

CHAPTER.....

AN ACT relating to unclaimed property; adopting the Uniform Unclaimed Property Act; repealing conflicting provisions of the existing Uniform Disposition of Unclaimed Property Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, Nevada has enacted the Uniform Disposition of Unclaimed Property Act. The existing Uniform Act establishes the powers, duties and liabilities of the State and other persons concerning certain property which is abandoned and unclaimed by its owner. (Chapter 120A of NRS)

This bill replaces the existing Uniform Act with the updated and revised Uniform Unclaimed Property Act (1995). This bill retains many of the provisions of the existing Uniform Act. However, this bill reorganizes certain provisions from the existing Uniform Act to eliminate redundancy, it updates certain provisions to reflect holdings by the United States Supreme Court and it adds certain provisions regarding application and enforcement of the Act.

Under the existing Uniform Act, certain tangible property such as the contents of safe-deposit boxes and intangible property such as traveler's checks, money orders, stocks and monies owed by insurance companies, retirement plans and businesses are considered unclaimed by their owners after a certain period of abandonment. (NRS 120A.160-120A.240) **Section 8** of this bill reorganizes into a single section all of the periods of abandonment that are set forth in separate sections in the existing Uniform Act.

The existing Uniform Act does not contain the provisions in **sections 10 and 18** of this bill which codify certain rules of priority established by the United States Supreme Court when more than one state seeks custody over unclaimed property. (*Delaware v. New York*, 507 U.S. 490, 113 S. Ct. 1550 (1993); *Pennsylvania v. New York*, 407 U.S. 206, 92 S. Ct. 2075 (1972); *Texas v. New Jersey*, 379 U.S. 674, 85 S. Ct. 626 (1965))

The existing Uniform Act does not contain the provisions in **section 12** of this bill which clarify the State's burden of proof when it is trying to show the existence and amount of unclaimed property in the possession of certain holders and which recognizes several affirmative defenses that may be established by those holders.

The existing Uniform Act does not contain the provisions in **section 25** of this bill which require holders of unclaimed property and issuers of traveler's checks and money orders to maintain records of certain information for a designated number of years.

The existing Uniform Act contains criminal penalties for persons who do not comply with the provisions of the Act. (NRS 120A.440) This bill eliminates those criminal penalties, and **section 28** of this bill adds provisions which impose civil monetary penalties on holders of unclaimed property who fail to report, pay or deliver the unclaimed property to the State.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 120A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this act.

Sec. 2. *“Domicile” means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.*

Sec. 3. *“Mineral” means gas, oil, coal and other gaseous, liquid and solid hydrocarbons, oil shale, cement material, sand, gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resource or any other substance defined as a mineral by the law of this State.*

Sec. 4. *“Mineral proceeds” means amounts payable for the extraction, production or sale of minerals or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes, without limitation, amounts payable:*

1. For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

2. For the extraction, production or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments and production payments; and

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

Sec. 5. *“Property” means tangible property described in section 9 of this act or a fixed and certain interest in intangible property that is held, issued or owed in the course of a holder’s business or by a government, governmental subdivision, agency or instrumentality, and all income or increments therefrom. The term includes, without limitation, property that is referred to as or evidenced by:*

1. Money or a check, draft, deposit, interest or dividend;

2. A credit balance, customer’s overpayment, security deposit, refund, credit memorandum, unpaid wage, mineral proceeds or unidentified remittance;

3. Stock or other evidence of ownership of an interest in a business association or financial organization;

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



5. *Money deposited to redeem stocks, bonds, coupons or other securities or to make distributions;*

6. *An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance; and*

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

Sec. 6. *"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.*

Sec. 7. *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 8. 1. *Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:*

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

(b) *A money order, 7 years after issuance;*

(c) *Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;*

(d) *Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;*

(e) *A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is*



evidenced by a memorandum or other record on file with the holder;

(f) Any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

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

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

(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or 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; and

(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

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

3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record



prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

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

(c) The making of a deposit to or withdrawal from a bank account; and

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

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

Sec. 9. *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 remains unclaimed by the owner for more than 3 years after expiration of the lease or rental period on the box or other depository.*

Sec. 10. *Except as otherwise provided in this chapter or by other statute of this State, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this State if:*



1. *The last known address of the apparent owner, as shown on the records of the holder, is in this State;*

2. *The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;*

3. *The records of the holder do not reflect the last known address of the apparent owner and it is established that:*

(a) *The last known address of the person entitled to the property is in this State; or*

(b) *The holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;*

4. *The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;*

5. *The last known address of the apparent owner, as shown on the records of the holder, is in a foreign country and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;*

6. *The transaction out of which the property arose occurred in this State, the holder is domiciled in a state that does not provide for the escheat or custodial taking of the property and the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide for the escheat or custodial taking of the property; or*

7. *The property is a traveler's check or money order purchased in this State or the issuer of the traveler's check or money order has its principal place of business in this State and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased.*

Sec. 11. *A holder may deduct from property presumed abandoned a charge imposed by reason of the owner's failure to claim the property within a specified time only if there is a valid and enforceable written contract between the holder and the owner under which the holder may impose the charge and the holder regularly imposes the charge, which is not regularly*



reversed or otherwise cancelled. The amount of the deduction must not exceed \$5 per month.

Sec. 12. *A record of the issuance of a check, draft or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the Administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge and want of consideration are affirmative defenses that must be established by the holder.*

Sec. 13. 1. *A holder of property presumed abandoned shall make a report to the Administrator concerning the property.*

2. The report must be verified and must contain:

(a) A description of the property;

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

(c) In the case of items valued under \$50, a statement of the aggregate value of all items valued under \$50;

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

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

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

(g) Other information that the Administrator by regulation prescribes as necessary for the administration of this chapter.

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

4. The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a



report with respect to an insurance company must be filed before May 1 of each year for the calendar year next preceding.

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

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

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

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

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

7. The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with subsection 5.

8. A person reporting 15 or more items of property pursuant to this section shall file the report electronically in lieu of on paper.

Sec. 14. *1. Except for property held in a safe-deposit box or other safekeeping depository, upon filing the report required by section 13 of this act, the holder of property presumed abandoned shall pay, deliver or cause to be paid or delivered to the Administrator the property described in the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe-deposit box or other safekeeping depository may not be delivered to the Administrator until 60 days after filing the report required by section 13 of this act.*

2. If the property reported to the Administrator is a security or security entitlement under NRS 104.8101 to 104.8511, inclusive, the Administrator is an appropriate person to make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the



security or the security entitlement in accordance with NRS 104.8101 to 104.8511, inclusive.

3. If the holder of property reported to the Administrator is the issuer of a certificated security, the Administrator has the right to obtain a replacement certificate pursuant to NRS 104.8405, but an indemnity bond is not required.

4. An issuer, the holder and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be indemnified against claims of any person in accordance with section 16 of this act.

Sec. 15. *1. The Administrator shall publish a notice not later than November 30 of the year next following the year in which abandoned property has been paid or delivered to the Administrator. The notice must be published in a newspaper of general circulation in the county of this State in which is located the last known address of any person named in the notice. If a holder does not report an address for the apparent owner or the address is outside this State, the notice must be published in a county that the Administrator reasonably selects. The advertisement must be in a form that, in the judgment of the Administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The form must contain:*

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

(b) The city or town in which the last known address of each person appearing to be the owner of the property is located, if a city or town is set forth in the report filed by the holder;

(c) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the Administrator; and

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

2. The Administrator is not required to advertise the name and city or town of an owner of property having a total value less than \$50 or information concerning a traveler's check, money order or similar instrument.

Sec. 16. *1. For the purposes of this section, payment or delivery is made in "good faith" if:*

(a) Payment or delivery was made in a reasonable attempt to comply with this chapter;



(b) The holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and

(c) There is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

2. Upon payment or delivery of property to the Administrator, the State assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the Administrator in good faith is relieved of all liability arising thereafter with respect to the property.

3. A holder who has paid money to the Administrator pursuant to this chapter may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the Administrator shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that the instrument was duly presented and that payment was made to a person who reasonably appeared to be entitled to payment. The holder must be reimbursed for payment made even if the payment was made to a person whose claim was barred under subsection 1 of section 23 of this act.

4. A holder who has delivered property other than money to the Administrator pursuant to this chapter may reclaim the property if it is still in the possession of the Administrator, without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder.

5. The Administrator may accept a holder's affidavit as sufficient proof of the holder's right to recover money and property under this section.

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



7. *Property removed from a safe-deposit box or other safekeeping depository is received by the Administrator subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The Administrator shall reimburse the holder out of the proceeds remaining after deducting the expense incurred by the Administrator in selling the property.*

Sec. 17. *If property other than money is delivered to the Administrator under this chapter, the owner is entitled to receive from the Administrator any income or gain realized or accruing on the property at or before liquidation or conversion of the property into money.*

Sec. 18. *1. After property has been paid or delivered to the Administrator under this chapter, another state may recover the property if:*

(a) The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(b) The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property and under the laws of that state subsequently enacted the property has escheated or become subject to a claim of abandonment by that state;

(c) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(d) The property was subjected to custody by this State under subsection 6 of section 10 of this act and under the laws of the state of domicile of the holder the property has escheated or become subject to a claim of abandonment by that state; or

(e) The property is a sum payable on a traveler's check, money order or similar instrument that was purchased in the other state and delivered into the custody of this State under subsection 7 of section 10 of this act, and under the laws of the other state the



property has escheated or become subject to a claim of abandonment by that state.

2. A claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the Administrator, who shall decide the claim within 90 days after it is presented. The Administrator shall allow the claim upon determining that the other state is entitled to the abandoned property under subsection 1.

3. The Administrator shall require another state, before recovering property under this section, to agree to indemnify this State and its officers and employees against any liability on a claim to the property.

Sec. 19. *1. A person, excluding another state, claiming property paid or delivered to the Administrator may file a claim on a form prescribed by the Administrator and verified by the claimant.*

2. Within 90 days after a claim is filed, the Administrator shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Administrator shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Administrator or maintain an action under section 20 of this act.

3. Except as otherwise provided in subsection 5, within 30 days after a claim is allowed, the property or the net proceeds of a sale of the property must be delivered or paid by the Administrator to the claimant, together with any dividend, interest or other increment to which the claimant is entitled under NRS 120A.360 and section 17 of this act.

4. A holder who pays the owner for property that has been delivered to the State and which, if claimed from the Administrator by the owner would be subject to an increment under NRS 120A.360 and section 17 of this act may recover from the Administrator the amount of the increment.

5. The Administrator may require a person with a claim in excess of \$2,000 to furnish a bond and indemnify the State against any loss resulting from the approval of such claim if the claim is based upon an original instrument, including, without limitation, a certified check or a stock certificate or other proof of ownership of securities, which cannot be furnished by the person with the claim.

Sec. 20. *A person aggrieved by a decision of the Administrator or whose claim has not been acted upon within 90*



days after its filing may maintain an original action to establish the claim in the district court, naming the Administrator as a defendant. If the aggrieved person establishes the claim in an action against the Administrator, the court may award the claimant reasonable attorney's fees.

Sec. 21. *1. The Administrator may decline to receive property reported under this chapter which the Administrator considers to have a value less than the expenses of notice and sale.*

2. A holder, with the written consent of the Administrator and upon conditions and terms prescribed by the Administrator, may report and deliver property before the property is presumed abandoned. Property so delivered must be held by the Administrator and is not presumed abandoned until it otherwise would be presumed abandoned under this chapter.

Sec. 22. *If the Administrator determines after investigation that property delivered under this chapter has no substantial commercial value, the Administrator may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the State or any officer or employee or against the holder for or on account of an act of the Administrator under this section, except for intentional misconduct or malfeasance.*

Sec. 23. *1. The expiration, before or after October 1, 2007, of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute or court order, does not preclude the property from being presumed abandoned or affect a duty to file a report or to pay or deliver or transfer property to the Administrator as required by this chapter.*

2. An action or proceeding may not be maintained by the Administrator to enforce this chapter in regard to the reporting, delivery or payment of property more than 10 years after the holder specifically identified the property in a report filed with the Administrator or gave express notice to the Administrator of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

Sec. 24. *1. The Administrator may require a person who has not filed a report, or a person who the Administrator believes has filed an inaccurate, incomplete or false report, to file a verified report in a form specified by the Administrator. The report must state whether the person is holding property reportable under this chapter, describe property not previously reported or as to*



which the Administrator has made inquiry, and specifically identify and state the amounts of property that may be in issue.

2. The Administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this chapter. The Administrator may conduct the examination even if the person believes he is not in possession of any property that must be reported, paid or delivered under this chapter. The Administrator may contract with any other person to conduct the examination on behalf of the Administrator.

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

4. Documents and working papers obtained or compiled by the Administrator, or the Administrator's agents, employees or designated representatives, in the course of conducting an examination are confidential and are not public records, but the documents and papers may be:

(a) Used by the Administrator in the course of an action to collect unclaimed property or otherwise enforce this chapter;

(b) Used in joint examinations conducted with or pursuant to an agreement with another state, the Federal Government or any other governmental subdivision, agency or instrumentality;

(c) Produced pursuant to subpoena or court order; or

(d) Disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this subdivision, if the other state is bound to keep the documents and papers confidential.

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

6. If, after October 1, 2007, a holder does not maintain the records required by section 25 of this act and the records of the



holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the Administrator may require the holder to report and pay to the Administrator the amount the Administrator reasonably estimates, on the basis of any available records of the holder or by any other reasonable method of estimation, should have been but was not reported.

Sec. 25. 1. Except as otherwise provided in subsection 2, a holder required to file a report under section 13 of this act shall maintain the records containing the information required to be included in the report for 7 years after the holder files the report, unless a shorter period is provided by regulation of the Administrator.

2. A business association or financial organization that sells, issues or provides to others for sale or issue in this State, traveler's checks, money orders or similar instruments other than third-party bank checks, on which the business association or financial organization is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the State and date of issue, for 3 years after the holder files the report.

Sec. 26. The Administrator may maintain an action in this State or another state to enforce this chapter. The court may award reasonable attorney's fees to the prevailing party.

Sec. 27. 1. The Administrator may enter into an agreement with another state to exchange information relating to abandoned property or its possible existence. The agreement may permit the other state, or another person acting on behalf of a state, to examine records as authorized in section 24 of this act. The Administrator by regulation may require the reporting of information needed to enable compliance with an agreement made under this section and prescribe the form.

2. The Administrator may join with another state to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

3. At the request of another state, the Attorney General of this State may maintain an action on behalf of the other state to enforce, in this State, the unclaimed property laws of the other state against a holder of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the Attorney General in maintaining the action.

4. The Administrator may request that the attorney general of another state or another attorney commence an action in the other



state on behalf of the Administrator. With the approval of the Attorney General of this State, the Administrator may retain any other attorney to commence an action in this State on behalf of the Administrator. This State shall pay all expenses, including attorney's fees, in maintaining an action under this subsection. With the Administrator's approval, the expenses and attorney's fees may be paid from money received under this chapter. The Administrator may agree to pay expenses and attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses or attorney's fees paid under this subsection may not be deducted from the amount that is subject to the claim by the owner under this chapter.

Sec. 28. *1. A holder who fails to report, pay or deliver property within the time prescribed by this chapter shall pay to the Administrator interest at the rate of 18 percent per annum on the property or value thereof from the date the property should have been reported, paid or delivered.*

2. Except as otherwise provided in subsection 3, a holder who fails to report, pay or deliver property within the time prescribed by this chapter or fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of \$200 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of \$5,000.

3. A holder who willfully fails to report, pay or deliver property within the time prescribed by this chapter or willfully fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of \$1,000 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of \$25,000, plus 25 percent of the value of any property that should have been but was not reported.

4. A holder who makes a fraudulent report shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of \$1,000 for each day from the date a report under this chapter was due, up to a maximum of \$25,000, plus 25 percent of the value of any property that should have been but was not reported.

5. The Administrator for good cause may waive, in whole or in part, interest under subsection 1 and penalties under subsections 2 and 3, and shall waive penalties if the holder acted in good faith and without negligence.



Sec. 29. *1. 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. 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. 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. An agreement covered by this section must not provide for compensation that is more than 10 percent of the total value of the property that is the subject of the agreement. An agreement that provides for compensation that is more than 10 percent of the total value of the property that is the subject of the agreement is unenforceable except by the owner. An owner who has agreed to pay compensation that is more than 10 percent of the total value of the property that is the subject of the agreement, or the Administrator on behalf of the owner, may maintain an action to reduce the compensation to an amount that does not exceed 10 percent of the total value of the property. The court may award reasonable attorney's fees to an owner who prevails in the action.

5. This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than that the compensation is more than 10 percent of the total value of the property that is the subject of the agreement.

Sec. 30. NRS 120A.010 is hereby amended to read as follows:

120A.010 This chapter may be cited as the Uniform ~~Disposition of~~ Unclaimed Property Act.

Sec. 31. NRS 120A.020 is hereby amended to read as follows:

120A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 120A.025 to



120A.120, inclusive, *and sections 2 to 7, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 32. NRS 120A.040 is hereby amended to read as follows:

120A.040 “Business association” means a corporation, ~~{other than a public corporation, a}~~ joint-stock company, investment company, partnership, unincorporated association, joint venture, limited-liability company, business trust, *trust company, land bank, safe-deposit company or other safekeeping depository*, financial organization, insurance company, mutual fund or utility, or another business entity consisting of one or more persons, whether or not for profit.

Sec. 33. NRS 120A.070 is hereby amended to read as follows:

120A.070 “Financial organization” means a savings and loan association, *building and loan association, savings bank, industrial bank, bank*, banking organization or credit union.

Sec. 34. NRS 120A.100 is hereby amended to read as follows:

120A.100 “Owner” means a *person who has a legal or equitable interest in property subject to this chapter or the person’s legal representative. The term includes, without limitation, a* depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, *and* a creditor, claimant or payee in the case of other ~~{intangible property, or a person having a legal or equitable interest in property subject to this chapter, or his legal representative.}~~ *property.*

Sec. 35. NRS 120A.110 is hereby amended to read as follows:

120A.110 “Person” means a natural person, business association, *financial organization*, estate, trust, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

Sec. 36. NRS 120A.120 is hereby amended to read as follows:

120A.120 “Utility” means any person who owns or operates ~~{within this State}~~ for public use any plant, equipment, *real* property, franchise or license for the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas.

Sec. 37. NRS 120A.130 is hereby amended to read as follows:

120A.130 This chapter shall be ~~{so construed as}~~ *applied and construed* to effectuate its general purpose to make uniform the law ~~{of those states which}~~ *with respect to the subject matter of the Uniform Unclaimed Property Act among the states that* enact it.

Sec. 38. NRS 120A.135 is hereby amended to read as follows:

120A.135 1. The provisions of this chapter do not apply to gaming chips or tokens which are not redeemed at an establishment.



2. As used in this section:

(a) "Establishment" has the meaning ascribed to it in NRS 463.0148.

(b) "Gaming chip or token" means any object which may be redeemed at an establishment for cash or any other representative of value.

Sec. 39. NRS 120A.360 is hereby amended to read as follows:

120A.360 1. Except as otherwise provided in subsections 4, 5 and 6, all abandoned property other than money delivered to the Administrator under this chapter must, within 2 years after the delivery, be sold by the Administrator to the highest bidder at public sale in whatever manner affords , in his judgment , the most favorable market for the property . ~~involved.~~ The Administrator may decline the highest bid and reoffer the property for sale if he considers the ~~price~~ bid *to be* insufficient.

2. Any sale held under this section must be preceded by a single publication of notice , ~~thereof~~ at least ~~2 weeks in advance of the~~ *3 weeks before* sale , in a newspaper of general circulation in the county ~~where~~ *in which* the property is to be sold.

3. The purchaser *of property* at any sale conducted by the Administrator pursuant to this chapter ~~is vested with title to~~ *takes* the property ~~purchased, free from~~ *free of* all claims of the owner or ~~prior~~ *previous* holder and of all persons claiming through or under them. The Administrator shall execute all documents necessary to complete the transfer of ~~title~~ *ownership*.

4. The Administrator need not offer any property for sale if ~~in his opinion,~~ *he considers that* the probable cost of the sale ~~exceeds the value of the property.~~ *will exceed the proceeds of the sale.* The Administrator may destroy or otherwise dispose of such property or may transfer it to:

(a) The Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society, upon its written request, if the property has, in the opinion of the requesting institution, historical, artistic or literary value and is worthy of preservation;

(b) A genealogical library, upon its written request, if the property has genealogical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society; or

(c) A veterans' or military museum, upon its written request, if the property has military or military historical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society.



↪ An action may not be maintained by any person against the holder of the property because of that transfer, disposal or destruction.

5. *Securities delivered to the Administrator pursuant to this chapter may be sold by the Administrator at any time after the delivery.* Securities listed on an established stock exchange must be sold at the prevailing price for that security on the exchange at the time of sale. Other securities not listed on an established stock exchange may be sold:

(a) Over the counter at the prevailing price for that security at the time of sale; or

(b) By any other method the Administrator deems acceptable.

6. The Administrator shall hold property that was removed from a safe-deposit box or other safekeeping repository for 1 year after the date of the delivery of the property to the Administrator, unless that property is a will or a codicil to a will, in which case the Administrator shall hold the property for 10 years after the date of the delivery of the property to the Administrator. If no claims are filed for the property within that period *and the Administrator determines that the probable cost of the sale of the property will exceed the proceeds of the sale,* it may be destroyed.

Sec. 40. NRS 120A.370 is hereby amended to read as follows:

120A.370 1. There is hereby created in the State Treasury the Abandoned Property Trust ~~Fund.~~ *Account.*

2. All money received by the Administrator under this chapter, including the proceeds from the sale of abandoned property, must be deposited by the Administrator in the State Treasury for credit to the Abandoned Property Trust ~~Fund.~~ *Account.*

3. Before making a deposit, the Administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of an insurance company, its number, the name of the company and the amount due. The record must be available for public inspection at all reasonable business hours.

4. The Administrator may pay from money available in the Abandoned Property Trust ~~Fund.~~ *Account:*

(a) Any costs in connection with the sale of abandoned property.

(b) Any costs of mailing and publication in connection with any abandoned property.

(c) Reasonable service charges.



(d) Any costs incurred in examining the records of a holder and in collecting the abandoned property.

(e) Any valid claims filed pursuant to this chapter.

5. ~~[A+] Except as otherwise provided in NRS 120A.360,~~ by the end of each fiscal year, the amount of the balance in the *Abandoned Property Trust ~~[Fund]~~ Account* in excess of \$100,500 must be transferred. The first \$7,600,000 each year must be transferred to the Millennium Scholarship Trust Fund created by NRS 396.926. The remainder must be transferred to the State General Fund, but remains subject to the valid claims of holders pursuant to ~~[NRS 120A.340 or owners pursuant to NRS 120A.380.]~~ *section 16 of this act and owners pursuant to section 19 of this act, except that a claim of a holder or owner may not be paid from money transferred to the Millennium Scholarship Trust Fund pursuant to this section.*

6. If there is an insufficient amount of money in the Abandoned Property Trust ~~[Fund]~~ *Account* to pay any cost or charge pursuant to subsection 4, the State Board of Examiners may, upon the application of the Administrator, authorize a temporary transfer from the State General Fund to the Abandoned Property Trust ~~[Fund]~~ *Account* of an amount necessary to pay those costs or charges. The Administrator shall repay the amount of the transfer as soon as sufficient money is available in the Abandoned Property Trust ~~[Fund]~~ *Account.*

Sec. 41. NRS 32.020 is hereby amended to read as follows:

32.020 1. In any receivership proceeding instituted in which a dividend has been declared and ordered paid to creditors, any dividend which remains unclaimed for 3 years reverts to the general fund of the estate and must be applied as follows:

(a) To the payment of costs and expenses of the administration of the estate and receivership.

(b) To a new dividend distributed to creditors whose claims have been allowed but not paid in full. After those claims have been paid in full, the balance is presumed abandoned under *chapter 120A of NRS*. ~~[120A.210.]~~

2. This section applies to any receivership proceeding which may be brought, and includes any bank, banking corporation, corporation, copartnership, company, association or natural person.

Sec. 42. NRS 607.170 is hereby amended to read as follows:

607.170 1. The Labor Commissioner may prosecute a claim for wages and commissions or commence any other action to collect wages, commissions and other demands of any person who is financially unable to employ counsel in a case in which, in the



judgment of the Labor Commissioner, the claim for wages or commissions or other action is valid and enforceable in the courts.

2. In all matters relating to wages or commissions, the Labor Commissioner may, in accordance with the provisions of NRS 607.210, subpoena any person whose appearance is required to adjust and settle claims or other actions for wages or commissions before bringing suit in those matters, and the Labor Commissioner may effect reasonable compromises of those matters.

3. The Labor Commissioner or his Deputy may maintain a commercial account with any bank or credit union within this State for the deposit of money collected for claims for wages or commissions. The money must be promptly paid to the person entitled thereto. At the end of each calendar year, any unclaimed money in the commercial account which has been a part of the account for 1 year or more is presumed abandoned under *chapter 120A of NRS* . ~~[120A.220.]~~

Sec. 43. NRS 120A.030, 120A.095, 120A.150, 120A.160, 120A.170, 120A.180, 120A.185, 120A.190, 120A.200, 120A.210, 120A.220, 120A.225, 120A.230, 120A.240, 120A.250, 120A.260, 120A.270, 120A.280, 120A.300, 120A.310, 120A.320, 120A.330, 120A.340, 120A.350, 120A.380, 120A.390, 120A.400, 120A.405, 120A.410, 120A.420, 120A.430, 120A.440 and 120A.450 are hereby repealed.

Sec. 44. 1. Except as otherwise provided in this section:

(a) The provisions of this act are intended to substitute the Uniform Unclaimed Property Act (1995), in the form enacted by this act, in a continuing way for the Uniform Disposition of Unclaimed Property Act, as that act existed in chapter 120A of NRS before October 1, 2007.

(b) If there is a conflict between the provisions of this act and the provisions of the Uniform Disposition of Unclaimed Property Act, as that act existed in chapter 120A of NRS before October 1, 2007, the provisions of this act control.

2. The provisions of this act do not repeal, abrogate or supersede the provisions of section 15 of chapter 347, Statutes of Nevada 2001, at page 1652, to the extent that those provisions remain applicable to the property described in that section.

3. An initial report filed under the provisions of this act for property which was not required to be reported before October 1, 2007, but which is subject to the provisions of this act, must include all items of property that would have been presumed abandoned during the 10-year period next preceding October 1, 2007, as if the provisions of this act had been in effect during that period.



4. The provisions of this act do not relieve a holder of a duty that arose before October 1, 2007, to report, pay or deliver property. Except as otherwise provided in subsection 2 of section 23 of this act, a holder who did not comply with the law in effect before October 1, 2007, is subject to the applicable provisions for enforcement and penalties which then existed, which are continued in effect for the purpose of this section.

5. Any administrative regulations which were adopted under the provisions of chapter 120A of NRS before October 1, 2007, and which do not conflict with the provisions of this act, remain in force until amended or repealed by the Administrator pursuant to NRS 120A.140.

