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UNIFORM UNCLAIMED PROPERTY ACT
SECTION 7-8A-1 through 7-8A-31 NMSA 1978

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7-8A-1. DEFINITIONS.--As used in the Uniform Unclaimed Property Act (1995) [7-8A-1 NMSA 1978, except 7-8A-10.1 NMSA 1978]:

(1) "administrator" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department who exercises authority lawfully delegated to him by the secretary;

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

(3) "business association" means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, mutual fund, utility, or other business entity consisting of one or more persons, whether or not for profit;

(4) "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;

(5) "financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization or credit union;

(6) "holder" means a person obligated to hold for the account of, or deliver or pay to, the owner property that is subject to the Uniform Unclaimed Property Act (1995);

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

(8) "mineral" means gas; oil; coal; other gaseous, liquid and solid hydrocarbons; oil shale; cement material; sand and gravel; road material; building stone; chemical raw material; gemstone; fissionable and nonfissionable ores; colloidal and other clay; steam and other geothermal resource; or any other substance defined as a mineral by the law of New Mexico;

(9) "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 amounts payable:

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

(ii) for the extraction, production or sale of minerals, including

net revenue interests, royalties, overriding royalties, extraction payments and production payments; and

(iii) under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement;

(10) "money order" includes an express money order and a personal money order, on which the remitter is the purchaser. The term does not include a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee;

(11) "owner" means a person who has a legal or equitable interest in property subject to the Uniform Unclaimed Property Act (1995) [7-8A-1 NMSA 1978] or the person's legal representative. The term includes 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 property;

(12) "person" means an individual; business association; financial organization; estate; trust; government; governmental subdivision, agency, or instrumentality; or any other legal or commercial entity;

(13) "property" means tangible property described in Section 7-8A-3 NMSA 1978 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, but excludes child, spousal or medical support received by the child support enforcement division of the human services department, the New Mexico IV-D agency. The term includes property that is referred to as or evidenced by:

(i) money, a check, draft, deposit, interest or dividend;

(ii) credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds or unidentified remittance;

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

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

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

(vi) 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

(vii) 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;

(14) "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;

(15) "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; and

(16) "utility" means a person who owns or operates 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.

(Laws 2003, Chapter 283, Section 1)

7-8A-2. PRESUMPTIONS OF ABANDONMENT.--

(a) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(1) traveler's check, fifteen years after issuance;

(2) money order, seven years after issuance;

(3) stock or other equity interest in a business association or financial organization, including a security entitlement under Article 8 of the Uniform Commercial Code [Chapter 55, Article 8 NMSA 1978], five years after the earlier of (i) the date of the most recent dividend, stock split, or other distribution unclaimed by the apparent owner, or (ii) 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;

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

(5) a demand, savings, or time deposit, including a deposit that is automatically renewable, five 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;

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

(7) gift certificate, three years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is deemed to be sixty percent of the certificate's face value;

(8) amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, three 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;

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

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

(11) property held by a court, government, governmental

subdivision, agency, or instrumentality, one year after the property becomes distributable;

(12) wages or other compensation for personal services, one year after the compensation becomes payable;

(13) deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable;

(14) 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, three 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

(15) all other property, five years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

(b) At the time that an interest is presumed abandoned under Subsection (a) of this section, 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.

(c) Property is unclaimed if, for the applicable period set forth in Subsection (a), 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.

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

(i) 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;

(ii) 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;

(iii) the making of a deposit to or withdrawal from a bank account; and

(iv) 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.

(e) Property is payable or distributable for purposes of the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.
(Laws 1997, Chapter 25, Section 2)

7-8A-3. CONTENTS OF SAFE DEPOSIT BOX OR OTHER

SAFEKEEPING DEPOSITORY.--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 five years after expiration of the lease or rental period on the box or other depository.
(Laws 1997, Chapter 25, Section 3)

7-8A-4. RULES FOR TAKING CUSTODY.--Except as otherwise provided

in the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] 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:

(i) the last known address of the person entitled to the property is in this state; or

(ii) 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 does not show the state in which the instrument was purchased.

(Laws 1997, Chapter 25, Section 4)

7-8A-5. DORMANCY CHARGE.-- 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 canceled. The amount of the deduction is limited to an amount that is not unconscionable.
(Laws 1997, Chapter 25, Section 5)

7-8A-6. BURDEN OF PROOF AS TO PROPERTY EVIDENCED BY RECORD OF CHECK OR DRAFT.--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.
(Laws 1997, Chapter 25, Section 6)

7-8A-7. REPORT OF ABANDONED PROPERTY.--

A. A holder of property presumed abandoned shall make a report to the administrator concerning the property.

B. The report must be verified and must contain:

(1) a description of the property;

(2) 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 fifty dollars ($50.00) or more;

(3) an aggregated amount of items valued under fifty dollars ($50.00) each;

(4) in the case of an amount of fifty dollars ($50.00) 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;

(5) 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;

(6) 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

(7) other information that the administrator by rule prescribes as necessary for the administration of the Uniform Unclaimed Property Act (1995) [7-8A-30 NMSA 1978].

C. 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.

D. The report must be filed before November 1 of each year and cover the twelve months next preceding July 1 of that year, but a report with respect to a life insurance company must be filed before May 1 of each year for the calendar year next preceding.

E. A holder of more than twenty-five properties presumed abandoned shall report the properties in an electronic media and in a format determined by the administrator to be compatible with computer programming and equipment used by the administrator for processing.

F. The holder of property presumed abandoned shall send written notice to the apparent owner, not more than one hundred twenty days or less than sixty days before filing the report, stating that the holder is in possession of property subject to the Uniform Unclaimed Property Act (1995), if:

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

(2) the claim of the apparent owner is not barred by a statute of limitations; and (3) the value of the property is fifty dollars ($50.00) or more.

G. 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.

H. The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with Subsection F of this section.

(Laws 2006, Chapter 37, Section 1)

7-8A-8. PAYMENT OR DELIVERY OF ABANDONED PROPERTY.--

(a) Except for property held in a safe deposit box or other safekeeping depository, upon filing the report required by Section 7 [7-8A-7 NMSA 1978] of the Uniform Unclaimed Property Act (1995), 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 one hundred twenty days after filing the report required by Section 7 of the Uniform Unclaimed Property Act (1995).

(b) If the property reported to the administrator is a security or security entitlement under Article 8 of the Uniform Commercial Code [Chapter 55, Article 8 NMSA 1978], the administrator is an appropriate person to make an indorsement, 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 Article 8 of the Uniform Commercial Code.

(c) 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 Section 55-8-405 NMSA 1978, but an indemnity bond is not required.

(d) 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 10 [7-8A-10 NMSA 1978] of the Uniform Unclaimed Property Act (1995).

(Laws 1997, Chapter 25, Section 8)

7-8A-9. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY.-- The administrator shall publish a notice not later than November 30 of each year in which abandoned property has been paid or delivered to the administrator. The notice shall be published in a newspaper of general circulation in each county of this state. The advertisement must be in a form that, in the judgment of the administrator, is likely to attract the attention of the general public. The advertisement shall contain:

A. the website on which to search for information about abandoned properties;

B. the email address of the administrator;

C. the telephone number and physical mailing address of the administrator;

D. 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

E. a statement providing information about the property and the return to the property's owner is available to a person having a legal or beneficial interest in the property, upon request to the administrator.

(Laws 2021, Chapter 65, Section 10)

7-8A-10. CUSTODY BY STATE; RECOVERY BY HOLDER; DEFENSE OF HOLDER.--

(a) In this section, payment or delivery is made in "good faith" if:

(1) payment or delivery was made in a reasonable attempt to comply with the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978];

(2) 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

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

(b) 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.

(c) A holder who has paid money to the administrator pursuant to the Uniform Unclaimed Property Act (1995) 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 Section 19(a) [7-8A-19(a) NMSA 1978] of the Uniform Unclaimed Property Act (1995).

(d) A holder who has delivered property other than money to the administrator pursuant to the Uniform Unclaimed Property Act (1995) 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.

(e) The administrator may accept a holder's affidavit as sufficient proof of the holder's right to recover money and property under this section.

(f) 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.

(g) 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.
(Laws 1997, Chapter 25, Section 10)

7-8A-10.1. EXERCISE OF DUE DILIGNECE; LIABILITY; NOTICE.--

A. Notwithstanding any other provisions of the Uniform Unclaimed

Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978], the holder of unclaimed intangible property in the form of checks in payment of royalty interests, working interests or other interests payable out of oil and gas production with a value of fifty dollars ($50.00) or more who fails to exercise due diligence in attempting to locate the apparent owner of such property during the running of the period specified under Section 2 [7-8A-2 NMSA 1978] of the Uniform Unclaimed Property Act (1995) constituting a presumption of abandonment of such intangible property is subject to payment to the owner if such property is successfully claimed within the time specified by the Uniform Unclaimed Property Act (1995) or to the state of New Mexico upon payment or delivery of the property to the administrator, interest at the annual rate of interest computed as provided in Subsection B of Section 7-1-67 NMSA 1978 on the value of the intangible property, such interest running from the date commencing after the first year in which the property remained unclaimed to the date of payment or delivery.

B. Proof of the exercise of due diligence to locate the apparent owner shall be:

(1) evidence of written notice mailed to the last known address of the apparent owner; and

(2) proof of publication of notice to the apparent owner made between the end of the first year in which the property remained unclaimed and the end of the third year in which the property remained unclaimed. The publication of the notice required by this subsection for property presumed to be abandoned under the provisions of Section 7 [7-8A-7 NMSA 1978] of the Uniform Unclaimed Property Act (1995) shall be made at least thirty days, but not more than ninety days, prior to the due date on which the report of abandoned property is required to be filed.

C. Publication as required in Subsection B of this section consists of publication in a newspaper of general circulation in the county of this state in which is located the last known address of the apparent owner, or if no address is listed or the address is outside the state, in a newspaper published in the county in which the holder of the property has his principal place of business within the state. The notice shall be published at least once a week for two consecutive weeks and shall be entitled:

"NOTICE OF THE NAME OF A PERSON APPEARING TO BE THE OWNER OF ABANDONED PROPERTY".

D. The published notice shall contain:

(1) the name and last known address, if any, of the person entitled to notice as specified in this section;

(2) a statement that information concerning the unclaimed property may be obtained from the holder of the property;

(3) the name and address of the holder of the property; and

(4) a statement that if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before the expiration of the period specified by the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] for the presumption of abandonment, the intangible property will be placed in the custody of the state of New Mexico and subject to escheat to the general fund of the state.

E. The provisions of this section shall not apply to the United States or any agency or instrumentality of the United States or to the state of New Mexico or any agency or political subdivision of the state.

F. Any holder of property that has been presumed to be abandoned for more than three years as of January 1, 1990 shall not be presumed to be negligent by the failure to publish a notice in a newspaper of general circulation as required by this section.

(Laws Laws 1997, Chapter 25, Section 32)

7-8A-11. CREDITING OF DIVIDENDS, INTEREST AND INCREMENTS

TO OWNER'S ACCOUNT.--If property other than money is delivered to the administrator under the Uniform Unclaimed Property Act (1995) [7-8A-1 NMSA 1978], 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. If the property was an interest-bearing demand, savings, or time deposit, including a deposit that is automatically renewable, the administrator shall pay interest at a rate of five percent a year or any lesser rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the administrator and ceases on the earlier of the expiration of ten years after delivery or the date on which payment is made to the owner. Interest on interest-bearing property is not payable for any period before the effective date of the Uniform Unclaimed Property Act (1995), unless authorized by law superseded by that act.
(Laws 1997, Chapter 25, Section 11)

7-8A-12. PUBLIC SALE OF ABANDONED PROPERTY.--

A. Except as otherwise provided in this section, the administrator, within three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale at a location in this state or by any reasonable method, which in the judgment of the administrator affords the most favorable market for the property. The administrator may decline the highest bid and re-offer the property for sale if the administrator considers the bid to be insufficient. The administrator need not offer the property for sale if the administrator considers that the probable cost of sale will exceed the proceeds of the sale. A sale held under this section must be preceded by a single publication of notice, at least three weeks before sale, in a newspaper of general circulation in the county in which the property is to be sold.

B. Securities listed on an established stock exchange must be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any reasonable method selected by the administrator. If securities are sold by the administrator before the expiration of three years after their delivery to the administrator, a person making a claim under the Uniform Unclaimed Property Act (1995) [7-8A-30 NMSA 1978] before the end of the three-year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, plus dividends, interest and other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under the Uniform Unclaimed Property Act (1995) after the expiration of the three-year period is entitled to receive the securities delivered to the administrator by the holder, if they still remain in the custody of the administrator, or the net proceeds received from sale and is not entitled to receive any appreciation in the value of the property occurring after delivery to the administrator except in a case of intentional misconduct or malfeasance by the administrator.

C. A purchaser of property at a sale conducted by the administrator pursuant to the Uniform Unclaimed Property Act (1995) takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

(Laws 2006, Chapter 37, Section 2)

7-8A-13. DEPOSIT OF FUNDS.--

(a) Except as otherwise provided by this section, the administrator

shall promptly deposit in the tax administration suspense fund for distribution to the general fund of this state all funds received under the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978], including the proceeds from the sale of abandoned property under Section 12 [7-8A-12 NMSA 1978] of that act. The administrator shall retain in the unclaimed property fund at least one hundred thousand dollars ($100,000) from which the administrator shall pay claims duly allowed. The administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or annuity listed in the report of an insurance company, its number, the name of the company, and the amount due.

(b) Before making a deposit to the tax administration suspense fund, the administrator may deduct:

(1) expenses of sale of abandoned property;

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

(3) reasonable service charges; and

(4) expenses incurred in examining records of holders of property and in collecting the property from those holders.

(Laws 1997, Chapter 25, Section 13)

7-8A-14. CLAIM OF ANOTHER STATE TO RECOVER PROPERTY.--

(a) After property has been paid or delivered to the administrator

under the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978], another state may recover the property if:

(1) 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;

(2) 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;

(3) 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;

(4) the property was subjected to custody by this state under Section 4(6) [7-8A-4(6) NMSA 1978] of the Uniform Unclaimed Property Act (1995), 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

(5) 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 Section 4(7) [7-8A-4(7) NMSA 1978] of the Uniform Unclaimed Property Act (1995), and under the laws of the other state the property has escheated or become subject to a claim of abandonment by that state.

(b) 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 ninety 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 (a) of this section.

(c) 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.

(Laws 1997, Chapter 25, Section 14)

7-8A-15. FILING CLAIM WITH ADMINISTRATOR; HANDLING OF CLAIMS BY ADMINISTRATOR.--

(a) 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.

(b) Within ninety 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 16 of the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978].

(c) Within thirty 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 Sections 11 and 12 [7-8A-11 and 7-8A-12 NMSA 1978] of the Uniform Unclaimed Property Act (1995).

(d) 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 Sections 11 and 12 of the Uniform Unclaimed Property Act (1995), may recover from the administrator the amount of the increment.

(Laws 1997, Chapter 25, Section 15)

7-8A-16. APPEAL; ACTION TO ESTABLISH CLAIM.--

A. A person aggrieved by a decision of the administrator may file an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

B. A person whose claim has not been acted upon within ninety days after its filing may maintain an original action to establish the claim in the district court for the first judicial district, naming the administrator as a defendant.

C. If the aggrieved person establishes the claim in an action against the administrator, the court may award the claimant reasonable attorney fees.

(Laws 1999, Chapter 265, Section 18)

7-8A-17. ELECTION TO TAKE PAYMENT OR DELIVERY.--

(a) The administrator may decline to receive property reported under the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] which the administrator considers to have a value less than the expenses of notice and sale.

(b) 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 the Uniform Unclaimed Property Act (1995).

(Laws 1997, Chapter 25, Section 17)

7-8A-18. DESTRUCTION OR DISPOSITION OF PROPERTY HAVING NO SUBSTANTIAL COMMERCIAL VALUE; IMMUNITY FROM LIABILITY.--If the administrator determines after investigation that property delivered under the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] 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 against the holder for or on account of an act of the administrator under this section, except for intentional misconduct or malfeasance.

(Laws 1997, Chapter 25, Section 18)

7-8A-19. PERIODS OF LIMITATION.--

(a) The expiration, before or after the effective date of the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978], 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 the Uniform Unclaimed Property Act (1995).

(b) An action or proceeding may not be maintained by the administrator to enforce the Uniform Unclaimed Property Act (1995) in regard to the reporting, delivery, or payment of property more than ten 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.

(Laws 1997, Chapter 25, Section 19)

7-8A-20. REQUESTS FOR REPORTS AND EXAMINATION OF RECORDS.--

(a) The administrator may require a person who has not filed a report, or a person whom 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 the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978], 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.

(b) The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the Uniform Unclaimed Property Act (1995). The administrator may conduct the examination even if the person believes it is not in possession of any property that must be reported, paid or delivered under the Uniform Unclaimed Property Act (1995). The administrator may contract with any other person to conduct the examination on behalf of the administrator.

(c) 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 association that is the holder of property presumed abandoned if the administrator has given the notice required by Subsection (b) of this section to both the association or organization and the agent at least ninety days before the examination.

(d) 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:

(1) used by the administrator in the course of an action to collect unclaimed property or otherwise enforce the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978];

(2) 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;

(3) produced pursuant to subpoena or court order; or

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

(e) If an examination of the records of a person results in the disclosure of property reportable under the Uniform Unclaimed Property Act (1995), the administrator may assess the cost of the examination against

the holder at the rate of two hundred dollars ($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 (c) of this section may be assessed only against the business association or financial organization.

(f) If, after the effective date of the Uniform Unclaimed Property Act (1995), a holder does not maintain the records required by Section 21 [7-8A-21 NMSA 1978] of that act and the records of the holder available for the periods subject to that act 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.

(Laws 1997, Chapter 25, Section 20)

7-8A-21. RETENTION OF RECORDS.--

(a) Except as otherwise provided in Subsection (b) of this section, a

holder required to file a report under Section 7 [7-8A-7 NMSA 1978] of the Uniform Unclaimed Property Act (1995) shall maintain the records containing the information required to be included in the report for ten years after the holder files the report, unless a shorter period is provided by rule of the administrator.

(b) 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 three years after the holder files the report.

(Laws 1997, Chapter 25, Section 21)

7-8A-22. ENFORCEMENT.--The administrator may maintain an action in this or another state to enforce the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978]. The court may award reasonable attorney's fees to the prevailing party.

(Laws 1997, Chapter 25, Section 22)

7-8A-23. INTERSTATE AGREEMENTS AND COOPERATION; JOINT AND RECIPROCAL ACTIONS WITH OTHER STATES.--

(a) 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 20 [7-8A-20 NMSA 1978] of the Uniform Unclaimed Property Act (1995). The administrator by rule may require the reporting of information needed to enable compliance with an agreement made under this section and prescribe the form.

(b) The administrator may join with another state to seek enforcement of the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] against any person who is or may be holding property reportable under that act.

(c) 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.

(d) 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 the Uniform Unclaimed Property Act (1995). 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 the Uniform Unclaimed Property Act (1995).

(Laws 1997, Chapter 25, Section 23)

7-8A-24. INTEREST AND PENALTIES.--

(a) A holder who fails to report, pay or deliver property within the time prescribed by the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] shall pay to the administrator interest at the annual rate set forth in Section 7-1-67 NMSA 1978 on the property or value thereof from the date the property should have been reported, paid or delivered.

(b) Except as otherwise provided in Subsection (c) of this section, a holder who fails to report, pay or deliver property within the time prescribed by the Uniform Unclaimed Property Act (1995), or fails to perform other duties imposed by that act, shall pay to the administrator, in addition to interest as provided in Subsection (a) of this section, a civil penalty of one hundred dollars ($100) for each day the report, payment or delivery is withheld, or the duty is not performed, up to a maximum of five thousand dollars ($5,000).

(c) A holder who willfully fails to report, pay or deliver property within the time prescribed by the Uniform Unclaimed Property Act (1995), or willfully fails to perform other duties imposed by that act, shall pay to the administrator, in addition to interest as provided in Subsection (a) of this section, a civil penalty of two hundred fifty dollars ($250) for each day the report, payment or delivery is withheld, or the duty is not performed, up to a maximum of seven thousand five hundred dollars ($7,500), plus twenty-five percent of the value of any property that should have been but was not reported.

(d) A holder who makes a fraudulent report shall pay to the administrator, in addition to interest as provided in Subsection (a) of this section, a civil penalty of five hundred dollars ($500) for each day from the date a report under the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] was due, up to a maximum of twelve thousand five hundred dollars ($12,500), plus twenty-five percent of the value of any property that should have been but was not reported.

(e) The administrator for good cause may waive, in whole or in part, penalties under Subsections (b) and (c) of this section, and shall waive penalties if the holder acted in good faith and without negligence.

(Laws 1997, Chapter 25, Section 24)

7-8A-25. AGREEMENT TO LOCATE PROPERTY.--

A. 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 forty-eight 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.

B. 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.

C. 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.

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

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

(Laws 1997, Chapter 25, Section 25; 2006, Chapter 37, Section 3)

7-8A-26. FOREIGN TRANSACTIONS.-- The Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] does not apply to:

(1) property held, due and owing in a foreign country and arising out of a foreign transaction;

(2) funds in a member's share account in a credit union if the bylaws of the credit union provide for unclaimed funds to be used for educational or charitable uses; and

(3) patronage capital or other tangible ownership interest in a rural electric cooperative, a telephone cooperative, a water cooperative or an agricultural cooperative, if the bylaws of the cooperative provide for unclaimed patronage capital to be used for educational scholarships or other charitable uses.

(Laws 1997, Chapter 25, Section 26)

7-8A-27. TRANSITIONAL PROVISIONS.--

(a) An initial report filed under the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] for property that was not required to be reported before the effective date of that act, but which is subject to that act, must include all items of property that would have been presumed abandoned during the ten-year period next preceding the effective date of the Uniform Unclaimed Property Act (1995) as if that act had been in effect during that period.

(b) The Uniform Unclaimed Property Act (1995) does not relieve a holder of a duty that arose before the effective date of that act to report, pay or deliver property. Except as otherwise provided in Section 19(b) [7-8A-19(b) NMSA 1978] of the Uniform Unclaimed Property Act (1995), a holder who did not comply with the law in effect before the effective date of that act is subject to the applicable provisions for enforcement and penalties which then existed, which are continued in effect for the purpose of this section.

(Laws 1997, Chapter 25, Section 27)

7-8A-28. RULES.--The administrator may adopt pursuant to the State Rules Act [Chapter 14, Article 4 NMSA 1978] rules necessary to carry out the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978].

(Laws 1997, Chapter 25, Section 28)

7-8A-29. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--The Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of that act among states enacting it.
(Laws 1997, Chapter 25, Section 29)

7-8A-30. SHORT TITLE.--Chapter 7, Article 8A NMSA 1978 may be cited as the "Uniform Unclaimed Property Act (1995)".
(Laws 2006, Chapter 37, Section 4)

7-8A-31. SEVERABILITY CLAUSE.--If any provision of the Uniform Unclaimed Property Act (1995) [7-8A-1 to 7-8A-31 NMSA 1978, except 7-8A-10.1 NMSA 1978] or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of that act which can be given effect without the invalid provision or application, and to this end the provisions of the act are severable.
(Laws 1997, Chapter 25, Section 31)
