after the bonds are presumed abandoned, and all property rights and legal title to and ownership of the United States savings bonds, including all rights, powers and privileges of survivorship of any owner, co-owner or beneficiary, vest solely in the State according to the following procedure.

A. Within 180 days after the 3-year period in this subsection has passed, if no claim has been filed in accordance with this chapter for the United States savings bonds, the administrator shall commence a civil action in the Kennebec County Superior Court

or in any other court of competent jurisdiction for a determination that the United States savings bonds escheat to the State. The administrator may postpone the bringing of such an action until sufficient United States savings bonds have accumulated in the administrator's custody to justify the expense of such a proceeding.

B. The administrator shall make service by publication of the civil action in accordance with the Maine Rules of Civil Procedure, Rule 4 and Title 1, sections 601 and 603.

C. If no person files a claim or appears at the hearing to substantiate a claim or if the court determines that a claimant is not entitled to the property claimed by the claimant, the court, if satisfied by evidence that the administrator has substantially complied with the laws of this State, shall enter a judgment that the United States savings bonds have escheated to the State and all property rights and legal title to and ownership of the United States savings bonds, including all rights, powers and privileges of survivorship of any owner, co-owner or beneficiary, vest solely in the State.

D. The administrator shall redeem the United States savings bonds escheated to the State. When the escheated proceeds have been recovered by the administrator, the administrator shall first pay all costs incident to the collection and recovery of the proceeds from the redemption of the United States savings bonds and then promptly deposit the remaining balance of the proceeds in the Unclaimed Property Fund under section 2141 to be distributed in accordance with law.

**3. Claims after escheat.** Notwithstanding subchapter 9, any person making a claim for a United States savings bond escheated to the State under this section may file a claim with the administrator. Upon being provided sufficient proof of the validity of the person's claim, the administrator may pay the claim and may subtract any expenses and costs incurred by the State in securing full title and ownership of the property by escheat. If payment has been made to a claimant, no action may be maintained by any other claimant or the State or any state officer for or on account of the funds.

### SUBCHAPTER 3

#### RULES FOR TAKING CUSTODY OF PROPERTY PRESUMED ABANDONED

##### §2081. Address of apparent owner to establish priority

In this subchapter, the following rules apply:

**1. Last known address.** The last known address of an apparent owner, as shown in the records of the holder, is any description, code or other indication of the location of the apparent owner that identifies the state, even if the description, code or indication of location is not sufficient to direct the delivery of first class United States mail to the apparent owner.

**2. Zip code in this State; exception.** If the zip code associated with the apparent owner is for a post office located in this State, this State is deemed to be the state of the last known address of the apparent owner unless other records associated with the

apparent owner specifically identify the physical address of the apparent owner in another state.

**3. Physical address in another state.** If the address under subsection 2 is in another state, the other state is deemed to be the state of the last known address of the apparent owner.

**4. Address of insured or annuitant.** The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under section 2082.

### **§2082. Address of apparent owner in this State**

The administrator may take custody of property that is presumed abandoned, whether located in this State, another state or a foreign country if:

**1. Last known address in records of holder.** The last known address of the apparent owner in the records of the holder is in this State; or

**2. Determination by administrator.** The records of the holder do not reflect the identity or last known address of the apparent owner, but the administrator has determined that the last known address of the apparent owner is in this State.

### **§2083. If records show multiple addresses of apparent owner**

**1. Most recently recorded address.** Except as in subsection 2, if records of a holder reflect multiple addresses for an apparent owner and this State is the state of the most recently recorded address, this State may take custody of property presumed abandoned, whether located in this State or another state.

**2. Next most recently recorded address.** If it appears from records of the holder that the most recently recorded address of the apparent owner under subsection 1 is a temporary address and this State is the state of the next most recently recorded address that is not a temporary address, this State may take custody of the property presumed abandoned.

### **§2084. Holder domiciled in this State**

**1. Holder domiciled in this State.** Except as in subsection 2 or section 2082 or 2083, the administrator may take custody of property presumed abandoned, whether located in this State, another state or a foreign country, if the holder is domiciled in this State or is this State or a governmental subdivision, agency or instrumentality of this State and:

A. Another state or foreign country is not entitled to the property because there is no last known address of the apparent owner or other person entitled to the property in the records of the holder; or

B. The state or foreign country of the last known address of the apparent owner or other person entitled to the property does not provide for custodial taking of the property.

2. Holder deemed domiciled. If a holder's state of domicile has changed since the time property was presumed abandoned, the holder's state of domicile in this section is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.

**§2085. Custody if transaction took place in this State**

Except as in section 2082, 2083 or 2084, the administrator may take custody of property presumed abandoned whether located in this State or another state if:

1. Transaction in this State. The transaction out of which the property arose took place in this State;

2. Holder's domicile in another state. The holder is domiciled in a state that does not provide for the custodial taking of the property; and

3. Apparent owner or other person entitled. The last known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property.

**§2086. Traveler's check, money order or similar instrument**

The administrator may take custody of sums payable on a traveler's check, money order or similar instrument presumed abandoned to the extent permissible under 12 United States Code, Sections 2501 to 2503, as amended.

**§2087. Burden of proof to establish administrator's right to custody**

Subject to subchapter 4 and section 2165, if the administrator asserts a right to custody of unclaimed property and there is a dispute concerning the property, the administrator has the burden of proving:

1. Amount. The amount of the property;

2. Presumed abandoned. That the property is presumed abandoned; and

3. Custody of the administrator. That the property is subject to the custody of the administrator.

**SUBCHAPTER 4**

**REPORT BY HOLDER**

**§2091. Report required by holder**

**1. Report by holder.** A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property in a format approved by the administrator.

**2. Contract with 3rd party.** A holder may contract with a 3rd party to make the report required under subsection 1.

**3. Responsibilities of holder.** Whether or not a holder contracts with a 3rd party under subsection 2, the holder is responsible:

- A. To the administrator for the complete, accurate and timely reporting of property presumed abandoned; and
- B. For paying or delivering to the administrator property described in the report.

**§2092. Content of report**

**1. Report.** The report required under section 2091 must:

- A. Be signed by or on behalf of the holder and verified as to its completeness and accuracy;
- B. Be filed electronically;
- C. Describe the property;
- D. Except for a traveler's check, money order or similar instrument, contain the name, if known, last known address, if known, and social security number or taxpayer identification number, if known or readily ascertainable;
- E. For an amount held or owing under a life or endowment insurance policy, annuity contract or other property for which ownership vests in a beneficiary upon the death of the owner, contain the name and last known address of the insured, annuitant or other apparent owner of the policy or contract and of the beneficiary;
- F. For property held in or removed from a safe deposit box, indicate the location of the property, where it may be inspected by the administrator and any amounts owed to the holder under section 2116;
- G. Contain the commencement date for determining abandonment under subchapter 2;
- H. State that the holder has complied with the notice requirements of section 2101;
- I. Identify property that is a nonfreely transferable security and explain why it is a nonfreely transferable security; and
- J. Contain other information the administrator prescribes by rule.

**2. Aggregate items valued under \$50.** A report under section 2091 may include in the aggregate items valued under \$50 each for which personal information, as defined in section 2211, subsection 1, concerning the owner is unknown.

**3. Personal information.** A report under section 2091 may include personal information as defined in section 2211, subsection 1 about the apparent owner or the apparent owner's property.

**4. Former name, name of previous holder.** If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder must include in the report under section 2091 its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.

### **§2093. When report filed**

**1. November 1st.** Except as otherwise provided in subsection 2 and subject to subsection 3, the report under section 2091 must be filed before November 1st of each year and cover the 12 months preceding July 1st of that year.

**2. May 1st.** Subject to subsection 3, a report under section 2091 containing information about life insurance policies, gift obligations and stored-value obligations must be filed before May 1st of each year for the immediately preceding calendar year.

**3. Extension; payment.** Before the date for filing the report under section 2091, the holder of property presumed abandoned may request the administrator to extend the time for filing. The administrator may grant an extension. If the extension is granted, the administrator may require the holder to pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.

### **§2094. Retention of records by holder**

A holder required to file a report under section 2091 shall retain records for 10 years after the date the report was filed or the last date a timely report was due to be filed, whichever is later, unless a shorter period is provided by rule of the administrator. The holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

**1. Required information.** The information required to be included in the report;

**2. Date, place, nature of circumstances.** The date, place and nature of the circumstances that gave rise to the property right;

**3. Amount or value.** The amount or value of the property;

**4. Last known address of apparent owner.** The last known address of the apparent owner, if known to the holder;

**5. Items not reported unclaimed.** Records of items that were not reported as unclaimed sufficient to allow examination to determine whether the holder has complied with the Act; and

6. Record of outstanding instruments. If the holder sells, issues or provides to others for sale or issue in this State traveler's checks, money orders or similar instruments, other than 3rd-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue.

**§2095. Property reportable and payable or deliverable absent owner demand**

Property is reportable and payable or deliverable under this Act even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

**SUBCHAPTER 5**

**NOTICE TO APPARENT OWNER OF PROPERTY PRESUMED ABANDONED**

**§2101. Notice to apparent owner by holder**

1. Notice to apparent owner. Subject to subsection 2, the holder of property presumed abandoned shall send to the apparent owner notice by first class United States mail that complies with section 2102 in a format acceptable to the administrator not more than 180 days nor less than 60 days before filing the report under 2091 if:

A. The holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first class United States mail to the apparent owner; and

B. The value of the property held for an owner in aggregate is \$50 or more.

2. E-mail. If an apparent owner has consented to receive e-mail delivery from the holder, the holder shall send the notice described in subsection 1 both by first class United States mail to the apparent owner's last known mailing address and by e-mail, unless the holder believes that the apparent owner's e-mail address is invalid.

3. Notice; tax deferred account or security. The holder of securities presumed abandoned under section 2062, 2063 or 2068 shall send to the apparent owner notice by certified United States mail that complies with section 2102 in a format acceptable to the administrator not less than 60 days before filing the report under section 2091 if:

A. The holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and that is sufficient to direct the delivery of United States mail to the apparent owner; and

B. The value of the property is \$1,000 or more.

4. Return receipt constitutes record communicated by apparent owner. In addition to other indications of an apparent owner's interest in property pursuant to section 2070, a signed return receipt in response to a notice sent pursuant to this section by certified United States mail constitutes a record communicated by the apparent owner to the holder concerning the property or the account in which the property is held.

## **§2102. Contents of notice by holder**

**1. Notice heading.** Notice under section 2101 must contain a heading that reads substantially as follows: "Notice. The State of Maine requires us to notify you that your property may be transferred to the custody of the State Treasurer if you do not contact us before (insert date that is 30 days after the date of this notice)."

**2. Notice contents.** The notice under section 2101 must:

A. Identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;

B. State that the property will be turned over to the administrator;

C. State that after the property is turned over to the administrator an apparent owner that seeks return of the property must file a claim with the administrator;

D. State that property that is not legal tender of the United States may be sold by the administrator; and

E. Provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the administrator.

## **§2103. Notice by administrator**

**1. Website; apparent owners.** The administrator shall maintain a website accessible by the public and electronically searchable that contains the names reported to the administrator of all apparent owners for whom property is being held by the administrator. The administrator may exclude certain properties from publication on this website if reasonable exclusion serves the best interest of the State and the owner of the property.

**2. Instructions for filing.** The website must include instructions for filing with the administrator a claim to property.

**3. Other communications and media.** The administrator may use any printed publication, telecommunication, the Internet or other media to inform the public of the existence of unclaimed property held by the administrator.

## **§2104. Cooperation among state officers and agencies to locate apparent owner**

Unless prohibited by law of this State other than this Act, on request of the administrator, each officer, agency, board, commission, division and department of this State, any body politic and corporate created by this State for a public purpose, and each political subdivision of this State shall make its books and records available to the administrator and cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator under this Act or to otherwise assist the administrator in the administration of this Act. The administrator may also enter into data-sharing agreements to enable other governmental agencies to provide an additional notice to apparent owners of property held by the administrator.

## **SUBCHAPTER 6**

## TAKING CUSTODY OF PROPERTY BY ADMINISTRATOR

### §2111. Definition of good faith

In this subchapter, payment or delivery of property is made in good faith if a holder:

1. Reasonable basis. Had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator under this Act; or

2. Payment or delivery. Made payment or delivery:

A. In response to a demand by the administrator or administrator's agent; or

B. Under a guidance or ruling issued by the administrator that the holder reasonably believed required or permitted the property to be paid or delivered.

### §2112. Dormancy charge

1. Deduct dormancy charge. A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:

A. A valid contract between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and

B. The holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge.

2. Not unconscionable amount. The amount of the deduction under subsection 1 is limited to an amount that is not unconscionable considering all relevant factors, including the marginal transactional costs incurred by the holder in maintaining the apparent owner's property and any services received by the apparent owner.

### §2113. Payment or delivery of property to administrator

1. Payment or delivery. Except as otherwise provided in this section, on filing a report under section 2091, the holder shall pay or deliver to the administrator the property described in the report.

2. Extension of date. If property in a report under section 2091 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.

3. Delivery of tangible property in safe deposit box. Tangible property in a safe deposit box may not be delivered to the administrator until a mutually agreed upon date no sooner than 120 days after filing the report under section 2091.

4. Security. If property reported to the administrator under section 2091 is a security, the administrator may:

A. Make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, its transfer agent or the securities intermediary to transfer the security; or

B. Dispose of the security under section 2132.

**5. Issuer of certificated security.** If the holder of property reported to the administrator under section 2091 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form under Title 11, section 8-1405. An indemnity bond is not required.

**6. Securities procedures.** The administrator shall establish procedures for the registration, issuance, method of delivery, transfer and maintenance of securities delivered to the administrator by a holder.

**7. No liability after delivered.** An issuer, holder and transfer agent or other person acting in good faith under this section under instructions of and on behalf of the issuer or holder is not liable to the apparent owner for, and must be indemnified by the State against, a claim arising with respect to property after the property has been delivered to the administrator.

**8. Nonfreely transferable security.** A holder is not required to deliver to the administrator a security identified by the holder as a nonfreely transferable security. If the administrator or holder determines that a security is no longer a nonfreely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this Act. The holder shall make a determination annually whether a security identified in a report filed under section 2091 as a nonfreely transferable security is no longer a nonfreely transferable security.

#### **§2114. Effect of payment or delivery of property to administrator**

**1. No liability of holder on payment or delivery.** On payment or delivery of property to the administrator under this Act, the administrator as agent for the State assumes custody and responsibility for safekeeping the property. A holder that pays or delivers property to the administrator in good faith and substantially complies with sections 2101 and 2102 is relieved of liability arising thereafter with respect to payment or delivery of the property to the administrator.

**2. State indemnification.** This State shall defend and indemnify a holder against liability on a claim against the holder resulting from the payment or delivery of property to the administrator made in good faith and after the holder substantially complied with sections 2101 and 2102.

#### **§2115. Recovery of property by holder from administrator**

**1. Claim for reimbursement.** A holder that under this Act pays money to the administrator may file a claim for reimbursement from the administrator of the amount paid if the holder:

A. Paid the money in error; or

B. After paying the money to the administrator, paid money to a person the holder reasonably believed entitled to the money.

**2. Proof instrument presented and paid.** If a claim for reimbursement under subsection 1 is made for a payment made on a negotiable instrument, including a traveler's check, money order or similar instrument, the holder must submit proof that the instrument was presented and payment was made to a person the holder reasonably believed entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute or court order.

**3. Income or gain.** If a holder is reimbursed by the administrator under subsection 1, paragraph B, the holder may also recover from the administrator income or gain under section 2117 that would have been paid to the owner if the money had been claimed from the administrator by the owner to the extent the income or gain was paid by the holder to the owner.

**4. Property other than money, claim for return.** A holder that under this Act delivers property other than money to the administrator may file a claim for return of the property from the administrator if:

- A. The holder delivered the property in error; or
- B. The apparent owner has claimed the property from the holder.

**5. Evidence property claimed.** If a claim for return of property under subsection 4 is made, the holder shall include with the claim evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the administrator in error.

**6. Affidavit sufficient.** The administrator may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this section.

**7. No fee or other charge.** A holder is not required to pay a fee or other charge for reimbursement or return of property under this section.

**8. Determination on claim.** Not later than 90 days after a claim is filed under subsection 1 or 4, the administrator shall allow or deny the claim and give the claimant notice of the decision in a record. If the administrator does not take action on a claim during the 90-day period, the claim is deemed denied.

**9. Claim in Superior Court.** A person aggrieved by a decision of the administrator may maintain an original action to establish the claim in the Superior Court of Kennebec County naming the administrator as a defendant.

#### **§2116. Property removed from safe deposit box**

Property removed from a safe deposit box and delivered under this Act to the administrator is subject to the holder's right to reimbursement for the cost of opening the

box and a lien or contract providing reimbursement to the holder for unpaid rent charges for the box. The administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the administrator in selling the property.

**§2117. Crediting income or gain to owner's account**

**1. Income or gain realized.** If property other than money is delivered to the administrator, the owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold. If the property was an interest-bearing demand, savings or time deposit, the administrator shall pay interest at the current 10-year average cash pool rate. Interest is calculated from the date the property is delivered to the administrator and ends on the expiration of 10 years after its delivery or the date on which payment is made to the owner, whichever is earlier.

**2. Period before effective date.** Interest on interest-bearing property is not payable under this section for any period before the effective date of this Act, unless authorized by former chapter 41.

**§2118. Administrator's options as to custody**

**1. Custody declined.** The administrator may decline to take custody of property reported under section 2091 if the administrator determines that:

- A. The property has a value less than the estimated expenses of notice and sale of the property; or
- B. Taking custody of the property would be unlawful.

**2. Before presumed abandoned.** A holder may pay or deliver property to the administrator before the property is presumed abandoned under this Act if the holder:

- A. Provides the apparent owner of the property notice required by section 2101 and provides the administrator evidence of the holder's compliance with this paragraph;
- B. Includes with the payment or delivery a report regarding the property conforming to section 2092; and
- C. First obtains the administrator's consent in a record to accept payment or delivery. The holder's request must be in writing.

**3. Presumed abandoned.** On payment or delivery of property under subsection 2, the property is presumed abandoned.

**§2119. Disposition of property having no substantial value; immunity from liability**

**1. Return to holder.** If the administrator takes custody of property delivered under this Act and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the administrator may return the property to the holder or destroy or otherwise dispose of the property.

2. Immunity from liability. An action or proceeding may not be commenced against the State, an agency of the State, the administrator, another officer, employee or agent of the State or a holder for or because of an act of the administrator under this section, except for intentional misconduct or malfeasance.

#### **§2120. Periods of limitation and repose**

1. Holder's duty to pay or deliver. Expiration, before, on or after October 1, 2019, of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder under this Act to file a report or pay or deliver property to the administrator.

2. Proceeding within 5 years after nonfraudulent report. The administrator may not commence an action or proceeding to enforce this Act with respect to the reporting, payment or delivery of property more than 5 years after the holder filed a nonfraudulent report under section 2091 with the administrator. The parties may agree in a record to extend the limitation in this subsection.

3. Proceeding within 10 years after duty arose. The administrator may not commence an action, proceeding or examination with respect to a duty of a holder under this Act more than 10 years after the duty arose.

### **SUBCHAPTER 7**

#### **SALE OF PROPERTY BY ADMINISTRATOR**

#### **§2131. Public sale of property**

1. Sale after one year. Subject to section 2132, not earlier than one year after receipt of property presumed abandoned, the administrator may sell the property.

2. Notice of sale. Before selling property under subsection 1, the administrator shall give notice to the public of:

- A. The date of the sale; and
- B. The nature of the property.

3. Sale to highest bidder. A sale under subsection 1 must be to the highest bidder:

- A. At public sale at a location in this State that the administrator determines to be the most favorable market for the property;
- B. On the Internet; or
- C. On another forum the administrator determines is likely to yield the highest net proceeds of sale.

4. Highest bid insufficient. The administrator may decline the highest bid at a sale under this section and reoffer the property for sale if the administrator determines the highest bid is insufficient.

**5. Publication of notice.** If a sale held under this section is to be conducted other than on the Internet, the administrator may publish at least one notice of the sale, at least 2 weeks but not more than 10 weeks before the sale.

**§2132. Disposal of securities**

**1. Sell or liquidate security after one year.** Except as provided in section 2155, subsection 1, the administrator may not sell or otherwise liquidate a security until one year after the administrator receives the security.

**2. Price of security.** The administrator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any commercially reasonable method.

**§2133. Recovery of securities or value by owner**

**1. Claim for securities sold before one year after delivery.** If securities are sold by the administrator before the expiration of one year after their delivery to the administrator, a person making a claim under this Act before the end of the one-year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, plus dividends, interest and other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this Act after the expiration of the one-year period is entitled to receive the securities delivered to the administrator by the holder, if the securities remain in the custody of the administrator, or the net proceeds received from sale and is not entitled to receive any appreciation in the value of the property occurring after delivery to the administrator, except in a case of intentional misconduct or malfeasance by the administrator.

**2. Claim for securities of a single issue.** Notwithstanding this section, the administrator may sell the securities of any single issue for which custodial costs are likely to exceed value 90 days or more after the securities have been published pursuant to section 2103. A person making a claim under this Act after the securities have been sold is entitled only to the net proceeds received from the sale.

**§2134. Purchaser owns property after sale**

A purchaser of property at a sale conducted by the administrator under this Act takes the property free of all claims of the owner, a previous holder or a person claiming through the owner or holder. The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser.

**§2135. Military medal or decoration**

**1. Sale prohibited.** The administrator may not sell a medal or decoration awarded for military service in the Armed Forces of the United States.

**2. Delivery of medal or decoration.** The administrator, with the consent of the respective organization under paragraph A, agency under paragraph B or entity under

paragraph C, may deliver a medal or decoration described in subsection 1, to be held in custody for the owner, to:

A. A military veterans' organization qualified under the federal Internal Revenue Code of 1986, 26 United States Code, Section 501(c)(19), as amended;

B. The agency that awarded the medal or decoration; or

C. A governmental entity.

3. Not responsible after delivery. On delivery under subsection 2, the administrator is not responsible for safekeeping the medal or decoration.

## **SUBCHAPTER 8**

### **ADMINISTRATION OF PROPERTY**

#### **§2141. Deposit of funds by administrator**

1. Unclaimed Property Fund. The administrator shall deposit in the Unclaimed Property Fund all funds received under this Act, including proceeds from the sale of property under subchapter 7. The Unclaimed Property Fund is a permanent account and may not lapse, but must be carried forward.

2. Payment of claims from Unclaimed Property Fund. The administrator shall make prompt payment of claims the administrator duly allows as provided for in this Act from the Unclaimed Property Fund under subsection 1. This shall constitute an irrevocable and continuing appropriation of all amounts in the Unclaimed Property Fund necessary to make prompt payment of claims duly allowed by the administrator pursuant to this Act.

#### **§2142. Administrator to retain records of property**

The administrator shall:

1. Name and address of apparent owners. Record and retain the name and last known address of each person shown on a report filed under section 2091 to be the apparent owner of property delivered to the administrator;

2. Name and address of insureds, annuitants and beneficiaries. Record and retain the name and last known address of each insured or annuitant and beneficiary shown on the report;

3. Policy or account number, company and amount. For each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company and the amount due or paid; and

4. Holder that filed report. For each apparent owner listed in the report, record and retain the name of the holder that filed the report and the amount due or paid.

**§2143. Expenses and service charges of administrator**

Before making a deposit of funds received under this Act to the Unclaimed Property Fund under section 2141, the administrator may deduct:

**1. Expenses of disposition of property.** Expenses of disposition of property delivered to the administrator under this Act;

**2. Costs of mailing and publication.** Costs of mailing and publication in connection with property delivered to the administrator under this Act;

**3. Reasonable service charges.** Reasonable service charges; and

**4. Expenses incurred.** Expenses incurred in examining records of or collecting property from a putative holder or holder.

At the end of each year or more often, the administrator shall transfer to the General Fund all money in the Unclaimed Property Fund under section 2141 that is in excess of \$500,000.

**§2144. Administrator holds property as custodian for owner**

Except as provided in section 2072, property received by the administrator under this Act is held in custody for the benefit of the owner and is not owned by the State.

**SUBCHAPTER 9**

**CLAIM TO RECOVER PROPERTY FROM ADMINISTRATOR**

**§2151. Claim of another state to recover property**

**1. Subject to superior claim of another state.** If the administrator knows that property held by the administrator under this Act is subject to a superior claim of another state, the administrator shall:

A. Report and pay or deliver the property to the other state; or

B. Return the property to the holder so that the holder may pay or deliver the property to the other state.

**2. Agreement to transfer not required.** The administrator is not required to enter into an agreement to transfer property to the other state under subsection 1.

**§2152. When property subject to recovery by another state**

**1. Subject to right of another state.** Property held under this Act by the administrator is subject to the right of another state to take custody of the property if:

A. The property was paid or delivered to the administrator because the records of the holder did not reflect a last known address in the other state of the apparent owner and;

(1) The other state establishes that the last known address of the apparent owner or other person entitled to the property was in the other state; or

(2) Under the law of the other state, the property has become subject to a claim by the other state of abandonment;

B. The records of the holder did not accurately identify the owner of the property, the last known address of the owner was in another state and, under the law of the other state, the property has become subject to a claim by the other state of abandonment;

C. The property was subject to the custody of the administrator under section 2085 and, under the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or

D. The property:

(1) Is a sum payable on a traveler's check, money order or similar instrument that was purchased in the other state and delivered to the administrator under section 2086; and

(2) Under the law of the other state, has become subject to a claim by the other state of abandonment.

**2. Form prescribed.** A claim by another state to recover property under this section must be presented in a form prescribed by the administrator, unless the administrator waives presentation of the form.

**3. Decision within 90 days.** The administrator shall decide a claim under this section not later than 90 days after it is presented. If the administrator determines that the other state is entitled under subsection 1 to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.

**4. May require indemnification.** The administrator may require another state, before recovering property under this section, to agree to indemnify this State and its agents, officers and employees against any liability on a claim to the property.

### **§2153. Claim for property by person claiming to be owner**

**1. Claim for property.** A person claiming to be the owner of property held under this Act by the administrator may file a claim for the property on a form prescribed by the administrator. The claimant must verify the claim as to its completeness and accuracy.

**2. Waive; pay or deliver directly.** The administrator may waive the requirement in subsection 1 and may pay or deliver property directly to a person if:

A. The person receiving the property or payment is shown to be the apparent owner included on a report filed under section 2091; and

B. The administrator reasonably believes the person is entitled to receive the property or payment.

If a claimant has an agreement pursuant to subchapter 13 with a professional investigator licensed under Title 32, chapter 89, the administrator shall deliver the payment or property to the professional investigator.

**§2154. When administrator must honor claim for property**

**1. Administrator shall pay claim.** The administrator shall pay or deliver property to a claimant under section 2153, subsection 1 if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property.

**2. Approve or deny claim within 90 days.** Not later than 90 days after a claim is filed and completed under section 2153, subsection 1, the administrator shall approve or deny the claim and give the claimant, or professional investigator licensed under Title 32, chapter 89 under an agreement with the claimant pursuant to subchapter 13, notice in a record of the decision. A claim is complete when a claimant has provided all the information and documentation requested by the administrator necessary to prove legal ownership of the property.

**3. Claim denied; procedure; amended claim.** If the claim is denied under subsection 2:

A. The administrator shall inform the claimant, or professional investigator under an agreement with the claimant pursuant to subchapter 13, of the reason for the denial; and

B. The claimant, or professional investigator under an agreement with the claimant pursuant to subchapter 13, may file an amended claim with the administrator or commence an action under section 2156.

**4. Claim deemed denied.** If the administrator does not take action on a claim during the 90-day period under subsection 2, the claim is deemed denied.

**§2155. Allowance of claim for property**

**1. Pay or deliver within 30 days.** Not later than 30 days after a claim is approved under section 2154, subsection 2, the administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property, together with income or gain to which the owner is entitled under section 2117. If a claimant has an agreement pursuant to subchapter 13 with a professional investigator licensed under Title 32, chapter 89, the administrator shall deliver the payment or property to the professional investigator. On request of the owner, the administrator may sell or liquidate a security and pay the net proceeds to the owner, even if the security had been held by the administrator for less than one year or the administrator has not complied with the notice requirements under section 2131.

**2. Subject to claim.** Property held under this Act by the administrator is subject to a claim for the payment of an enforceable debt the owner owes in this State for:

A. Child support arrearages, including child support collection costs and child support arrearages that are combined with maintenance;

B. A final court judgment; or

C. State or federal taxes, penalties and interest that have been determined to be delinquent by the relevant tax authority.

**§2156. Action by person whose claim is denied**

Not later than one year after being denied a claim under section 2154, the claimant may commence an action against the administrator in the Superior Court of Kennebec County to establish a claim.

**SUBCHAPTER 10**

**VERIFIED REPORT OF PROPERTY; EXAMINATION OF RECORDS**

**§2161. Verified report of property**

If a person does not file a report required by section 2091 or the administrator believes that a person may have filed an inaccurate, incomplete or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator. The verified report must:

1. **Reportable property.** State whether the person is holding property reportable under this Act;

2. **Describe property.** Describe property not previously reported or about which the administrator has inquired;

3. **Specifically identify disputed property.** Specifically identify property described under subsection 2 about which there is a dispute whether it is reportable under this Act; and

4. **Amount or value.** State the amount or value of the property.

**§2162. Examination of records to determine compliance**

The administrator, at reasonable times and on reasonable notice, may:

1. **Examine records.** Examine the records of a person, including examination of appropriate records in the possession of an agent of the person under examination, if the records are reasonably necessary to determine whether the person has complied with this Act;

2. **Issue administrative subpoena.** Issue an administrative subpoena requiring the person under subsection 1 or agent of the person to make records available for examination;

3. **Examination even if person believes not in possession.** The administrator may conduct the examination under subsection 1 even if the person believes it is not in possession of any property that must be reported, paid or delivered under this Act; and

4. **Bring enforcement action.** Bring an action seeking judicial enforcement of the subpoena under subsection 2.

**§2163. Rules for conducting examination**

The administrator may adopt rules governing procedures and standards for an examination under section 2162.

**§2164. Records obtained in examination**

Records obtained and records compiled, including work papers, by the administrator in the course of conducting an examination under section 2162:

1. **Confidentiality and security provisions.** Are subject to the confidentiality and security provisions of subchapter 14 and are not public records;

2. **Use to collect property, enforce the Act.** May be used by the administrator in an action to collect property or otherwise enforce this Act;

3. **Use in joint examination.** May be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity if the governmental entity conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to that under subchapter 14;

4. **Disclosure.** Must be disclosed, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in this subchapter, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to that under subchapter 14;

5. **Produced pursuant to subpoena.** Must be produced by the administrator under an administrative or judicial subpoena or administrative or court order; and

6. **Produced upon request in proceeding.** Must be produced by the administrator on request of the person subject to the examination in an administrative or judicial proceeding relating to the property.

**§2165. Evidence of unpaid debt or undischarged obligation**

1. **Prima facie evidence of debt or obligation.** A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation.

2. **Preponderance of evidence.** A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in subsection 1 or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.

**3. Overcome prima facie evidence.** A putative holder may overcome prima facie evidence under subsection 1 by establishing by a preponderance of the evidence that a check, draft or similar instrument was:

- A. Issued as an unaccepted offer in settlement of an unliquidated amount;
- B. Issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;
- C. Issued to a party affiliated with the issuer;
- D. Paid, satisfied or discharged;
- E. Issued in error;
- F. Issued without consideration;
- G. Issued but there was a failure of consideration;
- H. Voided not later than 90 days after issuance for a valid business reason set forth in a contemporaneous record; or
- I. Issued but not delivered to a 3rd-party payee for a sufficient reason recorded within a reasonable time after issuance.

**4. Evidence of course of dealing.** In asserting a defense under this section, and subject to section 2094, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner.

#### **§2166. Failure of person examined to retain records**

If a person subject to examination under section 2162 does not retain the records as required by section 2094, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under and in accordance with section 2163.

#### **§2167. Report to person whose records were examined**

At the conclusion of an examination under section 2162, upon request, the administrator shall provide to the person whose records were examined a report that specifies:

- 1. Work performed.** The work performed;
- 2. Property types.** The property types reviewed;
- 3. Methodology.** The methodology of any estimation technique, extrapolation or statistical sampling used in conducting the examination;
- 4. Calculation.** Each calculation showing the value of property determined to be due; and

5. Findings. The findings of the person conducting the examination.

**§2168. Complaint to administrator about conduct of person conducting examination**

If a person subject to examination under section 2162 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the administrator to intervene and take appropriate remedial action, including countermanding the request of the person conducting the examination, imposing a time limit for completion of the examination or reassigning the examination to another person. The administrator shall respond to all such requests within 30 days of receipt of the complaint.

**§2169. Administrator's contract to conduct examination**

The administrator may contract with a person to conduct an examination under this subchapter.

**§2170. Determination of liability for unreported reportable property**

If the administrator determines from an examination conducted under section 2162 that a putative holder failed or refused to pay or deliver to the administrator property that is reportable under this Act, the administrator shall issue a determination of the putative holder's liability to pay or deliver and shall give notice in a record to the putative holder of the determination.

**SUBCHAPTER 11**

**DETERMINATION OF LIABILITY; PUTATIVE HOLDER REMEDIES**

**§2181. Informal conference**

**1. Request for informal conference.** Not later than 30 days after receipt of a notice under section 2170, the putative holder may request an informal conference with the administrator to review the determination. The holder must include in the request the specific items to be discussed. Except as otherwise provided in this section, the administrator may designate an employee to act on behalf of the administrator.

**2. Response to request for informal conference.** If a putative holder makes a timely request under subsection 1 for an informal conference:

A. Not later than 30 days after the date of the request, the administrator shall set the time and place of the conference;

B. The administrator shall give the putative holder notice in a record of the time and place of the conference;

C. The conference may be held in person, by telephone or by electronic means, as determined by the administrator;

D. The request tolls the 90-day period under sections 2183 and 2184 until notice of a decision under paragraph G has been given to the putative holder or the putative holder withdraws the request for the conference;

E. The conference may be postponed, adjourned and reconvened as the administrator determines appropriate;

F. The administrator or administrator's designee with the approval of the administrator may modify a determination made under section 2170 or withdraw the determination; and

G. The administrator shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than 30 days after the conference ends.

**3. Conference not administrative remedy; procedure.** A conference under subsection 1 is not an administrative remedy. An oath is not required and rules of evidence do not apply in the conference.

**4. Opportunity to confer informally.** At a conference under subsection 2, the putative holder must be given an opportunity to confer informally with the administrator and the person that examined the records of the putative holder to:

A. Discuss the determination made under section 2170; and

B. Present any issue concerning the validity of the determination made under section 2170.

**5. Failure to act within period.** If the administrator fails to act within the period prescribed in subsection 2, paragraph A or G, the failure does not affect a right of the administrator, except that interest does not accrue on the amount for which the putative holder was determined to be liable under section 2170 during the period in which the administrator failed to act until the earlier of:

A. The date under section 2183 on which the putative holder initiates administrative review or the date on which the putative holder files an action under section 2184; and

B. Ninety days after the putative holder received notice of the administrator's determination under section 2170 if no review was initiated under section 2183 and no action was filed under section 2184.

**6. Informal conference before administrative review.** The administrator may hold an informal conference with a putative holder about a determination under section 2170 without a request at any time before the putative holder initiates administrative review under section 2183 or files an action under section 2184.

**7. Interest and penalties.** Interest and penalties under section 2194 continue to accrue on property not reported, paid or delivered as required by this Act after the initiation, and during the pendency, of an informal conference under this section.

**§2182. Review of administrator's determination**

A putative holder may seek relief from a determination under section 2170 by:

- 1. Administrative review.** Administrative review under section 2183; or
- 2. Judicial review.** Judicial review under section 2184.

**§2183. Administrative review**

**1. Review under Maine Administrative Procedure Act.** Not later than 90 days after receiving notice of the administrator's determination under section 2170, a putative holder may initiate a proceeding under the Maine Administrative Procedure Act for review of the administrator's determination.

**2. Judicial review; de novo proceeding.** A final decision in an administrative proceeding initiated under subsection 1 is subject to judicial review by the Superior Court as a matter of right in a de novo proceeding on the record in which either party is entitled to introduce evidence as a supplement to the record.

**§2184. Judicial remedy**

**1. Action by putative holder.** Not later than 90 days after receiving notice of the administrator's determination under section 2170, the putative holder may:

A. File an action against the administrator in the Superior Court of Kennebec County challenging the administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or

B. Pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than 6 months after payment or delivery, file an action against the administrator in the Superior Court of Kennebec County for a refund of all or part of the amount paid or return of all or part of the property delivered.

**2. Continue action.** If a putative holder pays or delivers property that the administrator determined must be paid or delivered to the administrator at any time after the putative holder files an action under subsection 1, paragraph A, the court shall continue the action as if it had been filed originally as an action for a refund or return of property under subsection 1, paragraph B.

**SUBCHAPTER 12**

**ENFORCEMENT BY ADMINISTRATOR**

**§2191. Judicial action to enforce liability**

**1. Enforcement of determination.** If a determination under section 2170 becomes final and is not subject to administrative or judicial review, the administrator may commence an action in the Superior Court of Kennebec County or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due,

unpaid or undeliverable property. The action must be brought not later than 5 years after the determination becomes final.

2. Court having jurisdiction. In an action under subsection 1, if no court in this State has jurisdiction over the defendant, the administrator may commence an action in any court having jurisdiction over the defendant.

#### **§2192. Interstate and international agreement; cooperation**

1. Exchange or examination. Subject to subsection 2, the administrator may:

A. Exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and

B. Authorize in a record another state or foreign country or a person acting on behalf of the other state or country to examine the administrator's records of a putative holder as provided in subchapter 10.

2. Confidentiality and security protections. An exchange or examination under subsection 1 may be done only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in subchapter 14 or agrees in a record to be bound by this State's confidentiality and security requirements.

#### **§2193. Action involving another state or foreign country**

1. Joint examination and enforcement. The administrator may join another state or foreign country to examine and seek enforcement of this Act against a putative holder.

2. Action by Attorney General. On request of another state or foreign country, the Attorney General may commence an action on behalf of the other state or country to enforce in this State the law of the other state or country against a putative holder subject to a claim by the other state or country.

3. Requested action in another state or foreign country. The administrator may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or country on behalf of the administrator. This State may pay the costs, including reasonable attorney's fees and expenses, incurred by the other state or foreign country in an action under this subsection.

4. Recovery of property in another state. The administrator may pursue an action on behalf of this State to recover property subject to this Act but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.

5. Retain an attorney. With the consent of the Attorney General, the administrator may retain an attorney in this State, another state or a foreign country to commence an action to recover property on behalf of the administrator and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee or a percentage of the amount or value of property recovered in the action.

**6. Expenses.** Expenses incurred by this State in an action under this section may be paid from property received under this Act or the net proceeds of the property. Expenses paid to recover property may not be deducted from the amount that is subject to a claim under this Act by the owner.

**§2194. Interest and penalty for failure to act in timely manner**

**1. Interest.** A holder that fails to report, pay or deliver property within the time prescribed by this Act shall pay to the administrator interest at an annual rate of 18%, or 10% above the annual rate of discount in effect on the date the property should have been paid or delivered for the most recent issue of 52-week United States Treasury bills, on the property or value thereof from the date the property should have been reported, paid or delivered.

**2. Civil penalty.** Except as otherwise provided in section 2195 or 2196, the administrator may require a holder that fails to report, pay or deliver property within the time prescribed by this Act to pay to the administrator, in addition to interest included under subsection 1, a civil penalty of \$200 for each day the duty is not performed, up to a cumulative maximum amount of \$5,000.

**§2195. Other civil penalties**

**1. Evading obligation or willfully failing to perform.** If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this Act or otherwise willfully fails to perform a duty imposed on the holder under this Act, the administrator may require the holder to pay the administrator, in addition to interest as provided in section 2194, subsection 1, a civil penalty of \$1,000 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$25,000, plus 25% of the amount or value of property that should have been but was not reported, paid or delivered as a result of the evasion or failure to perform.

**2. Fraudulent report.** If a holder makes a fraudulent report under this Act, the administrator may require the holder to pay to the administrator, in addition to interest under section 2194, subsection 1, a civil penalty of \$1,000 for each day from the date the report was made until corrected, up to a cumulative maximum of \$25,000, plus 25% of the amount or value of any property that should have been reported but was not included in the report or was underreported.

**3. Lack of knowledge of death.** A holder who fails to report, pay or deliver property within the time prescribed by this Act is not required to pay interest under section 2194, subsection 1 or subject to penalties under section 2194, subsection 2 if the failure to report, pay or deliver the property was due to lack of knowledge of a death that established the period of abandonment under this Act.

**§2196. Waiver of interest and penalty**

The administrator:

1. Waive interest and penalties. May waive, in whole or in part, interest under section 2194, subsection 1 and penalties under section 2194, subsection 2 or section 2195; and

2. Good faith, without negligence. Shall waive a penalty under section 2194, subsection 2 if the administrator determines that the holder acted in good faith and without negligence.

### SUBCHAPTER 13

## AGREEMENT TO LOCATE PROPERTY OF APPARENT OWNER HELD BY ADMINISTRATOR

### §2201. Agreements to locate property

1. Agreements within 24 months. An agreement by an owner the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the administrator. This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the administrator's denial of a claim.

2. Agreement requirements. An agreement by an owner the primary purpose of which is to locate, deliver, recover or assist in the recovery of property is enforceable only if the agreement is in writing, clearly sets forth the nature of the property and the services to be rendered, is signed by the apparent owner and states the value of the property before and after the fee or other compensation has been deducted.

3. Mineral proceeds. If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

4. Unconscionable compensation. An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has agreed to pay compensation that is unconscionable, or the administrator on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorney's fees to an owner who prevails in the action.

5. Other grounds not precluded. This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than unconscionable compensation.

6. Limitation on fees or compensation. Fees or compensation under agreements made more than 24 months but less than 36 months after the date the property is paid or delivered to the administrator may not exceed 15%.

7. Unfair trade practice. A person who makes a claim for compensation in violation of this section commits an unfair trade practice in violation of Title 5, section 207.

## SUBCHAPTER 14

### CONFIDENTIALITY AND SECURITY OF INFORMATION

#### §2211. Definitions; applicability

1. Personal information defined. As used in this subchapter, "personal information" means:

A. Information that identifies or reasonably can be used to identify an individual, such as first and last name in combination with the individual's:

(1) Social security number or other government-issued number or identifier;

(2) Date of birth;

(3) Home or physical address;

(4) E-mail address or other online contact information or Internet protocol address;

(5) Financial account number or credit or debit card number;

(6) Biometric data, health or medical data or insurance information; or

(7) Passwords or other credentials that permit access to an online or other account;

B. Personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and

C. Any combination of data that, if accessed, disclosed, modified or destroyed without authorization of the owner of the data or if lost or misused, would require notice or reporting under Title 10, section 1348 and federal privacy and data security law, whether or not the administrator or the administrator's agent is subject to the law.

2. Applies to administrator's agent. A provision of this subchapter that applies to the administrator or the administrator's records applies to an administrator's agent.

#### §2212. Confidential information

1. Confidential. Except as otherwise provided in this Act, the following are confidential and exempt from public inspection and disclosure:

A. Records of the administrator and the administrator's agent related to the administration of this Act;

B. Reports and records of a holder in the possession of the administrator or the administrator's agent;

C. Personal information and other information derived or otherwise obtained by or communicated to the administrator or the administrator's agent from an examination under this Act of the records of a person; and

D. The identity of a person subject to an examination under section 2162.

**2. Continues to be confidential.** A record or other information that is confidential under the laws of this State other than this Act, of another state or of the United States continues to be confidential when disclosed or delivered under this Act to the administrator or administrator's agent.

### **§2213. When confidential information may be disclosed**

**1. To enforce or implement Act.** When reasonably necessary to enforce or implement this Act, the administrator may disclose confidential information concerning property held by the administrator or the administrator's agent only to:

A. An apparent owner or the apparent owner's attorney, other legal representative or relative;

B. The personal representative, executor, other legal representative or relative of a deceased apparent owner or a person entitled to inherit from a deceased apparent owner;

C. Another department or agency of this State or the United States;

D. The person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator and if the other state is required to maintain the confidentiality and security of obtained information in a manner substantially equivalent to that under this subchapter; or

E. Pursuant to section 2164, subsection 6, the person subject to an examination.

**2. Name of apparent owners; additional information.** Except as otherwise provided in section 2212, subsection 1, the administrator shall include on the website required by section 2103, subsection 1 the name of each apparent owner of property held by the administrator. The administrator may include in published notices, printed publications, telecommunications, the Internet or other media and on the website or in the database additional information concerning the apparent owner's property if the administrator believes the information will assist in identifying and returning property to the owner and does not disclose personal information except the home or physical address of an apparent owner.

**3. No use of confidential information; exception.** The administrator and the administrator's agent may not use confidential information provided to them or in their possession except as expressly authorized by this Act or required by law other than this Act.

#### **§2214. Confidentiality agreement**

A person to be examined under section 2162 may require, as a condition of disclosure of the records of the person to be examined, that the administrator or the administrator's agent execute and deliver to the person to be examined a confidentiality agreement that:

**1. Form.** Is in a form that is reasonably satisfactory to the administrator; and

**2. Compliance with subchapter.** Requires the person having access to the records to comply with the provisions of this subchapter applicable to the person.

#### **§2215. Security breach**

**1. Notice to holder.** Except to the extent prohibited by law other than this Act, the administrator or administrator's agent shall notify a holder as soon as practicable of:

A. A suspected loss, misuse or unauthorized access, disclosure, modification or destruction of confidential information obtained from the holder in the possession of the administrator or an administrator's agent; and

B. Any interference with operations in any system hosting or housing confidential information that:

(1) Compromises the security, confidentiality or integrity of the information; or

(2) Creates a substantial risk of identity fraud or theft.

**2. Disclosure of breach limited.** Except as necessary to inform an insurer, attorney, investigator or others as required by law, the administrator and an administrator's agent may not disclose, without the express consent in a record of the holder, an event described in subsection 1 to a person whose confidential information was supplied by the holder.

**3. Action of administrator and administrator's agent.** If an event described in subsection 1 occurs, the administrator and the administrator's agent shall:

A. Take action necessary for the holder to understand and minimize the effect of the event and determine its scope; and

B. Cooperate with the holder with respect to:

(1) Any notification required by law concerning a data or other security breach; and

(2) A regulatory inquiry, litigation or similar action.

#### **§2216. Indemnification for breach**

**1. Indemnification of holder by State.** If a claim is made or action commenced arising out of an event described in section 2215, subsection 1 relating to confidential information possessed by the administrator, this State shall indemnify, defend and hold harmless a holder and the holder's affiliates, officers, directors, employees and agents as to:

A. Any claim or action; and

B. A liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge or other expense, including reasonable attorney's fees and costs, established by the claim or action.

**2. Indemnification by administrator's agent.** If a claim is made or action commenced arising out of an event described in section 2215, subsection 1 relating to confidential information possessed by an administrator's agent, the administrator's agent shall indemnify, defend and hold harmless a holder and the holder's affiliates, officers, directors, employees and agents as to:

A. Any claim or action; and

B. A liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge or other expense, including reasonable attorney's fees and costs, established by the claim or action.

**3. Insurance for indemnification.** The administrator shall require an administrator's agent that will receive confidential information required under this Act to maintain adequate insurance for indemnification obligations of the administrator's agent under subsection 2. The administrator's agent required to maintain the insurance shall provide evidence of the insurance to:

A. The administrator not less frequently than annually; and

B. The holder on commencement of an examination and annually thereafter until all confidential information is returned or destroyed by the administrator or the administrator's agent because the confidential information is no longer reasonably needed under this Act.

## **SUBCHAPTER 15**

### **MISCELLANEOUS PROVISIONS**

#### **§2221. Relation to Electronic Signatures in Global and National Commerce Act**

This Act modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b).

#### **§2222. Transitional provision**

This Act does not relieve a holder of a duty that arose before October 1, 2019 to report, pay or deliver property. Subject to section 2120, subsection 2, a holder that did not comply with the law governing unclaimed property before October 1, 2019 is subject to applicable provisions for enforcement and penalties in effect before October 1, 2019.

**§2223. Effective date**

This Act takes effect October 1, 2019.

**Sec. 23. 34-A MRSA §3040**, as amended by PL 2003, c. 20, Pt. T, §32, is further amended to read:

**§3040. Clients' property presumed abandoned**

Any property abandoned or unclaimed by a client in a correctional or detention facility must be disposed of according to Title 33, chapter 44 ~~45~~.

**Sec. 24. 34-B MRSA §1434**, as amended by PL 2003, c. 20, Pt. T, §33, is further amended to read:

**§1434. Resident's property presumed abandoned**

Any property abandoned or unclaimed by a resident of a state institution must be disposed of according to Title 33, chapter 44 ~~45~~.

**Sec. 25. 36 MRSA §191, sub-§2, ¶Z**, as amended by PL 2003, c. 390, §3, is further amended to read:

Z. The disclosure to the Treasurer of State when necessary for the performance of the Treasurer of State's official duties as administrator under Title 33, chapter 44 ~~45~~ of the following information:

- (1) The current mailing address for a taxpayer for purposes of returning unclaimed or abandoned property to the rightful owner or heir; and
- (2) The names and mailing addresses of all Maine corporate income tax filers in an electronic medium prescribed by the State Tax Assessor;