



AN ACT REVISING LAWS RELATED TO UNCLAIMED PROPERTY; PROVIDING DEFINITIONS; AMENDING WHEN CERTAIN CATEGORIES OF PROPERTY ARE PRESUMED ABANDONED; REQUIRING THE HOLDER OF CERTAIN ABANDONED PROPERTY TO LIQUIDATE THE PROPERTY AND REMIT THE PROCEEDS TO THE DEPARTMENT OF REVENUE; PROVIDING FOR AN UNCLAIMED PROPERTY WEBSITE TO BE RUN BY THE DEPARTMENT OF REVENUE; PROVIDING FOR THE CONFIDENTIALITY OF PERSONAL INFORMATION; AND AMENDING SECTIONS 70-9-802, 70-9-803, 70-9-808, 70-9-809, 70-9-810, 70-9-812, 70-9-820, AND 70-9-827, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-9-802, MCA, is amended to read:

"70-9-802. Definitions. In this part, unless the context requires otherwise, the following definitions apply:

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

~~(2)~~(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)~~(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, financial organization, insurance company, mutual fund, utility, or other business entity consisting of one or more persons, whether or not for profit.

~~(4)~~(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)~~(5) "Financial organization" means a savings and loan association, bank, banking organization, or credit union.

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

~~(7)~~(7) "Holder" means a person obligated to hold for the account of, or deliver or pay to, the owner property that is subject to this part.

~~(8)~~(8) "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.

~~(9)~~(9) "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 this state.

~~(10)~~(10) "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 after abandonment. The term includes amounts payable:

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

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

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

~~(11)~~(11) ~~(a)~~(a) "Money order" includes an express money order and a personal money order, on which the remitter is the purchaser.

~~(b) 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.~~

(b) 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.

~~(12)~~(12) "Owner" means a person who has a legal or equitable interest in property subject to this part

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~~ and a creditor, claimant, or payee in the case of other property.

~~(13)~~(13) "Person" means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(14) "Personal information" means:

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

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

(ii) date of birth;

(iii) home or physical address;

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

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

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

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

(b) personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law.

~~(14)~~(15) (a) "Property" means tangible property described in 70-9-804 or a fixed and certain interest in intangible property that is held, issued, or owed in the course of a holder's business or, except as provided in subsection ~~(14)(b)~~ (15)(b), by a government, governmental subdivision, agency, or instrumentality and all income or increments from the property. The term includes property that is referred to as or evidenced by:

(i) money, virtual currency, 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) 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 that is 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.

(b) The term does not include:

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

(ii) property held in state and local government sponsored retirement plans governed by Title 19;

(iii) property held in a plan as described in section 529A of the Internal Revenue Code, 26 U.S.C.

529A, as amended.

~~(15)~~(16) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and that is retrievable in perceivable form.

(17) "Security" means:

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

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

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

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

(iii) specifically indorsed to the person; or

(c) an equity interest in a business association not included in subsection (17)(a) or (17)(b).

~~(16)~~(18) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession that is subject to the jurisdiction of the United States.

~~(17)~~(19) "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.

(20) (a) "Virtual currency" means a digital representation of value used as a medium of exchange,

unit of account, or store of value that does not have legal tender status recognized by the United States.

(b) The term does not include:

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

(ii) game-related digital content; or

(iii) a loyalty card.

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

Section 2. Section 70-9-803, MCA, is amended to read:

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

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

(b) money order, 7 years after issuance;

~~(c) stock or other equity interest in a business association or financial organization, including a security entitlement under Title 30, chapter 8, 5 years after the earlier of:~~

~~(i) the date of the most recent dividend, stock split, or other distribution that was 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;~~

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

~~(e)(d)~~ demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years after the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a deposit that is automatically renewable is considered matured for purposes of this section upon its initial date of maturity unless the owner has consented to a renewal at or about the time of the renewal and the consent is in

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

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

~~(g)~~(f) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value. A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal year sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year by the inflation factor. The amount considered abandoned for a person who sells more than the amount that triggers presumption of abandonment is the value of gift certificates greater than that trigger.

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

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

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

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

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

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

~~(n)~~ property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income

~~tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;~~

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

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

~~(o)~~ an unclaimed share in a cooperative that is not used for charitable or civic purposes in the community in which the cooperative is located, 5 years after the distribution date; ~~and~~

(p) a security, as provided in [section 9]; and

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

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

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

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

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

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

(c) ~~the~~ the making of a deposit to or withdrawal from an account in a financial organization; ~~and~~
and

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

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

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

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

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

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

Section 3. Section 70-9-808, MCA, is amended to read:

"70-9-808. Report of abandoned property. (1) A holder of property presumed abandoned shall make a report to the administrator concerning the property.

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

(a) a description of the property;

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

- (c) an aggregated amount of items valued under \$50 each;
- (d) in the case of an amount of \$50 or more held or owing under an annuity or a life or endowment insurance policy, the full name and last-known address of the annuitant or insured and of the beneficiary;
- (e) in the case of property held in a safe deposit box or other safekeeping depository, an indication of the place where it is held and where it may be inspected by the administrator and any amounts owing to the holder;
- (f) the date, if any, on which the property became payable, demandable, or returnable and the date of the last transaction with the apparent owner with respect to the property; and
- (g) other information that the administrator by rule prescribes as necessary for the administration of this part, including personal information as defined in 70-9-802 about the apparent owner or the apparent owner's property to the extent not otherwise prohibited by federal law.

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

~~(4)~~(4) The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a report with respect to a life insurance company must be filed before May 1 of each year for the calendar year next preceding.

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

- (a) the holder has in its records an address for the apparent owner that the holder's records do not disclose to be inaccurate;
- (b) the claim of the apparent owner is not barred by a statute of limitations; and
- (c) the value of the property is \$50 or more.

~~(6)~~(6) Before the date for filing the report, the holder of property presumed abandoned may request the administrator to extend the time for filing the report. The administrator may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder

estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

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

Section 4. Section 70-9-809, MCA, is amended to read:

"70-9-809. Payment or delivery of abandoned property to administrator. (1) Except for property held in a safe deposit box or other safekeeping depository, upon filing the report required by 70-9-808, 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; however, if the property is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe deposit box or other safekeeping depository may not be delivered to the administrator until 60 days after filing the report required by 70-9-808.

(2) If the property reported to the administrator is a security or security entitlement under Title 30, chapter 8, ~~the administrator is an appropriate person to make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with Title 30, chapter 8.~~ the administrator is an appropriate person to make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with Title 30, chapter 8.

(3) If the property reported to the administrator is a virtual currency, the holder shall liquidate the virtual currency within 30 days of filing the report and remit the proceeds in United States currency to the administrator. The holder may not sell a virtual currency for less than the price prevailing on an established virtual currency exchange at the time of the sale. The holder may sell a virtual currency not listed on an established virtual currency exchange by any commercially reasonable method. Prior to selling a virtual currency, the holder shall send written notice to the apparent owner not less than 60 days before the sale that the virtual currency will be liquidated.

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

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

Section 5. Section 70-9-810, MCA, is amended to read:

"70-9-810. Notice and publication of lists of abandoned property. ~~(1) The administrator shall publish a notice not later than November 30 of the year following the year in which abandoned property has been paid or delivered to the administrator. The notice must be published in a newspaper of general circulation in the county of this state in which is located the last-known address of any person named in the notice. If a holder does not report an address for the apparent owner or the address is outside this state, the notice must be published in the county in which the holder has its principal place of business within this state or another county that the administrator reasonably selects. The advertisement must be in a form that, in the judgment of the administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The administrator shall publish every 3 months in at least one newspaper of general circulation in each county in this state in which a newspaper is published an advertisement of property held by the administrator that:~~

- ~~(a) directs the public to the administrator's unclaimed property website provided in subsection (2);~~
- ~~(b) includes a telephone number and electronic mail address to contact the administrator to inquire about or claim property; and~~
- ~~(c) includes a statement that a person may access the internet by a computer to search for unclaimed property and a computer may be available as a service to the public at a local public library.~~

~~(2) The administrator shall maintain an unclaimed property website that can be accessed and is easily searchable by the public. The ~~form~~ website must contain:~~

- ~~(a) the name of each person appearing to be the owner of the property, as set forth in the report filed by the holder;~~
- ~~(b) the last-known address or location of each person appearing to be the owner of the property, if~~

an address or location is set forth in the report filed by the holder;

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

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

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

Section 6. Section 70-9-812, MCA, is amended to read:

"70-9-812. Public sale of abandoned property. (1) Except as otherwise provided in this section, the administrator, within 3 years after the receipt of abandoned property, shall sell it to the highest bidder at public sale at a location in the state, which in the judgment of the administrator affords the most favorable market for the property. The administrator may decline the highest bid and reoffer 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 3 weeks before sale, ~~in a newspaper of general circulation in the county in which the property is to be sold~~ on the unclaimed property website maintained by the administrator.

~~(2) 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 3 years after their delivery to the administrator, a person making a claim under this part before the end of the 3-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 up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this part after the expiration of the 3-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.~~

(2) 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 3 years after their delivery to the administrator, a person making a claim under this part before the end of the 3-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 up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this part after the expiration of the 3-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.

~~(3)~~(3) A purchaser of property at a sale conducted by the administrator pursuant to this part 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."

Section 7. Section 70-9-820, MCA, is amended to read:

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

(2) The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this part. 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 this part. The administrator may contract with any other person to conduct the examination on

behalf of the administrator.

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

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

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

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

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

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

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

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

~~(6)~~(7) If, after July 1, 1997, a holder does not maintain the records required by 70-9-821 and the records of the holder available for the periods subject to this part 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."

Section 8. Section 70-9-827, MCA, is amended to read:

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

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

Section 9. When security presumed abandoned. (1) A security is presumed abandoned 3 years after:

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

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

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

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

is invalid;

- (b) the holder receives notification that the electronic mail communication was not received; or
- (c) the apparent owner does not respond to the electronic mail communication within 30 days after

the communication was sent.

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

Section 10. Codification instruction. [Section 9] is intended to be codified as an integral part of Title 70, chapter 9, part 8, and the provisions of Title 70, chapter 9, part 8, apply to [section 9].

- END -

I hereby certify that the within bill,
HB 136, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2023.

President of the Senate

Signed this _____ day
of _____, 2023.

HOUSE BILL NO. 136

INTRODUCED BY M. BERTOGLIO

BY REQUEST OF THE DEPARTMENT OF REVENUE

AN ACT REVISING LAWS RELATED TO UNCLAIMED PROPERTY; PROVIDING DEFINITIONS; AMENDING WHEN CERTAIN CATEGORIES OF PROPERTY ARE PRESUMED ABANDONED; REQUIRING THE HOLDER OF CERTAIN ABANDONED PROPERTY TO LIQUIDATE THE PROPERTY AND REMIT THE PROCEEDS TO THE DEPARTMENT OF REVENUE; PROVIDING FOR AN UNCLAIMED PROPERTY WEBSITE TO BE RUN BY THE DEPARTMENT OF REVENUE; PROVIDING FOR THE CONFIDENTIALITY OF PERSONAL INFORMATION; AND AMENDING SECTIONS 70-9-802, 70-9-803, 70-9-808, 70-9-809, 70-9-810, 70-9-812, 70-9-820, AND 70-9-827, MCA.