

1 HOUSE BILL NO. 136

2 INTRODUCED BY M. BERTOGLIO

3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO UNCLAIMED PROPERTY;
6 PROVIDING DEFINITIONS; PROVIDING WHEN ADDITIONAL CATEGORIES OF PROPERTY ARE
7 PRESUMED ABANDONED; REQUIRING THE HOLDER OF CERTAIN ABANDONED PROPERTY TO
8 LIQUIDATE THE PROPERTY AND REMIT THE PROCEEDS TO THE DEPARTMENT OF REVENUE;
9 PROVIDING FOR AN UNCLAIMED PROPERTY WEBSITE TO BE RUN BY THE DEPARTMENT OF
10 REVENUE; PROVIDING FOR THE CONFIDENTIALITY OF PERSONAL INFORMATION; AND AMENDING
11 SECTIONS 70-9-801, 70-9-802, 70-9-803, 70-9-808, 70-9-809, 70-9-810, 70-9-812, 70-9-815, 70-9-820, 70-9-
12 827, AND 70-9-829, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1516 **Section 1.** Section 70-9-801, MCA, is amended to read:17 **"70-9-801. Short title.** This part may be cited as the "Uniform Montana Revised Unclaimed Property
18 Act"."
1920 **Section 2.** Section 70-9-802, MCA, is amended to read:21 **"70-9-802. Definitions.** In this part, unless the context requires otherwise, the following definitions
22 apply:

23 (1) "Administrator" means the department of revenue provided for in 2-15-1301.

24 (2) "Administrator's agent" means a person with which the administrator contracts to conduct an
25 examination under 70-9-820 on behalf of the administrator. The term includes an independent contractor
26 working for the person and each individual participating in the examination on behalf of the person or
27 contractor.28 (~~2~~)(3) "Apparent owner" means a person whose name appears on the records of a holder as the

1 person entitled to property held, issued, or owing by the holder.

2 ~~(3)~~(4) "Business association" means a corporation, joint-stock company, investment company, other
3 than an investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 through
4 80a-64, as amended, partnership, unincorporated association, joint venture, limited liability company, business
5 trust, trust company, land bank, safe deposit company, safekeeping repository, financial organization, federally
6 chartered entity, insurance company, mutual fund, utility, sole proprietorship, or other business entity consisting
7 of one or more persons, whether or not for profit.

8 ~~(4)~~(5) "Domicile" means the state of incorporation of a corporation and the state of the principal place
9 of business of a holder other than a corporation.

10 (6) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,
11 electromagnetic, or similar capabilities.

12 (7) "Electronic mail" means a communication by electronic means that is automatically retained
13 and stored and may be readily accessed or retrieved.

14 ~~(5)~~(8) "Financial organization" means a savings and loan association, bank, banking organization, or
15 credit union.

16 (9) "Game-related digital content" means digital content that exists only in an electronic game or
17 an electronic game platform. The term includes:

18 (a) game-play currency, such as a virtual wallet, even if it is denominated in United States
19 currency; and

20 (b) the following, if for use or redemption only within the electronic game or the electronic game
21 platform or another electronic game or electronic game platform:

22 (i) points, sometimes referred to as gems, tokens, gold, or similar names; and

23 (ii) digital codes.

24 (c) The term does not include an item that the issuer permits to be redeemed for use outside of an
25 electronic game or an electronic game platform for money or goods or services that have more than minimal
26 value or otherwise monetizes for use outside of an electronic game or an electronic game platform.

27 ~~(6)~~(10) "Gift certificate" has the meaning provided in 30-14-102.

28 ~~(7)~~(11) "Holder" means a person obligated to hold for the account of, or deliver or pay to, the owner

1 property that is subject to this part.

2 ~~(8)(12)~~ "Insurance company" means an association, corporation, or fraternal or mutual benefit
3 organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or
4 insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire,
5 health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection, and workers'
6 compensation insurance.

7 (13) (a) "Loyalty card" means a record given without direct monetary consideration under an award,
8 reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain
9 goods or services or a discount on goods or services.

10 (b) The term does not include a record that may be redeemed for money or otherwise monetized
11 by the issuer.

12 ~~(9)(14)~~ "Mineral" means gas; oil; coal; other gaseous, liquid, and solid hydrocarbons; oil shale; cement
13 material; sand and gravel; road material; building stone; chemical raw material; gemstone; fissionable and
14 nonfissionable ores; colloidal and other clay; steam and other geothermal resource; or any other substance
15 defined as a mineral by the law of this state.

16 ~~(40)(15)~~ "Mineral proceeds" means amounts payable for the extraction, production, or sale of minerals
17 or, upon the abandonment of those payments, all payments that become payable after abandonment. The term
18 includes amounts payable:

19 (a) for the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory
20 royalties, shut-in royalties, minimum royalties, and delay rentals;

21 (b) for the extraction, production, or sale of minerals, including net revenue interests, royalties,
22 overriding royalties, extraction payments, and production payments; and

23 (c) under an agreement or option, including a joint operating agreement, unit agreement, pooling
24 agreement, and farmout agreement.

25 ~~(14)(16)~~ ~~(a)~~ "Money order" means a payment order for a specified amount of money. The term includes
26 an express money order and a personal money order, on which the remitter is the purchaser.

27 ~~(b) The term does not include a bank money order or any other instrument sold by a financial~~
28 ~~organization if the seller has obtained the name and address of the payee.~~

1 (17) "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other
 2 political subdivision of a state.

3 ~~(12)~~(18) "Owner" means a person who has a legal or equitable interest in property subject to this part
 4 or the person's legal representative. The term includes a depositor in the case of a deposit, a beneficiary in the
 5 case of a trust other than a deposit in trust, and a creditor, claimant, or payee in the case of other property, and
 6 the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

7 ~~(13)~~(19) "Person" means an individual, business association, financial organization, estate, trust,
 8 government, governmental subdivision, agency, or instrumentality or any other legal or commercial entity,
 9 whether or not for profit.

10 (20) "Personal information" means:

11 (a) information that identifies or reasonably can be used to identify an individual, such as a first
 12 and last name in combination with the individual's:

13 (i) social security number or other government-issued number or identifier;

14 (ii) date of birth;

15 (iii) home or physical address;

16 (iv) electronic mail address or other online contact information or internet provider address;

17 (v) financial account number or credit or debit card number;

18 (vi) biometric data, health or medical data, or insurance information; or

19 (vii) passwords or other credentials that permit access to an online account or other account; and

20 (b) personally identifiable financial or insurance information, including nonpublic personal

21 information defined by applicable federal law.

22 ~~(14)~~(21) (a) "Property" means tangible property described in 70-9-804 or a fixed and certain interest in
 23 intangible property that is held, issued, or owed in the course of a holder's business or, except as provided in
 24 subsection ~~(14)(b)~~ (21)(b), by a government, governmental subdivision, agency, or instrumentality and all
 25 income or increments from the property. The term includes property that is referred to as or evidenced by:

26 (i) money, virtual currency, check, draft, deposit, interest, or dividend;

27 (ii) credit balance, customer's overpayment, gift certificate, security deposit, refund, credit

28 memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral

1 proceeds, or unidentified remittance;

2 (iii) stock or other evidence of ownership of an interest in a business association or financial
3 organization;

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

5 (v) money deposited to redeem stocks, bonds, coupons, or other securities or to make
6 distributions, except for a worthless security or a security that is subject to a lien, legal hold, or restriction
7 evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction
8 restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;

9 (vi) an amount due and payable under the terms of an annuity or insurance policy, including
10 policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health
11 and disability insurance; and

12 (vii) an amount distributable from a trust or custodial fund that is established under a plan to provide
13 health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee
14 savings, supplemental unemployment insurance, or similar benefits.

15 (b) The term does not include:

16 (i) property that is held, issued, or owed by a local government entity, as defined in 2-7-501;

17 (ii) property held in a plan as described in section 529A of the Internal Revenue Code, 26 U.S.C.
18 529A, as amended;

19 (iii) game-related digital content;

20 (iv) a loyalty card; or

21 (v) an in-store credit for returned merchandise.

22 ~~(15)(22)~~ "Record" means information that is inscribed on a tangible medium or that is stored in an
23 electronic or other medium and that is retrievable in perceivable form.

24 (23) "Security" means:

25 (a) a security as defined in 30-8-112;

26 (b) a security entitlement as defined in 30-8-112, including a customer security account held by a
27 registered broker-dealer, to the extent the financial assets held in the security account are not:

28 (i) registered on the books of the issuer in the name of the person for which the broker-dealer

1 holds the assets;

2 (ii) payable to the order of the person; or

3 (iii) specifically indorsed to the person; or

4 (c) an equity interest in a business association not included in subsection (23)(a) or (23)(b).

5 (24) "Sign" means, with present intent to authenticate or adopt a record:

6 (a) to execute or adopt a tangible symbol; or

7 (b) to attach to or logically associate with the record an electronic symbol, sound, or process.

8 ~~(16)~~(25) "State" means a state of the United States, the District of Columbia, the Commonwealth of
9 Puerto Rico, or any territory or insular possession that is subject to the jurisdiction of the United States.

10 ~~(17)~~(26) "Utility" means a person who owns or operates for public use any plant, equipment, real
11 property, franchise, or license for the transmission of communications or the production, storage, transmission,
12 sale, delivery, or furnishing of electricity, water, steam, or gas.

13 (27) (a) "Virtual currency" means a digital representation of value used as a medium of exchange,
14 unit of account, or store of value that does not have legal tender status recognized by the United States.

15 (b) The term does not include:

16 (i) the software or protocols governing the transfer of the digital representation of value;

17 (ii) game-related digital content; or

18 (iii) a loyalty card.

19 (28) "Worthless security" means a security whose cost of liquidation and delivery to the
20 administrator would exceed the value of the security on the date a report is due under this part."

21

22 **Section 3.** Section 70-9-803, MCA, is amended to read:

23 **"70-9-803. Presumptions of abandonment.** (1) Except as provided in subsection (6), property is
24 presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular
25 property:

26 (a) traveler's check, 15 years after issuance;

27 (b) money order, 7 years after issuance;

28 (c) stock or other equity interest in a business association or financial organization, including a

1 security entitlement under Title 30, chapter 8, 5 years after the earlier of:

2 (i) the date of the most recent dividend, stock split, or other distribution that was unclaimed by the
3 apparent owner; or

4 (ii) the date of the second mailing of a statement of account or other notification or communication
5 that was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to
6 the apparent owner;

7 (d) debt of a business association or financial organization, other than a bearer bond or an original
8 issue discount bond, 5 years after the date of the most recent interest payment that was unclaimed by the
9 apparent owner;

10 (e) demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years
11 after the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a
12 deposit that is automatically renewable is considered matured for purposes of this section upon its initial date of
13 maturity unless the owner has consented to a renewal at or about the time of the renewal and the consent is in
14 writing or is evidenced by a memorandum or other record on file with the holder;

15 (f) money or credits owed to a customer as a result of a retail business transaction, other than in-
16 store credit for returned merchandise, 3 years after the obligation accrued;

17 (g) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if
18 redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value.
19 A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal
20 year sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year
21 by the inflation factor. The amount considered abandoned for a person who sells more than the amount that
22 triggers presumption of abandonment is the value of gift certificates greater than that trigger. However, an
23 issuer that has reported and remitted to the administrator the amount abandoned under this section shall honor
24 the card on presentation indefinitely and may then request reimbursement from the administrator under 70-9-
25 811.

26 (h) amount that is owed by an insurer on a life or endowment insurance policy or an annuity that
27 has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity
28 payable upon proof of death, ~~3 years after the insured has attained, or would have attained if living, the~~

1 ~~limiting age under the mortality table on which the reserve is based~~ has not matured by proof of the death of the
2 insured or annuitant, as follows:

3 (i) with respect to an amount owed on a life or endowment insurance policy, 3 years after the
4 earlier of the date:

5 (A) the insurance company has knowledge of the death of the insured; or

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

8 (ii) with respect to an amount owed on an annuity contract, 3 years after the death of the
9 annuitant;

10 (i) property distributable by a business association or financial organization in a course of
11 dissolution, 1 year after the property becomes distributable;

12 (j) property received by a court as proceeds of a class action and not distributed pursuant to the
13 judgment, 1 year after the distribution date;

14 (k) property held by a court, government, governmental subdivision, agency, or instrumentality, 1
15 year after the property becomes distributable;

16 (l) wages, compensation, bonuses, reimbursements, or other compensation for personal services,
17 1 year after the compensation becomes payable;

18 (m) deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes
19 payable;

20 (n) property in an individual retirement account, defined benefit plan, or other account or plan that
21 is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date
22 of the distribution or attempted distribution of the property, the date of the required distribution as stated in the
23 plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income
24 tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

25 (o) a patronage refund owed to a member of a rural electric or telephone cooperative organized
26 under Title 35, chapter 18, that is not used by the cooperative for educational purposes, 5 years after the
27 distribution date;

28 (p) an unclaimed share in a cooperative that is not used for charitable or civic purposes in the

1 community in which the cooperative is located, 5 years after the distribution date; ~~and~~

2 (g) a state or municipal bond, bearer bond, or original issue discount bond, 3 years after the
 3 earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;

4 (r) funds on deposit or held in trust for the prepayment of a funeral or other funeral-related
 5 expenses, 3 years after the death of the beneficiary;

6 (s) property held in a pension account or retirement account that qualifies for tax deferral under the
 7 income tax laws of the United States, as provided in [section 12];

8 (t) except for property described in [section 12] and property held in a plan described in section
 9 529A of the Internal Revenue Code, 26 U.S.C. 529A, as amended, property held in an account or plan,
 10 including a health savings account, that qualifies for tax deferral under the income tax laws of the United States,
 11 as provided in [section 13];

12 (u) property held in an account established under a state's Uniform Gifts to Minors Act or Uniform
 13 Transfers to Minors Act is presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf
 14 the account was opened, as provided in [section 14];

15 (v) a security, as provided in [section 15]; and

16 ~~(q)(w)~~ all other property, ~~5~~ 3 years after the owner's right to demand the property or after the
 17 obligation to pay or distribute the property arises, whichever first occurs.

18 (2) At the time that an interest is presumed abandoned under subsection (1), any other property
 19 right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is
 20 also presumed abandoned.

21 (3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent
 22 owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by
 23 or on behalf of the holder with the holder concerning the property or the account in which the property is held
 24 and has not otherwise indicated an interest in the property. A communication with an owner by a person other
 25 than the holder or its representative who has not in writing identified the property to the owner is not an
 26 indication of interest in the property by the owner.

27 (4) An indication of an owner's interest in property includes:

28 (a) the presentment of a check or other instrument of payment of a dividend, interest payment, or

1 other distribution made with respect to an account or underlying stock or other interest in a business
 2 association or financial organization or, in the case of a distribution made by electronic or similar means,
 3 evidence that the distribution has been received;

4 (b) owner-directed activity in the account in which the property is held, including a direction by the
 5 owner to increase, decrease, or change the amount or type of property held in the account;

6 (c) ~~the~~ owner-directed activity of making a deposit to or withdrawal from an account in a
 7 financial organization, including an automatic deposit or withdrawal previously authorized by the apparent
 8 owner other than an automatic reinvestment of dividends or interest; and

9 (d) the payment of a premium with respect to a property interest in an insurance policy; however,
 10 the application of an automatic premium loan provision or other nonforfeiture provision contained in an
 11 insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or
 12 the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash
 13 surrender value of a policy by the application of those provisions; and

14 (e) an action by an agent or other representative of an apparent owner, other than the holder
 15 acting as the apparent owner's agent, which is presumed to be an action on behalf of the apparent owner.

16 (5) Property is payable or distributable for purposes of this part notwithstanding the owner's failure
 17 to make demand or present an instrument or document otherwise required to obtain payment.

18 (6) The presumption provided in subsection (1) does not apply to:

19 (a) unclaimed patronage refunds of a rural electric or telephone cooperative if the cooperative
 20 uses the refunds exclusively for educational purposes; or

21 (b) unclaimed shares in a nonutility cooperative if the cooperative uses the shares for charitable or
 22 civic purposes in the community in which the cooperative is located.

23 (7) For the purposes of this section, "inflation factor" means a number determined for each tax
 24 year by dividing the consumer price index for June of the previous tax year by the consumer price index for
 25 June 2015."

26

27 **Section 4.** Section 70-9-808, MCA, is amended to read:

28 **"70-9-808. Report of abandoned property.** (1) A holder of property presumed abandoned and

1 subject to the custody of the administrator shall make a report to the administrator concerning the property.

2 (2) The report must be verified and must contain:

3 (a) a description of the property;

4 (b) except with respect to a traveler's check or money order, the name, if known, and last-known
5 address, if any, and the social security number or taxpayer identification number, if readily ascertainable, of the
6 apparent owner of property of the value of \$50 or more;

7 (c) an aggregated amount of items valued under \$50 each;

8 (d) in the case of an amount of \$50 or more held or owing under an annuity or a life or endowment
9 insurance policy, the full name and last-known address of the annuitant or insured and of the beneficiary;

10 (e) in the case of property held in a safe deposit box or other safekeeping depository, an indication
11 of the place where it is held and where it may be inspected by the administrator and any amounts owing to the
12 holder;

13 (f) the date, if any, on which the property became payable, demandable, or returnable and the
14 date of the last transaction with the apparent owner with respect to the property; and

15 (g) other information that the administrator by rule prescribes as necessary for the administration
16 of this part, including personal information as defined in 70-9-802 about the apparent owner or the apparent
17 owner's property to the extent not otherwise prohibited by federal law.

18 (3) A holder may contract with a third party to make the report required under subsection (2).

19 (4) Whether or not a holder contracts with a third party under subsection (3), the holder is
20 responsible:

21 (a) to the administrator for the complete, accurate, and timely reporting of property presumed
22 abandoned; and

23 (b) for paying or delivering to the administrator the property described in the report.

24 ~~(3)(5)~~ If a holder of property presumed abandoned is a successor to another person that previously
25 held the property for the apparent owner or the holder has changed its name while holding the property, the
26 holder shall file with the report its former names, if any, and the known names and addresses of all previous
27 holders of the property.

28 ~~(4)(6)~~ The report must be filed before November 1 of each year and cover the 12 months next

1 preceding July 1 of that year, but a report with respect to a life insurance company must be filed before May 1
2 of each year for the calendar year next preceding.

3 ~~(5)~~(7) The holder of property that is presumed abandoned shall send written notice to the apparent
4 owner, not more than 120 days or less than 60 days before filing the report, stating that the holder is in
5 possession of property subject to this part if:

6 (a) the holder has in its records an address for the apparent owner that the holder's records do not
7 disclose to be inaccurate;

8 (b) the claim of the apparent owner is not barred by a statute of limitations; and

9 (c) the value of the property is \$50 or more.

10 ~~(6)~~(8) Before the date for filing the report, the holder of property presumed abandoned may request
11 the administrator to extend the time for filing the report. The administrator may grant the extension for good
12 cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder
13 estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

14 ~~(7)~~(9) The holder of property presumed abandoned shall file with the report an affidavit stating that
15 the holder has complied with subsection ~~(5)~~ (7).

16 (10) A holder who, on July 1 of each year, holds property presumed abandoned, holds the property
17 in trust for the benefit of the administrator on behalf of the apparent owner and is liable to the administrator for
18 the full value of the property, plus any accrued interest and penalty. A holder is not required by this section to
19 segregate or establish trust accounts for the property, provided the property is timely reported and delivered to
20 the administrator in compliance with this section."

21

22 **Section 5.** Section 70-9-809, MCA, is amended to read:

23 **"70-9-809. Payment or delivery of abandoned property to administrator.** (1) Except for property
24 held in a safe deposit box or other safekeeping depository, upon filing the report required by 70-9-808, the
25 holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the administrator
26 the property described in the report as unclaimed; however, if the property is an automatically renewable
27 deposit and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended
28 until a penalty or forfeiture would no longer result. Tangible property held in a safe deposit box or other

1 safekeeping depository may not be delivered to the administrator until 60 days after filing the report required by
2 70-9-808.

3 (2) If the property reported to the administrator is a security or security entitlement under Title 30,
4 chapter 8, ~~the administrator is an appropriate person to make an endorsement, instruction, or entitlement order~~
5 ~~on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities~~
6 ~~intermediary to transfer or dispose of the security or the security entitlement in accordance with Title 30,~~
7 ~~chapter 8~~ the holder shall liquidate the security within 30 days of filing the report and remit the proceeds in
8 United States currency to the administrator. The holder may not sell a security listed on an established stock
9 exchange for less than the price prevailing on the established stock exchange at the time of the sale. The
10 holder may sell a security not listed on the established stock exchange by any commercially reasonable
11 method.

12 (3) If the property reported to the administrator is a virtual currency, the holder shall liquidate the
13 virtual currency within 30 days of filing the report and remit the proceeds in United States currency to the
14 administrator. The holder may not sell a virtual currency for less than the price prevailing on an established
15 virtual currency exchange at the time of the sale. The holder may sell a virtual currency not listed on an
16 established virtual currency exchange by any commercially reasonable method.

17 ~~(3) If the holder of property reported to the administrator is the issuer of a certificated security, the~~
18 ~~administrator has the right to obtain a replacement certificate pursuant to 30-8-415, but an indemnity bond is~~
19 ~~not required.~~

20 (4) An issuer, the holder, and any transfer agent or other person acting pursuant to the instructions
21 of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and
22 must be indemnified against claims of any person in accordance with 70-9-811."

23

24 **Section 6.** Section 70-9-810, MCA, is amended to read:

25 **"70-9-810. Notice and publication of lists of abandoned property.** (1) ~~The administrator shall~~
26 ~~publish a notice not later than November 30 of the year following the year in which abandoned property has~~
27 ~~been paid or delivered to the administrator. The notice must be published in a newspaper of general circulation~~
28 ~~in the county of this state in which is located the last known address of any person named in the notice. If a~~

1 holder does not report an address for the apparent owner or the address is outside this state, the notice must
 2 be published in the county in which the holder has its principal place of business within this state or another
 3 county that the administrator reasonably selects. The advertisement must be in a form that, in the judgment of
 4 the administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The
 5 administrator shall maintain an unclaimed property website that can be accessed and is easily searchable by
 6 the public. The ~~form~~ website must contain:

7 (a) the name of each person appearing to be the owner of the property, as set forth in the report
 8 filed by the holder;

9 (b) the last-known address or location of each person appearing to be the owner of the property, if
 10 an address or location is set forth in the report filed by the holder;

11 (c) a statement explaining that property of the owner is presumed to be abandoned and has been
 12 taken into the protective custody of the administrator; and

13 (d) a statement that information about the property and its return to the owner is available to a
 14 person having a legal or beneficial interest in the property, upon request to the administrator.

15 (2) The administrator is not required to advertise the name and address or location of an owner of
 16 property having a total value less than \$50 or information concerning a traveler's check, money order, or similar
 17 instrument."

18

19 **Section 7.** Section 70-9-812, MCA, is amended to read:

20 **"70-9-812. Public sale of abandoned property.** (1) Except as otherwise provided in this section, the
 21 administrator, within 3 years after the receipt of abandoned property, shall sell it to the highest bidder at public
 22 sale at a location in the state, which in the judgment of the administrator affords the most favorable market for
 23 the property. The administrator may decline the highest bid and reoffer the property for sale if the administrator
 24 considers the bid to be insufficient. The administrator need not offer the property for sale if the administrator
 25 considers that the probable cost of sale will exceed the proceeds of the sale. A sale held under this section
 26 must be preceded by a single publication of notice, at least 3 weeks before sale, ~~in a newspaper of general~~
 27 ~~circulation in the county in which the property is to be sold~~ on the unclaimed property website maintained by the
 28 administrator.

1 ~~(2) Securities listed on an established stock exchange must be sold at prices prevailing on the~~
 2 ~~exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of~~
 3 ~~sale or by any reasonable method selected by the administrator. If securities are sold by the administrator~~
 4 ~~before the expiration of 3 years after their delivery to the administrator, a person making a claim under this part~~
 5 ~~before the end of the 3-year period is entitled to the proceeds of the sale of the securities or the market value of~~
 6 ~~the securities at the time the claim is made, whichever is greater, plus dividends, interest, and other increments~~
 7 ~~up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this~~
 8 ~~part after the expiration of the 3-year period is entitled to receive the securities delivered to the administrator by~~
 9 ~~the holder, if they still remain in the custody of the administrator, or the net proceeds received from sale and is~~
 10 ~~not entitled to receive any appreciation in the value of the property occurring after delivery to the administrator~~
 11 ~~except in a case of intentional misconduct or malfeasance by the administrator.~~

12 ~~(3)~~(2) A purchaser of property at a sale conducted by the administrator pursuant to this part takes the
 13 property free of all claims of the owner or previous holder and of all persons claiming through or under them.
 14 The administrator shall execute all documents necessary to complete the transfer of ownership."
 15

16 **Section 8.** Section 70-9-815, MCA, is amended to read:

17 **"70-9-815. Filing claim with administrator -- handling of claims by administrator.** (1) A person,
 18 excluding another state, claiming property paid or delivered to the administrator may file a claim on a form
 19 prescribed by the administrator and verified by the claimant.

20 (2) Within 90 days after a claim is filed, the administrator shall allow or deny the claim and give
 21 written notice of the decision to the claimant. If the claim is denied, the administrator shall inform the claimant of
 22 the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The
 23 claimant may then file a new claim with the administrator or maintain an action under 70-9-816.

24 (3) Within 30 days after a claim is allowed, the property or the net proceeds of a sale of the
 25 property must be delivered or paid by the administrator to the claimant, ~~together with any dividend, interest, or~~
 26 ~~other increment to which the claimant is entitled under 70-9-812.~~

27 (4) A holder that pays the owner for property that has been delivered to the state and that, if
 28 claimed from the administrator by the owner, would be subject to an increment under 70-9-812 may recover

1 from the administrator the amount of the increment."

2

3 **Section 9.** Section 70-9-820, MCA, is amended to read:

4 **"70-9-820. Requests for reports and, examination of records, and confidentiality.** (1) The
5 administrator may require a person that has not filed a report or a person that the administrator believes has
6 filed an inaccurate, incomplete, or false report to file a verified report in a form specified by the administrator.
7 The report must state whether the person is holding property reportable under this part, describe property not
8 previously reported or as to which the administrator has made inquiry, and specifically identify and state the
9 amounts of property that may be in issue.

10 (2) The administrator, at reasonable times and upon reasonable notice, may examine the records
11 of any person to determine whether the person has complied with this part. The administrator may conduct the
12 examination even if the person believes it is not in possession of any property that must be reported, paid, or
13 delivered under this part. The administrator may contract with any other person to conduct the examination on
14 behalf of the administrator.

15 (3) The administrator, at reasonable times, may examine the records of an agent, including a
16 dividend disbursing agent or transfer agent, of a business association or financial organization that is the holder
17 of property presumed abandoned if the administrator has given the notice required by subsection (2) to both the
18 association or organization and the agent at least 90 days before the examination.

19 (4) Documents and working papers obtained or compiled by the administrator, or the
20 administrator's agents, employees, or designated representatives, in the course of conducting an examination
21 and personal information obtained from a holder's reports, except for the personal information published
22 pursuant to 70-9-810, are confidential and are not public records, but the documents and papers may be:

23 (a) used by the administrator in the course of an action to collect unclaimed property or otherwise
24 enforce this part;

25 (b) used in joint examinations conducted with or pursuant to an agreement with another state, the
26 federal government, or any other governmental subdivision, agency, or instrumentality;

27 (c) produced pursuant to subpoena or court order; or

28 (d) disclosed to the abandoned property office of another state for that state's use in

1 circumstances equivalent to those described in this subsection (4) if the other state is bound to keep the
2 documents and papers confidential.

3 (5) The administrator may only disclose confidential personal information to an apparent owner of
4 unclaimed property, or the apparent owner's personal representative, power of attorney, attorney-in-fact, or
5 agent, or a beneficiary of the apparent owner or the unclaimed property.

6 ~~(5)(6)~~ If an examination of the records of a person results in the disclosure of property reportable
7 under this part, the administrator may assess the cost of the examination against the holder at the rate of \$200
8 a day for each examiner, or a greater amount that is reasonable and was incurred, but the assessment may not
9 exceed the value of the property found to be reportable. The cost of an examination made pursuant to
10 subsection (3) may be assessed only against the business association or financial organization.

11 ~~(6)(7)~~ If, after July 1, 1997, a holder does not maintain the records required by 70-9-821 and the
12 records of the holder available for the periods subject to this part are insufficient to permit the preparation of a
13 report, the administrator may require the holder to report and pay to the administrator the amount the
14 administrator reasonably estimates, on the basis of any available records of the holder or by any other
15 reasonable method of estimation, should have been but was not reported."
16

17 **Section 10.** Section 70-9-827, MCA, is amended to read:

18 **"70-9-827. Transitional provisions.** (1) An initial report filed under this part for property that was not
19 required to be reported before July 1, 1997, but that is subject to this part must include all items of property that
20 would have been presumed abandoned during the 10-year period next preceding July 1, 1997, as if this part
21 had been in effect during that period.

22 (2) This part does not relieve a holder of a duty that arose before July 1, ~~1997~~ 2023, to report, pay,
23 or deliver property. Except as otherwise provided in 70-9-819(2), a holder that did not comply with the law in
24 effect before July 1, ~~1997~~ 2023, is subject to the applicable provisions for enforcement and penalties that then
25 existed, which are continued in effect for the purpose of this section."
26

27 **Section 11.** Section 70-9-829, MCA, is amended to read:

28 **"70-9-829. Uniformity of application and construction.** This part must be applied and construed to

1 effectuate its general purpose to make uniform the law with respect to the subject of this part among states
 2 enacting ~~# the same or similar language.~~"

3
 4 **NEW SECTION. Section 12. When tax-deferred retirement account presumed abandoned. (1)**

5 Property held in a pension account or retirement account that qualifies for tax deferral under the income tax
 6 laws of the United States is presumed abandoned if it is unclaimed by the apparent owner 3 years after the
 7 later of:

8 (a) except as provided in subsection (1)(b), the date a second consecutive communication sent by
 9 the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the
 10 United States postal service;

11 (b) if the second communication is sent later than 30 days after the date the first communication is
 12 returned to the holder undelivered by the United States postal service, the date the first communication was
 13 returned to the holder undelivered by the United States postal service; or

14 (c) the earlier of the following dates:

15 (i) the date the apparent owner becomes 70 1/2 years of age, if determinable by the holder; or

16 (ii) if the Internal Revenue Code, 26 U.S.C. 1, et seq., as amended, requires distribution to avoid a
 17 tax penalty, 2 years after the date the holder:

18 (A) receives confirmation of the death of the apparent owner in the ordinary course of its business;

19 or

20 (B) confirms the death of the apparent owner under subsection (2).

21 (2) If a holder in the ordinary course of its business receives notice or an indication of the death of
 22 an apparent owner and subsection (1)(c) applies, the holder shall attempt, not later than 90 days after receipt of
 23 the notice or indication, to confirm whether the apparent owner is deceased.

24 (3) If the holder does not send communications to the apparent owner of an account described in
 25 subsection (1) by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest
 26 in the property by sending the apparent owner an electronic mail communication not later than 2 years after the
 27 apparent owner's last indication of interest in the property. However, the holder shall promptly attempt to
 28 contact the apparent owner by first-class United States mail if:

1 (a) the holder does not have the information needed to send the apparent owner an electronic mail
 2 communication or the holder believes that the apparent owner's electronic mail address in the holder's records
 3 is invalid;

4 (b) the holder receives notification that the electronic mail communication was not received; or

5 (c) the apparent owner does not respond to the electronic mail communication within 30 days after
 6 the communication was sent.

7 (4) If first-class United States mail sent under subsection (3) is returned to the holder undelivered
 8 by the United States postal service, the property is presumed abandoned 3 years after the later of:

9 (a) except as provided in subsection (4)(b), the date a second consecutive communication sent by
 10 the holder by first-class United States mail to contact the apparent owner is returned to the holder undelivered
 11 by the United States postal service;

12 (b) if the second communication is sent later than 30 days after the date the first communication is
 13 returned to the holder undelivered by the United States postal service, the date the first communication was
 14 returned to the holder undelivered by the United States postal service; or

15 (c) the date established by subsection (1)(c).
 16

17 **NEW SECTION. Section 13. When other tax-deferred account presumed abandoned.** Except for
 18 property described in [section 12] and property held in a plan described in section 529A of the Internal Revenue
 19 Code, 26 U.S.C. 529A, as amended, property held in an account or plan, including a health savings account,
 20 that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is
 21 unclaimed by the apparent owner 3 years after the earlier of:

22 (1) the date, if determinable by the holder, specified in the income tax laws and regulations of the
 23 United States by which distribution of the property must begin to avoid a tax penalty, with no distribution having
 24 been made; or

25 (2) 30 years after the date the account was opened.
 26

27 **NEW SECTION. Section 14. When custodial account for minor presumed abandoned.** (1)

28 Property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to

1 Minors Act is presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account
2 was opened 3 years after the later of:

3 (a) except as provided in subsection (1)(b), the date a second consecutive communication sent by
4 the holder by first-class United States mail to the custodian of the minor on whose behalf the account was
5 opened is returned to the holder undelivered by the United States postal service;

6 (b) if the second communication is sent later than 30 days after the date the first communication is
7 returned to the holder undelivered by the United States postal service, the date the first communication was
8 returned to the holder undelivered by the United States postal service; or

9 (c) the date on which the custodian is required to transfer the property to the minor or the minor's
10 estate in accordance with the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act of the state in
11 which the account was opened.

12 (2) If the holder does not send communications to the custodian of the minor on whose behalf an
13 account described in subsection (1) was opened by first-class United States mail, the holder shall attempt to
14 confirm the custodian's interest in the property by sending the custodian an electronic mail communication not
15 later than 2 years after the custodian's last indication of interest in the property. However, the holder shall
16 promptly attempt to contact the custodian by first-class United States mail if:

17 (a) the holder does not have the information needed to send the custodian an electronic mail
18 communication or the holder believes that the custodian's electronic mail address in the holder's records is
19 invalid;

20 (b) the holder receives notification that the electronic mail communication was not received; or

21 (c) the custodian does not respond to the electronic mail communication within 30 days after the
22 communication was sent.

23 (3) If first-class United States mail sent under subsection (2) is returned to the holder undelivered
24 by the United States postal service, the property is presumed abandoned 3 years after the later of:

25 (a) the date a second consecutive communication sent by the holder by first-class United States
26 mail to contact the custodian is returned to the holder undelivered by the United States postal service; or

27 (b) the date established by subsection (1)(c).

28 (4) When the property in the account described in subsection (1) is transferred to the minor on

1 whose behalf an account was opened or to the minor's estate, the property in the account is no longer subject
2 to this section.

3

4 **NEW SECTION. Section 15. When security presumed abandoned.** (1) A security is presumed
5 abandoned 3 years after:

6 (a) except as provided in subsection (1)(b), the date a second consecutive communication sent by
7 the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the
8 United States postal service; or

9 (b) if the second communication is sent later than 30 days after the date the first communication is
10 returned to the holder undelivered by the United States postal service, the date the first communication was
11 returned to the holder undelivered by the United States postal service.

12 (2) If the holder does not send communications to the apparent owner of a security by first-class
13 United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending
14 the apparent owner an electronic mail communication not later than 2 years after the apparent owner's last
15 indication of interest in the security. However, the holder shall promptly attempt to contact the apparent owner
16 by first-class United States mail if:

17 (a) the holder does not have the information needed to send the apparent owner an electronic mail
18 communication or the holder believes that the apparent owner's electronic mail address in the holder's records
19 is invalid;

20 (b) the holder receives notification that the electronic mail communication was not received; or

21 (c) the apparent owner does not respond to the electronic mail communication within 30 days after
22 the communication was sent.

23 (3) If first-class United States mail sent under subsection (2) is returned to the holder undelivered
24 by the United States postal service, the security is presumed abandoned 3 years after the date the mail is
25 returned.

26

27 **NEW SECTION. Section 16. Codification instruction.** [Sections 12 through 15] are intended to be
28 codified as an integral part of Title 70, chapter 9, part 8, and the provisions of Title 70, chapter 9, part 8, apply

1 to [sections 12 through 15].

2

- END -