

THE UNCLAIMED PROPERTY LEDGER

3RD QUARTER 2008



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Unclaimed Property Questions and Answers

By Christa DeOliveira

This article contains questions about unclaimed property, gathered from our readers, and answers to them, provided by state officials.

ABOUT SMS VANACORE

SMS Vanacore's focus is to educate and assist our clients with unclaimed property and to locate the owners of unclaimed property.

CONTRIBUTOR'S CORNER

Unclaimed Property Professionals Organization Hires Its First Executive Director

By UPPO President, Debbie Chastain

This article introduces the new Executive Director for the Unclaimed Property Professionals Organization (UPPO).

LEGISLATIVE UPDATES

These are available only in our online edition.

CURRENT EVENTS

Nick Nichols recently spoke at the annual Wells Fargo Client Conference on risk and fraud identification.

SMS Vanacore exhibited at the Fiserv Client Conference held in Tucson, AZ. Fiserv are the makers of Tracker, the leading unclaimed property tracking and reporting software.

We recently participated in the Midwestern Securities Transfer Association (MSTA) annual conference in Chicago, IL.

From October 12-15, SMS will be exhibiting at the Investment Company Institute's (ICI) Operations and Technology Conference to be held in Huntington Beach, CA.

October 14-17, we will be attending the Security Transfer Association's (STA) annual conference in Palm Beach, FL.

We will be exhibiting at the National Investment Company Service Association's (NICSA) Technology Summit from October 26-29 in Las Vegas, NV.

From December 8-11, we will be attending the Treasury Management Conference and Exposition for National Association of State Treasurers (NAST) and National Association of Unclaimed Property Administrators (NAUPA) in Dallas, TX.



HOT TOPIC

Unclaimed Property Questions and Answers

By Christa DeOliveira

This issue covers answers to unclaimed property questions that we gathered from our readers and that state officials kindly answered.

QUESTION 1: Does your state require mailing due diligence to known bad addresses, this is a concern for holders as it could provide the opportunity for fraud?

QUESTION 2: Do you go by last contact date or maturity date for life insurance related property? If you go by maturity date, how do you define maturity date?

QUESTION 3: When insurance proceeds are being escheated under the name of the beneficiary, is it assumed the beneficiary resides at the same address as the insured or if there is no address recorded specifically for the beneficiary, should it default to the state of incorporation?

QUESTION 4: When property gets turned over to your state, how much time elapses before you make attempts to contact the apparent owner?

QUESTION 5: When owners come forward to claim their property, how long does the process take? Is the process the same for businesses and individuals?

QUESTION 6: From when unclaimed property reports are due and filed with your state, how long does it take to reconcile and load reports?

QUESTION 7: What is the process for holders to reclaim property that was reported in error? How long does this typically take?



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SMSVANACORE.COM 866-421-6800

QUESTION 8: Do you accept email correspondence as contact that will rebuff the presumption of abandonment?

We would like to extend a special thanks to the state officials that provided answers to these questions. Answers were received from Ralph Ainsworth of Alabama, Ron Schubin of New York, Donice Blakely of Oklahoma, Barbara Rice of South Carolina, Kim Oliver of Utah, and Patti Wilson of Washington.

QUESTION 1: Does your state require mailing due diligence to known bad addresses, this is a concern for holders as it could provide the opportunity for fraud?

ALABAMA: Alabama Code Section 35-12-76 (8d1) states: "The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate."

The law provides that due diligence mailing would not have to be implemented on those records for which the holder knows the address is a "bad address".

NEW YORK: No. See section 1422 of the NYS abandoned Property Law (APL).

OKLAHOMA: No, if it is disclosed in the holder records the address is inaccurate.

Note: The holder must document each owners account fifty-dollars and up, the source used to locate the owner (120) days before filing the report with unclaimed property.

SOUTH CAROLINA: Section 27-18-180(E) (1) of the South Carolina Code of Laws stipulates that due diligence notices only need to be sent if "the holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate".

UTAH: No, the letter is not required where the holder's records identify the address to be inaccurate. See 67-4a-301 (3)(a).

WASHINGTON: If there is evidence that the address is bad then due diligence is not required.

QUESTION 2: Do you go by last contact date or maturity date for life insurance related property? If you go by maturity date, how do you define maturity date?

ALABAMA: Alabama Code Section 35-12-72(10) states regarding Presumption of Abandonment: "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."

In the case of insurance policies, the last contact date would be upon maturity of the policy or death of the insured (if known or presented), whichever occurs first. Please note that other "insurance related property" such as drafts, checks issued, or other payments would fall under related property, which has a three year dormancy period and would begin at the issue date of the instrument.

NEW YORK: Depends on type of property involved. A check is based upon issue date. A death claim based upon date of death or last written contact from beneficiary an annuity/matured endowment, from date of maturity. Limiting age based upon the date when insured reached the limiting age based upon the mortality tables or date of last contact. Obviously, where written contact within the dormancy period exists with the entitled owner/beneficiary, property should not be escheated.

OKLAHOMA: Please see Oklahoma Statute 60 OS 661 at: www.oscn.net.

SOUTH CAROLINA: Section 27-18-80(A) of the South Carolina Code of Laws stipulates that "Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than five years after the funds became due and payable as established from the records of the insurance company holding or owing the funds".

UTAH: Property is reported by maturity. Matured proceeds are due and payable if the company: (a) knows the insured or annuitant has died; or (b) determined that (i) the insured has attained or would have attained if living, the limiting age under the mortality table on which the reserve is based; (ii) the policy was in force at the time the insured attained, or would have attained, the limiting age; and (iii) according to the records of the company, neither the insured nor any other person appearing to have an interest in the policy has, within the last two years; assigned or paid premiums on the policy; subjected the policy to a loan; corresponded in writing with the company concerning the policy; indicated an interest in the policy as evidenced by a memorandum or other record on file prepared by an employee of the company.

For the purpose of reporting unclaimed property, the application of an automatic premium loan provision or other non-forfeiture provision contained in an insurance policy does not prevent a policy from being matured if the insured has died or the beneficiary otherwise has become entitled to the proceeds of the policy. See 67-4a-205 (3).

WASHINGTON: The following is our statute on life insurance policies. The answer to your question is it depends... if the company knows the insured has passed away it is 3 years, otherwise it is 2 years after limiting age is reached.



Funds owing under life insurance policies.

(1) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than three years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection (3)(b) of this section is presumed abandoned if unclaimed for more than two years.

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

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

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

(b)(i) The insured has attained, or would have attained if he were living, the limiting age under the mortality table on which the reserve is based;

(ii) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph (i) of this subsection; and

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

(4) For purposes of this chapter, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection (1) of this section if the insured has died or the insured or the beneficiaries of the policy otherwise have become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(6) Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(7) Commencing two years after June 30, 1983, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request the following information:

(a) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;

(b) The address of each beneficiary; and

(c) The relationship of each beneficiary to the insured.

QUESTION 3: When insurance proceeds are being escheated under the name of the beneficiary, is it assumed the beneficiary resides at the same address as the insured or if there is no address recorded specifically for the beneficiary, should it default to the state of incorporation?

ALABAMA: The language of the law speaks to the last known address of the owner. Therefore, if the property belongs to the beneficiary, use the beneficiaries' address. If this is not available, use the primary owner's address. If no address is available, property would revert to the state of incorporation.

NEW YORK: If the beneficiary's last known address is not provided, the property defaults to the insured's state of last known address. In the absence of any address for either party property, it is escheatable to state of incorporation.

OKLAHOMA: Please see Oklahoma Statute 60 OS 66I at: www.oscn.net.

SOUTH CAROLINA: Section 27-18-80(B) of the South Carolina Code of Laws stipulates "If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the company."

UTAH: Proceeds should not default to the state of incorporation. The Act reads: "The insurance company shall presume that the last-known address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company if:... a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company; or it is not definite and certain from the records of the company who is entitled to the funds." See 67-4a-205(2).

WASHINGTON: When being reported the insured's name should be reported along with the beneficiary name (with designation that they are the beneficiary) using the insured's address. If you know the insured has passed and you don't have an address for the beneficiary you would use the insured's address per the statute I included above [for question 2].

QUESTION 4: When property gets turned over to your state, how much time elapses before you make attempts to contact the apparent owner?

ALABAMA: Alabama Code Section 35-12-78a-b states: "It is specifically recognized that the state has an obligation to make an effort to notify apparent owners of abandoned property in a cost-effective manner. The Treasurer shall make a least one active attempt to notify apparent owners of the existence of abandoned property held by the Office of the Treasurer. Within 12 months of the receipt of the property, the Treasurer shall mail a postcard notification to the apparent owner..."

While the law provides a period of one year to make attempts to locate the reported owner(s), the Alabama State Treasury typically posts the reported record to our website for public viewing within 30-90 days of receipt of property, and conducts a mail notice mailing within 120 days. Specifically, these procedures and processes relate to items with a value of \$50 or greater.



NEW YORK: NYS maintains and updates two searchable data bases on its website. One contains information about all accounts received valued at \$20 and up received over the last 6 months, and it is updated twice yearly. The other contains the accounts all accounts valued at \$50 and up, and all accounts received as securities received from 1985 and forward. It is updated monthly, with newly processed accounts added and paid accounts removed. The searchable data bases can be found here: www.osc.state.ny.us/ouf/index.htm. In addition, NYS conducts over 100 outreach events per year, all over the State.

OKLAHOMA: It could be anywhere from 1 to 60 days before items fifty-dollars and greater appear on our website. Our website is updated on a monthly basis. Please see Oklahoma Statue 60 OS 662 at: www.oscn.net.

SOUTH CAROLINA: All eligible owner names are listed on our website the Monday after the report is loaded into our system. We attempt to identify and locate the owners of the larger accounts within several weeks after the reports are loaded. Targeted individual searches for easily located persons or entities and for the owners of large accounts are performed year round.

UTAH: Property information appears on the public web site as soon as the report has been entered and cleared. Newspaper ads are published once a year and staff locating efforts are an ongoing continuous process as time allows.

WASHINGTON: Report is normally input within 120 days of receipt, owner name goes on our internet database the next business day, and a claim form is mailed to the last known address within 1 to 3 months after the name enters the database.

QUESTION 5: When owners come forward to claim their property, how long does the process take? Is the process the same for businesses and individuals?

ALABAMA: Once the claim is filed and returned to our office, we inform the customer that the claim process may take 6 to 8 weeks, depending on the workload. However, a large amount of our claims are processed within 3 to 4 weeks. Work load has a significant bearing on the duration of the claim process.

NEW YORK: It depends on a number of factors. Smaller accounts being claimed by an owner who submits a signed, notarized claim form containing basic owner information which matches the information we have on record can often be paid within two weeks. On average, 80% of the claims we received in the last year were paid within 90 days. On the other hand, claims for larger accounts, being claimed by a person or persons other than the original owner, can take significantly longer to process, especially if our office has to make multiple requests for documents proving entitlement.

Guidelines on how to file a claim for funds held by NYS can be found on our website here: www.osc.state.ny.us/ouf/reqdoc.htm#OWN. Supplemental claim forms which may be needed can be found here: www.osc.state.ny.us/ouf/forms.htm. Links to a number of other useful resources can be found here: www.osc.state.ny.us/ouf/index.htm. Claimants can also call our toll-free Helpline at 1- 800- 221-9311.

Claims filed by businesses are processed by our Corporate Claims Unit, and may include claims for reimbursement for accounts returned to customers; claims for monies reported in error; or claims for funds held by NYS but belonging to the claiming company. Instructions and a form for claiming reimbursements or monies paid in error can be found here: www.osc.state.ny.us/ouf/forms/corporate.pdf.

There are specific requirements for businesses claiming funds belonging to them. In general, the business must prove it is entitled to the funds being claimed, and the person submitting the claim must prove that he or she is authorized to claim on behalf of the business. For help with the claiming process, call our Helpline at 1-800- 221- 9311.

OKLAHOMA: Depending on the work load up to 90 days. The process is the same, we work them in the order we get them.

SOUTH CAROLINA: Our claim form states that it can take up to twelve weeks to process a claim. However, claims for which the claimant is the original owner and all required information is provided are generally paid much faster -usually within two or three weeks. Claims that are missing vital information (like photo id) cannot be quickly approved because we must request the needed information from the claimant, which adds a step to the process. Claims that require additional research and/or scrutiny (i.e.: estate claims, those for bankrupt or defunct businesses or any other claims for which the claimant is NOT the original owner) may take up to twelve weeks. Obviously, anytime there is a huge influx of claims (usually due to media attention), the processing times will be unavoidably longer than the norm.

UTAH: Claims are processed on a first-in, first-out basis. The time required to process a claim after it is received will depend upon the volume of unprocessed claims in inventory. The process is the same for both businesses and individuals. Obviously, it will take longer to process claims resulting from our newspaper ad than it does for claims received in an off-peak period.

WASHINGTON: Washington's goal is to pay monetary claims within 30 working days of receipt. We currently pay 90% within 30 days and average around 20 working days (one calendar month). Normal business claims are not treated any differently that an individual owner. If a Holder sends in a claim requesting reimbursement because they've repaid the owner or paid us the funds in error, those claims are expedited (worked first).



QUESTION 6: From when unclaimed property reports are due and filed with your state, how long does it take to reconcile and load reports?

ALABAMA: As referenced in question #4 Alabama Code Section 35-12-78a-b provides a period of one year to load, reconcile and advertise the property record. Historically, most property reports are processed and reconciled well within a 120 day period. Logically, if a report has been remitted in a digital or electronic format the ability to process in a timely fashion is helpful.

NEW YORK: Again, it depends. During March and November, our busiest months, it takes staff about a month to process incoming reports and load them onto our processing system. Then it is a matter of processing them. Error free reports submitted electronically containing all necessary information can be balanced and released over night. Reports containing errors will take a little - or a lot - longer, depending on whether staff can make the required fixes, or whether staff has to contact the company who submitted the report to get the error fixed.

OKLAHOMA: 1 to 60 days, once the files received in the holder area.

Note: There are several factors to consider as far as time frame to load the reports:

- a. the number of electronic files received on a daily basis
- b. the size of the files
- c. whether the file is clean, no errors detected by the system.

SOUTH CAROLINA: During most of the year, reports are loaded into our system within a few days of receipt. However, it obviously takes longer for reports received on and around November 1. All reports received November 1 are generally loaded by the middle of January, with the reports received in NAUPA format on CD or diskette being processed first.

UTAH: Reports are reconciled and entered into the system on a first-in, first-out basis. Obviously it will take longer to process the volume of reports received for the November 1 filing deadline than reports received throughout the year.

WASHINGTON: Reports are normally loaded and reconciled within 120 days of receipt. Currently, 80% of our reports are loaded and reconciled within 60 days of receipt (70% within 30 days).

QUESTION 7: What is the process for holders to reclaim property that was reported in error? How long does this typically take?

ALABAMA: A company may file a holder adjustment form (located on our website) at any time once the report has been remitted. The ability of our office to satisfy a holder adjustment request within a couple of weeks after their report has been remitted is contingent on our ability to load and reconcile their remittance report. Naturally, requests around October or November may require longer periods, given our office is operating in the front-end of the business reporting period. As in the past, we will work with businesses to satisfy their requests. Telephone calls and emails are welcome. For holder adjustment requests filed against a record which appears on our database, the request can be satisfied within 7-10 business days.

NEW YORK: See the answer given to question 5. As additional information, note that if the error is discovered and reported to our office before the report is balanced and released, the request can be processed by the Reports Processing Unit. If the error is small and uncomplicated, it can usually be resolved fairly quickly if the requested documents are submitted timely. However, if the report has been balanced and released to the accounts data base, the claim must be handled by our Claims Processing Unit.

OKLAHOMA: They need to send copy of report and copy of cancelled check they paid the owner. We have several affidavits depending on the situation I will send to them. I process these claims as soon as I receive them normally within ten days.

SOUTH CAROLINA: Holders who have reported in error can request reimbursement by either writing a letter detailing the error OR completing a Holder Reimbursement Form available on our website www.treasurer.sc.gov or on the NAUPA website www.unclaimed.org in the "Free Compliance Tools" section. Holder reimbursements are a high priority and are therefore turned around within just a few weeks after receipt of the request.

UTAH: Holders can contact our office for a form or the NAUPA Holder Reimbursement Form may be used. We treat holder reimbursement requests with priority.

WASHINGTON: They need to send us a detailed written explanation of the error listing the owners they are requesting reimbursement for. We do ask that they first email us to let us know what owners they will be requesting back so that we may place a hold on those owners to prevent us from paying the owners rather than the Holder. Once we receive the request from the Holder it should be reviewed and processed for payment within 10 days.

QUESTION 8: Do you accept email correspondence as contact that will rebuff the presumption of abandonment?

ALABAMA: Alabama Code Section 35-12-72 requires communication in writing. Therefore email correspondence between the holder and owner specific to the property represents owner contact.

NEW YORK: The statute does not provide for anything other than written contact with the entitled party.

OKLAHOMA: Yes

SOUTH CAROLINA: For securities Section 27-18-110 of the South Carolina Code of Laws states: "The running of the three-year period ceases if the person communicates in writing with the association or its agent regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or otherwise communicates with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association or its agent." For bank accounts, Section 27-18-70 of the South Carolina Code of Laws states: "Any demand, savings, or matured time deposit with a banking or financial organization, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking

or financial organization is presumed abandoned unless the owner, within five years has in the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest; communicated in writing with the banking or financial organization concerning the property; otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization..”

UTAH: Yes, where the e-mail is generated by the owner and there is clear communication regarding the property in question.

WASHINGTON: Yes, if the Holder knows that it is their customer, the email would be the same as getting a letter via USPS.

OTHER: In accordance with Governor Huntsman’s “Working 4 Utah” initiative, the hours of the Utah Unclaimed Property Office have changed. The new hours are 7:00 a.m. to 6:00 p.m. Monday through Thursday, and it is now closed on Fridays.

If you have questions for states to be featured in future issues, please email them to christa.deoliveira@smsvanacore.com.

ABOUT SMS VANACORE

SMS Vanacore’s experienced team designs custom unclaimed property programs to fit our client’s particular needs. We tailor programs to help reduce unclaimed property liability, retain assets under management, service shareholders, and maintain compliance with SEC and state regulations. Our full scope of services include:

- SEC Compliance Searches
- Extensive Investigative Searches
- Address Verification and Due Diligence Mailings
- Initial Compliance Programs
- State Unclaimed Property Reporting
- New Account Verification and Fraud Mitigation Programs
- Compliance Consulting Services
- Monitoring of Unclaimed Property Laws and Regulations

CONTRIBUTOR’S CORNER

Unclaimed Property Professionals Organization Hires Its First Executive Director

By UPPO President, Debbie Chastain

The Unclaimed Property Professionals Organization (UPPO) has hired Thomas Stefaniak as its first Executive Director. Mr. Stefaniak, a Certified Association Executive credentialed by the American Society of Association Executives, previously held management positions with the American Society for Quality and the American Society of Radiologic Technologists. He received his Bachelor of Business Administration degree from the University of Wisconsin-Milwaukee and his Master of Business Administration degree from the University of Wisconsin-Whitewater.

By taking the plunge and hiring an Executive Director, UPPO is affirming its commitment to the continued expansion of member benefits and services. Thomas’ proven expertise in association management and market expansion, combined with his leadership skills, make him the perfect choice to lead UPPO. Working in partnership with the UPPO Board, Thomas will lead UPPO in its mission to be the premier resource for professional unclaimed property knowledge, networking, and advocacy.

Many unclaimed property professionals quickly recognize the name “UPPO” and agree that UPPO is the leader in unclaimed property education. Soon, CFO’s of large and medium sized companies will quickly recognize the name UPPO, and will be able to state the direct value UPPO provides to their companies.

With a strong and stable membership base of 250+ companies, UPPO is focused on:

- Ensuring that companies understand their unclaimed property reporting requirements;
- Keeping companies informed about the resources available to lessen the burden of compliance and to control the amount of unclaimed property; and
- Helping unclaimed property professionals build and maintain a strong network of peers, state contacts, and service providers.

UPPO’s annual conference brings together 400+ unclaimed property professionals, including professionals who manage unclaimed property for Fortune 500 companies, state unclaimed property administrators, and companies who offer various unclaimed property services. The conference has separately designed tracks for beginning, intermediate, and advanced professionals. By running these tracks simultaneously, unclaimed property professionals are given the opportunity to network with their peers at all levels.

I personally invite you to join UPPO at its next annual conference in beautiful Jacksonville, FL from March 10 through March 13, 2009. I’m confident that you will leave Jacksonville and rave about the quantity and quality of the education, your expanded network of professionals, and the sunny Jacksonville beaches. Registration for the conference will open September 15, 2008. With the addition of our Executive Director, UPPO is able to devote one resource to Events Planning. If you have questions about upcoming events or need help registering, contact Jackie Cote, Events Director, at jackie@uppo.org.

In the very near future, UPPO will begin offering eLearning opportunities. As many of our members experience slashed travel budgets in tough economic times, UPPO is committed to providing cost efficient alternatives. Stay tuned to our website for more details.

If you are not a member of UPPO, we invite you to join for the economical price of \$250 per company per year. If you are not ready to join, but would like to be added to our mailing list to stay informed about unclaimed property developments and UPPO, send your name, company, phone number, and email to info@uppo.org.

Once you become a member you will be given expanded access to our website, which includes the following:

- Unclaimed property news,
- Forums,
- Results of membership opinion polls,
- A means of locating and exchanging unclaimed property with other members,
- Contact information for each state unclaimed property administrator,
- Information on becoming or finding an unclaimed property mentor in your industry,
- Ways to volunteer with UPPO, and
- Advocacy effort information.

If you have any questions or comments, please contact me or Thomas Stefaniak. We love to hear about your challenges and opportunities in the world of unclaimed property. These shared experiences and information exchanges will help UPPO meet the need of its members today and in the future.

Visit the UPPO website at www.uppo.org. You can contact Jackie Cote, Events Director, at jackie@uppo.org, Thomas Stefaniak, Executive Director, at tstefaniak@uppo.org, and Debbie Chastain, President, at dchastain@uppo.org.

To subscribe, ask questions, or submit suggestions, please send an email to newsletter@smsvanacore.com.

LEGISLATIVE UPDATES

This web edition includes highlights of recently passed legislation impacting unclaimed property and gift cards; it does not convey legal advice. Previous legislative updates are available in the first and third quarter online editions of our newsletters at www.smsvanacore.com/news.html. (Budgetary legislation is only cited when there are peripheral provisions that might be of interest.)

DELAWARE

HR 62 adopted 6/11/08: This resolution reestablishes a task force to review and report on Delaware's abandoned property laws and practices with a reporting date of June 12, 2008.

HR 71 adopted 6/25/08: This extends the report date of the Task Force to August 29, 2008.



SB 334 signed 6/30/08: This bill lowers the dormancy period to 3 years for security related properties.

SB 335 signed 6/30/08: This bill requires for the escheat of monies due on unclaimed pari-mutuel tickets after a 1 year dormancy period.

HAWAII

HB 2559 effective 7/1/09: This legislation establishes a revised Uniform Unclaimed Property Act based on the Uniform Unclaimed Property Act of 1995. The entire legislation can be reviewed at www.capitol.hawaii.gov/session2008/bills/HB2559_SDI_.htm.

IDAHO

HB 346 signed 2/13/2008: Amends the Unclaimed Property Act to exclude the interest provisions of subsection (6) of section 63-3045 of the Idaho Code.

ILLINOIS

HB 369 effective 1/1/08: Expiration dates earlier than 5 years and post sale fees on gift certificates are prohibited. Certificates issued prior to 1/1/08 subject to fees and expiration dates must contain a clear and conspicuous statement printed on the card stating there is a fee, how often it will be assessed that inactivity triggers the fee and when the fee will be assessed. The statements must be visible prior to purchase, unless the card lists a toll free phone number with a conspicuous statement notifying that owners can call the number to retrieve the remaining balance and any applicable expiration date.

HB 5904 signed 8/14/08: If medals awarded to U.S. military personnel are delivered to the Treasurer in compliance with unclaimed property laws in the contents of a safe deposit box, those medals shall not be offered for sale or at public auction. Medals shall only be returned to the owner of the safe deposit box or the heirs of that owner.

MAINE

LD 2181 signed 4/14/08: This legislation requires merchants redeeming gift obligations or stored value cards to refund remaining balances of \$5 or less in cash as long as the instrument is redeemed in person by the customer.

MASSACHUSETTS

SB 2345 signed 3/11/08: A purchaser of a gift certificate shall be allowed to receive the balance in cash when it cannot have more value added and if it has already been redeemed for at least 90% of its face value. For a gift certificate where value can be added, it may be redeemed for cash if the remaining value is \$5 or less. A gift certificate shall not include pre-paid calling arrangements or any electronic card usable with multiple unaffiliated sellers of goods or services. Sellers of gift certificates that impose fees that reduce the total value of the gift certificate, shall be punished by a fine of not more than \$300 per violation. Whoever redeems a gift certificate and deducts a gratuity without the consent of the owner, shall be punished by a fine of not more than \$300 per violation.

MICHIGAN

HB 4050 signed 7/10/08: This legislation prohibits retailers from refusing to accept gift certificates, except after an expiration date, which must be at least 5 years after the purchase date. It also prohibits restricting the bearer of a gift

certificate from using it in any manner that is consistent with the terms and conditions, altering terms and conditions after purchase, or failing to accept a certificate and apply it to a purchase when the remaining value is less than the total purchase price.

HB 4317 signed 7/10/08: Prohibits retailers from assessing an inactivity fee or other similar service fee for the possession or use of gift certificate. Fees charged to and paid by consumer at the time of sale are excluded unless said fees are deducted from the face value of the certificate. Unfair, unconscionable, and deceptive methods, acts, and practices in the conduct of commerce and trade are unlawful, see legislation for specific listings and potential consequences of violations.

HB 4680 signed 7/10/08: Prohibits retailers of goods or services from selling a gift certificate with an expiry period of less than 5 years.

SB 388 signed 7/10/08: Amends several sections of the current unclaimed property law, it provides a series of definitions. A gift certificate, gift card, or credit memo is presumed abandoned if: it is not claimed or used for a period of 5 years after becoming payable or distributable or the certificate, card, or memo was used 1 or more times without the full value having been exhausted and was subsequently not used for an uninterrupted 5 years.

A gift certificate or card is considered to have been used if there is any transaction initiated by the buyer or owner; whereas, activity initiated by the issuer such as assessing inactivity fees is not considered as use of the certificate or card. For gift certificates and gift cards the owner is considered to be the gift recipient and the amount presumed abandoned is the original purchase price, less any fees assessed against it. For a credit memo the amount presumed abandoned is amount credited to the recipient of the memo. This legislation does not apply to a gift certificate as defined in section 3e of the Michigan consumer protection act, 1976 PA 331, MCL 445.903e.

The legislation directs the expiration of the duration of when a claim for money or property can be made as specified by contract, statute, or court order does not prevent the money or property from being presumed abandoned or remove the duty to report and deliver unclaimed property to the administrator. This subsection does not apply to gift cards or gift certificates.

NEBRASKA

LB 668 signed 3/10/08: A gift certificate or card which is not assessed any fees and does not have an expiration date shall not be presumed abandoned; this removes the previous restriction of only applying to cards and certificates with values of less than \$100.

NEW HAMPSHIRE

HB 1533 effective 8/29/08: Reports with 20 or more items shall be remitted in an electronic format; however, the administrator may waive this requirement when he or she determines that it creates an undue hardship. Any sale, including securities, held under this section shall be preceded by notice sent via First Class mail to the last known address of the property owner at least 30 days in advance of sale and

a single publication of notice, at least 3 weeks in advance of sale, in a newspaper of general circulation for the county in which the property is to be sold.

Outlines how the administrator should consider claims for property if the administrator held in the name of a deceased owner and outlines when probate is appropriate also sets dollar thresholds for various courses of action.

NEW YORK

SB 8650 signed 7/7/08: This legislation addresses unclaimed property lent to museums. Property lent to a museum becomes unclaimed if there has been no contact with the owner for at least ten years from the date of the beginning of the loan, if the loan was for an indefinite or undetermined period, or for at least five years after the date upon which the loan for a definite period expired. For these properties certain notice and publication requirements must be followed, including publication of the property on the unclaimed funds registry. Once the required steps have been observed a museum may acquire the rights to the property.

OKLAHOMA

SB 1685 signed 5/2/08: Escheating property with a value of under \$50 is to be reported in aggregate, except for property which is one of a series of continuing payments, such as royalties, annuities, and dividends. These must be reported in the same manner as property with a value of \$50 or more. For property removed from safe deposit boxes or another safe-keeping depository the holder has a right to be reimbursed for specific costs, including the cost of opening the box and unpaid rent or storage charges. The holder will be reimbursed out of the proceeds of selling the property less the expenses incurred in selling the property. Also, the legislation authorizes the Treasurer to enter into contracts to conduct examinations on behalf of the state.

OREGON

HB 2104 effective 1/1/08: The dormancy period for any demand, savings, or matured time deposit with a financial institution has been reduced from 5 to 3 years. The requirement for 3 months written notice before a holder may impose any fee or cease paying interest due to dormancy or inactivity has been changed from certified mail to First Class mail. Renewable time deposits are still considered matured on the expiration date of their initial time period, unless the owner consents to a renewal at the time of renewal by communicating in writing, the financial institution has sent a written or electronic statement, and the statement was not returned. Also, if the delivery of the property would result in a penalty or forfeiture, then the delivery may be delayed until the time when there will be no penalty or forfeiture.

Additionally, the dormancy period has been reduced from 5 to 3 years for

- checks, drafts, or similar instruments including a cashier's check and a certified check, for which a financial institution is directly liable;
- funds held or owing under a life or endowment insurance policy or annuity contract that has matured or terminated;
- stock, certificates of ownership, or other intangible equity ownership interests in a business association; and
- any dividend, profit distribution, interest, payment

on principal, or other sum held or owing by a business association.

RHODE ISLAND

HB 7398 effective 7/4/05: Unfair Sales Practices Act amended, gift cards or prepaid stored value cards issued by a state-chartered financial institution, credit union, or by third party issuers for cards that are usable at multiple, unaffiliated merchants or service providers are excluded from this act, providing that they comply with necessary disclosure and marketing guidelines.

SOUTH CAROLINA

SB 741 effective 4/15/08: The dormancy period for security related property has been reduced from 7 to 3 years, the parameters of determining abandonment are also delineated. When claims are allowed the administrator shall pay or deliver the property or net proceeds. For interest bearing property the administrator also shall pay interest at a rate provided in Section 12-54-25 or any lesser rate the property earned while in the possession of the holder. Interest begins accruing when property is delivered and ends after 10 years or upon returning to the owner. Interest is not payable on any property before the effective date of this chapter.

Holders that fail to report or perform other duties as required may be assessed a penalty of \$100 for each day the report is withheld or the duty is not performed, with a maximum of \$5,000. Additionally, holders that fail to report and deliver property may be assessed a civil penalty of 25% of the value of the property that should have been delivered.

TENNESSEE

HB 3793 effective 5/16/08: Working papers for unclaimed property audits are confidential unless the subject of the audit consents to disclosure. They also may be disclosed to comply with a subpoena or a court order or they are part of a joint audit with another state or federal agency. The Treasurer shall have sole discretion for disciplinary actions against employees or agents that intentionally disclose records that are considered confidential, including but not limited to terminating contracts with vendors that violate these provisions.

UTAH

SJR 11 adopted 3/13/08: This joint resolution provides direction to study many items including treating expired gift certificates as unclaimed property.

VERMONT

HB 588 effective 7/1/09: Property held by a museum that is not subject to a loan agreement and has been held for 10 or more years and has remained unclaimed during that time shall be deemed to be abandoned. The property shall become the property of the museum, provided the museum has given notice as required. Property in the possession of a museum subject to a loan agreement shall be deemed to be donated to the museum, provided no claim is made after the termination of the loan, the museum adheres to notification requirements, no assertion of title is filed within the required timeframe of responding to the notices.

HB 888 signed 6/6/08: Electric utility cooperatives shall not pay or deliver capital credits to the Treasurer. The Treasurer shall provide notice of unclaimed capital credit properties reported by electric utilities. For claims the Treasurer shall

refer the claimant to the appropriate cooperative which shall evaluate the claim and pay, if appropriate. The cooperative shall notify the Treasurer of the final resolution of claims.

VIRGIN ISLANDS

BILL 27-0161 signed 4/12/08: Adopted the 1995 Uniform Unclaimed Property Act, the full Act may be viewed at www.legvi.org/vilegsearch/ShowPDF.aspx?num=6999&type=Act.

VIRGINIA

HB 1313 & SB 137 effective 7/1/08: A holder that is a state-chartered credit union may refund charges or reverse or cancel those charges or retroactively credit interest with respect to such property to the same extent that a federally-chartered credit union is authorized so to do pursuant to applicable provisions of federal law.

HB 1367 signed 3/27/08: Records, investigative notes, correspondence, and information pertaining to the planning, scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed are excluded from the Freedom of Information Act.

WISCONSIN

AB 617 signed 3/21/08: Statue amending to provide a definition for fiscal year, the period beginning on July 1 and ending on the following June 30. Also, alters the date service charges may be assessed from December 31 to June 30 of the year covered in the filed report.

To subscribe, ask questions, or submit suggestions, please send an email to newsletter@smsvanacore.com.

