MISSISSIPPI LEGISLATURE  
REGULAR SESSION 2013  

By: Representative Baker  
To: Judiciary A  

HOUSE BILL NO. 249  

AN ACT TO ENACT THE MISSISSIPPI UNIFORM UNCLAIMED PROPERTY ACT; TO PROVIDE THAT THE STATE TREASURER SHALL BE THE ADMINISTRATOR OF UNCLAIMED PROPERTY IN MISSISSIPPI; TO SET FORTH DEFINITIONS; TO PROVIDE PRESUMPTIONS OF ABANDONMENT; TO PROVIDE RULES FOR TAKING CUSTODY OF ABANDONED PROPERTY; TO ESTABLISH THE BURDEN OF PROOF AS TO PROPERTY EVIDENCED BY RECORD OF CHECK OR DRAFT; TO PROVIDE FOR THE REPORTING OF ABANDONED PROPERTY; TO PROVIDE FOR THE PAYMENT OR DELIVERY OF ABANDONED PROPERTY; TO PROVIDE FOR NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY; TO ESTABLISH CUSTODY OF ABANDONED PROPERTY IN THE STATE; TO PROVIDE FOR RECOVERY OF ABANDONED PROPERTY BY THE HOLDER AND FOR DEFENSES OF THE HOLDER; TO PROVIDE FOR THE CREDITING OF DIVIDENDS, INTEREST AND INCREMENTS TO THE OWNER'S ACCOUNT; TO PROVIDE FOR PUBLIC SALE OF ABANDONED PROPERTY; TO CREATE THE ABANDONED PROPERTY CLAIMS PAYMENT FUND; TO PROVIDE FOR THE DEPOSIT OF FUNDS RECEIVED UNDER THIS ACT; TO PROVIDE FOR THE MANNER OF MAKING A CLAIM OF ANOTHER STATE TO RECOVER PROPERTY; TO PROVIDE FOR THE FILING AND HANDLING OF CLAIMS BY THE ADMINISTRATOR; TO CREATE AN ACTION TO ESTABLISH A CLAIM; TO ALLOW THE ADMINISTRATOR TO ELECT WHETHER TO TAKE PAYMENT OR DELIVERY OF UNCLAIMED PROPERTY; TO PROVIDE IMMUNITY FROM LIABILITY FOR THE DESTRUCTION OR DISPOSITION OF PROPERTY HAVING NO SUBSTANTIAL COMMERCIAL VALUE; TO PROVIDE PERIODS OF LIMITATION FOR MAKING CLAIMS UNDER THIS ACT; TO PROVIDE FOR THE PAYMENT OF INTEREST AND PENALTIES BY A HOLDER WHO FAILS TO REPORT, PAY, OR DELIVER PROPERTY IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT; TO REPEAL SECTIONS 89-12-1 THROUGH 89-12-57, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE THE UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT; TO AMEND SECTIONS 7-7-42, 39-5-23, 43-13-120 AND 81-27-8.005, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.  

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:
SECTION 1. Short Title. This act may be cited as the "Mississippi Uniform Unclaimed Property Act."

SECTION 2. Definitions. In this act:

(a) "Administrator" means the State Treasurer.

(b) "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.

(c) "Business association" means a corporation, joint-stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, savings and loan association, building and loan association, savings bank, industrial bank, land bank, safe-deposit company, safekeeping depository, bank, banking organization, financial organization, insurance company, mutual fund, credit union, utility, or other business entity consisting of one or more persons, whether or not for profit.

(d) "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.

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

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

(g) "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.

(h) "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) Resulting from an agreement or option, including a joint-operating agreement, unit agreement, pooling agreement and farm-out agreement.
(i) "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 banking or financial organization if the seller has obtained the name and address of the payee.

(j) "Owner" means a person who has a legal or equitable interest in property subject to this act 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.

(k) "Person" means an individual, business association, estate, trust, partnership, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(l) "Property" means 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 or governmental entity, and all income or increments therefrom. 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;
(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.

(m) "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.

(n) "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.

(o) "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,
SECTION 3. Presumptions of abandonment. (1) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) Travelers' check, fifteen (15) years after issuance;

(b) Money order, seven (7) years after issuance;

(c) Stock or other equity interest in a business association, including a security entitlement under Section 75-8-101 et seq. (Revised Article 8 of the Uniform Commercial Code), five (5) 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;

(d) Debt obligation of a business association, other than a bearer bond or an original issue discount bond, five (5) years after the date of the most recent interest payment unclaimed by the apparent owner;

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

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

(g) Gift certificate, three (3) 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 (60%) of the certificate's face value;

(h) Amount owed by an insurer on a life or endowment
insurance policy or annuity contract that has matured or
terminated, three (3) years after the obligation to pay arose or,
in the case of a policy or contract payable upon proof of death,
three (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) Property distributable by a business association in
a course of dissolution, one (1) year after the property becomes
distributable;

(j) Property received by a court as proceeds of a class
action, and not distributed pursuant to the judgment, one (1) year
after the distribution date;
(k) Property held by a court, state or other
government, governmental subdivision or agency, public corporation
or other public authority, one (1) year after the property becomes
distributable;

(l) Wages or other compensation for personal services,
one (1) year after the compensation becomes payable;

(m) Deposit or refund owed to a subscriber by a
utility, one (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,
three (3) years after the earliest of the date of the distribution
or attempted distribution of the property, the date of the
required distribution as stated in the plan or trust agreement
governing the plan, or the date, if determinable by the holder,
specified in the income tax laws of the United States by which
distribution of the property must begin in order to avoid a tax
penalty; and

(o) All other property, five (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 of time 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, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

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

(c) The making of a deposit to or withdrawal from a bank account; and
(d) The payment of a premium with respect to a property interest in an insurance policy; 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 act notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

SECTION 4. Rules for taking custody. Unless otherwise provided in this act 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:

(a) The last known address of the apparent owner, as shown on the records of the holder, is in this state;

(b) 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 the state;

(c) 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 a domiciliary or a government or governmental subdivision or agency 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;

(d) 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 a domiciliary or a government or governmental subdivision or agency of this state;

(e) 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 a domiciliary or a government or governmental subdivision or agency of this state;

(f) The transaction out of which the property arose occurred in this state, the holder is a domiciliary of 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

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

SECTION 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.

SECTION 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.
SECTION 7. 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 include:

(a) A description of the property;

(b) Except with respect to a travelers' 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;

(c) An aggregated amount of items valued under Fifty Dollars ($50.00) each;

(d) In the case of money amounting to Fifty Dollars ($50.00) or more held or owing under any annuity or life or endowment insurance policy, the full name and last known address of the insured or annuitant and of the beneficiary;

(e) 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

(f) Other information that the administrator by rule prescribes as necessary for the administration of this act.

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

(4) The report must be filed before November 1 of each year
and cover the twelve (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) The holder of property presumed abandoned shall send
written notice to the apparent owner, not more than one hundred
twenty (120) days or less than sixty (60) days before filing the
report required by this section, stating that the holder is in
possession of property subject to this act 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
the statute of limitations; and

(c) The value of the property is Fifty Dollars ($50.00)
or more.

(6) Before the date for filing the report, the holder of
property presumed abandoned may request the administrator to
extend the time for filing the report. The administrator may
grant the extension for good cause. The holder, upon receipt of
the extension, may make an interim payment on the amount the
holder estimates will ultimately be due, which will terminate the
accrual of additional interest on the amount paid.
(7) The holder of property presumed abandoned shall file
with the report an affidavit stating that the holder has complied
with subsection (5).

SECTION 8. Payment or delivery of abandoned property. (1)
Upon filing the report required by Section 7 of this act, the
holder of property presumed abandoned shall pay, transfer, or
cause to be paid or transferred 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.

(2) If the property reported to the administrator is a
security or security entitlement under Section 75-8-101 et seq.
(Revised Article 8 of the Uniform Commercial Code), 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 Section 75-8-101 et
seq. (Article 8 of the Uniform Commercial Code).

(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 under Section
75-8-101 et seq. (Revised Article 8 of the Uniform Commercial Code), but an indemnity bond is not required.

(4) An issuer, the holder and any transfer agent or other person acting in accordance with 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 of this act.

SECTION 9. Notice and publication of lists of abandoned property. (1) The administrator shall publish a notice not later than November 30 of the year next following the year in which abandoned property has been paid or delivered to the administrator. The notice must be published in a newspaper of general circulation in the county of this state in which is located the last known address of any person named in the notice. If a holder does not report an address for the apparent owner, or the address is outside this state, the notice must be published in 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 form must contain the following information:

(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 Fifty Dollars ($50.00), or information concerning a travelers' check, money order or similar written instrument.

SECTION 10. Custody by state; recovery by holder; defense of holder. (1) In this section, payment or delivery is made in "good faith" if:

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

(b) The holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and
(c) There is no showing that the records under which the delivery was made did not meet reasonable commercial standards of practice in the industry.

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

(3) A holder who has paid money to the administrator under this act may later 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 travelers' 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(1) of this act.

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

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

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

SECTION 11. Crediting of dividends, interest and increments to owner's account. If property other than money is paid, delivered, or transferred to the administrator under this act, 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 eight percent (8%) 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
(10) 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 this act, unless
authorized by law not superseded by this act.

SECTION 12. Public sale of abandoned property. (1) Except
as otherwise provided in this section, the administrator, within
three (3) years after the receipt of abandoned property, shall
sell it to the highest bidder at public sale at a location in the
state that 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 three (3)
weeks before sale, in a newspaper of general circulation in the
county in which the property is to be sold.

(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 three (3) years from their delivery to the
administrator, a person making a claim under this act 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 or other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this act 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.

(3) A purchaser of property at a sale conducted by the administrator under this act 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 13. Deposit of funds. (1) All funds received under the provisions of this act shall promptly be deposited by the administrator into a special fund that is established in the State Treasury to be designated the "Abandoned Property Fund," except that the administrator shall deposit in a separate special fund that is established in the State Treasury to be designated the "Abandoned Property Claims Payment Fund" an amount not exceeding
One Hundred Thousand Dollars ($100,000.00) from which he shall make prompt payment of claims duly allowed by him as hereinafter provided.

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

(3) Before making a deposit to the credit of either special fund, the administrator may deduct:

(a) Expenses of sale of abandoned property;

(b) Costs of mailing and publication in connection with abandoned property;

(c) Reasonable service charges; and

(d) Expenses incurred in examining records of holders of property and in collecting the property from those holders.

(4) There is created within the Abandoned Property Fund in the State Treasury a trust to be known as the Historic Properties Financing Fund, which shall be used as provided in this section. The principal of the Historic Properties Financing Fund shall remain inviolate within the Abandoned Property Fund, and shall be
invested in the same manner as the remainder of the Abandoned Property Fund. The interest and income earned from the investment of the principal of the Historic Properties Financing Fund shall be transferred quarterly to the Mississippi Landmark Grant Program account within the Historic Properties Trust Fund created under Section 39-5-23. The transferred money shall be used by the Department of Archives and History for the purposes as specified in Section 39-5-23(3).

(5) Notwithstanding any provision of this section, the funds reflected by the cancellation of State of Mississippi warrants that constitute part of the Abandoned Property Fund shall be transferred by the administrator back to the original fund source if unclaimed by the owner within the time specified in Section 7-7-42.

SECTION 14. Claim of another state to recover property. (1)

After property has been paid or delivered to the administrator under this act, another state may recover the property if:

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

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

(d) The property was subjected to custody by this state under Section 4(a) of this act (place of transaction) and under the laws of the state of domicile of the holder the property has escheated or become subject to a claim of abandonment by that state; or

(e) The property is a sum payable on a travelers' check, money order or similar instrument that was purchased in the other state and delivered into the custody of this state under Section 4(g) of this act, and under the laws of the other state the property has escheated or become subject to a claim of abandonment by that state.

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

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

SECTION 15. Filing claim with administrator; handling of claims by administrator. (1) A person, excluding another state, claiming an interest in property paid or delivered to the administrator may file a claim on a form prescribed by the administrator and verified by the claimant.

(2) Within ninety (90) days after a claim is filed, the administrator shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the administrator shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the administrator or maintain an action under Section 16 of this act.

(3) Within thirty (30) days after a claim is allowed, the property or the net proceeds of a sale of the property shall be delivered or paid by the administrator to the claimant, together with any additional amount to which the claimant is entitled under Sections 11 and 12 of this act.
(4) A holder who pays the owner for property that has been delivered to the state and that, if claimed from the administrator by the owner, would be subject to an increment under Sections 11 and 12 of this act, may recover from the administrator the amount of the increment.

SECTION 16. Action to establish claim. A person aggrieved by a decision of the administrator or whose claim has not been acted upon within ninety (90) days after its filing may maintain an original action to establish the claim in circuit court, naming the administrator as a defendant. If the aggrieved person establishes the claim in an action against the administrator, the court may award the claimant reasonable attorney's fees.

SECTION 17. Election to take payment or delivery. (1) The administrator may decline to receive property reported under this act that the administrator considers to have a value less than the expenses of notice and sale.

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

SECTION 18. Destruction or disposition of property having no substantial commercial value; immunity from liability. If the administrator determines after investigation that property
delivered under this act 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 any acts taken by the administrator under this section, except
for acts constituting intentional misconduct.

SECTION 19. Periods of limitation. (1) The expiration,
before or after the effective date of this act, of a period of
limitation on the owner's right to receive or recover property,
whether specified by contract, statute or court order, does not
preclude the property from being presumed abandoned or affect a
duty to file a report or to pay or deliver or transfer property to
the administrator as required by this act.

(2) An action or proceeding may not be maintained by the
administrator to enforce this act more than ten (10) years after
the holder specifically identified the property reported to the
administrator or gave express notice to the administrator of a
dispute regarding the property. In the absence of a report, the
period of limitation is tolled. The period of limitation is also
tolled by the filing of a report that is fraudulent.

SECTION 20. Requests for reports and examination of records.
(1) The administrator may require a person who has not filed a
report, or a person who the administrator believes has filed an
inaccurate, incomplete, or false report, to file a verified report
in a form specified by the administrator. The report must state
whether the person is holding property reportable under this act, 
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 act. The 
administrator may conduct the examination even if the person 
believes it is not in possession of any property reportable or 
deliverable under this act. 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 that is the holder of 
property presumed abandoned if the administrator has given the 
notice required by subsection (2) to both the association and the 
agent at least ninety (90) days before the examination.

(4) Documents and working papers obtained or compiled by the 
administrator, or the administrator's agents, employees or 
designated representatives in the course of conducting an 
examination are confidential and are not public records but the 
documents and papers may be:
(a) Used by the administrator in the course of an action to collect unclaimed property or otherwise enforce this act;

(b) Used in joint examinations conducted with or pursuant to an agreement with another state, the federal government, or any other governmental entity;

(c) Produced by 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 paragraphs (a), (b) and (c), if the other state is bound to keep the documents and papers confidential.

(5) If an examination of the records of a person results in the disclosure of property reportable under this act, the administrator may assess the cost of the examination against the holder at the rate of Two Hundred Dollars ($200.00) a day for each examiner, or a greater amount that is reasonable and was actually incurred, but the assessment may not exceed the value of the property found to be reportable. The cost of examination made under subsection (3) may be assessed only against the business association.

(6) If a holder fails after the effective date of this act to maintain the records required by Section 21 of this act and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay the amount
the administrator may reasonably estimate on the basis of any available records of the holder or on the basis of any other reasonable method of estimation that the administrator may select.

SECTION 21. Retention of records. (1) A holder required to file a report under Section 7 of this act shall maintain its records containing the information required to be included in the report until the holder files the report and for ten (10) years after the date of filing, unless a shorter time is provided in subsection (2) or by rule of the administrator.

(2) A business association that sells, issues, or provides to others for sale or issue in this state, travelers' checks, money orders, or similar written instruments other than third-party bank checks, on which the business association is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the state and date of issue, for three (3) years after the date the property becomes reportable.

SECTION 22. Enforcement. The administrator may maintain an action in this or another state to enforce this act. The court may award reasonable attorney's fees to the prevailing party.

SECTION 23. Interstate agreements and cooperation; joint and reciprocal actions with other states. (1) The administrator may enter into an agreement with another state to exchange information relating to abandoned property or its possible existence. The agreement may permit the other state, or another person acting on
behalf of a state, to examine records as authorized in Section 20 of this act. 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.

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

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

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

**SECTION 24. Interest and penalties.** (1) A holder who fails to report, pay or deliver property within the time prescribed by this act shall pay to the administrator interest at the annual rate of twelve percent (12%) on the property or value thereof from the date the property should have been reported, paid or delivered.

(2) Except as otherwise provided in subsection (3), a holder who fails to report, pay or deliver property within the time prescribed by this act, or fails to perform other duties imposed by this act, shall pay to the administrator, in addition to interest as provided in subsection (1), a civil penalty of Two Hundred Dollars ($200.00) for each day the report, payment or delivery is withheld, or the duty is not performed, up to a maximum of Five Thousand Dollars ($5,000.00).

(3) A holder who willfully fails to report, pay or deliver property within the time prescribed by this act or willfully fails to perform other duties imposed by this act, shall pay to the administrator, in addition to interest as provided in subsection (1), a civil penalty of One Thousand Dollars ($1,000.00) for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of Twenty-five Thousand Dollars ($25,000.00).
($25,000.00), plus twenty-five percent (25%) of the value of any property that should have been but was not reported.

(4) A holder who renders a fraudulent report shall pay to the administrator, in addition to interest as provided in subsection (1), a civil penalty of One Thousand Dollars ($1,000.00) for each day from the date a report under this act was due, up to a maximum of Twenty-five Thousand Dollars ($25,000.00), plus twenty-five percent (25%) of the value of any property that should have been but was not reported.

(5) Upon good cause shown the administrator may waive, in whole or in part, interest under subsection (1) and penalties under subsections (2) and (3), and shall waive penalties if the holder acted in good faith and without negligence.

SECTION 25. Agreement to locate property. (1) An agreement by an owner, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned is void and unenforceable if it was entered into during the period beginning on the date the property was presumed abandoned and extending to a time that is twenty-four (24) months after the date the property is paid or delivered to the administrator. This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the administrator's denial of a claim.

(2) Any agreement by an owner, the primary purpose of which is to locate, deliver, recover or assist in the recovery of
property is enforceable only if the agreement is in writing,
clearly sets forth the nature of the property and the services to
be rendered, is signed by the apparent owner and states the value
of the property before and after the fee or other compensation has
been deducted.

(3) If an agreement covered by this section is applicable to
mineral proceeds and the agreement contains a provision to pay
compensation that includes a portion of the underlying minerals or
any production payment, overriding royalty, compensatory royalty,
or similar payment, the provision is void and unenforceable.

(4) An agreement covered by this section may not provide for
compensation that is unconscionable. 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's fees to an owner who prevails in the action.

(5) An owner may at any time assert that an agreement
covered by this section is otherwise invalid.

SECTION 26. Foreign transactions. This act does not apply
to property held, due and owing in a foreign country and arising
out of a foreign transaction.

SECTION 27. Applicability of act. (1) An initial report
filed under this act for property that was not required to be
reported before the effective date of this act but that is subject
to this act must include all items of property that would have
been presumed abandoned during the ten-year period next preceding
the effective date of this act as if this act had been in effect
during that period.

(2) This act does not relieve a holder of a duty that arose
before the effective date of this act to report, pay or deliver
property. Except as otherwise provided in Section 19(2) of this
act, a holder who did not comply with the law in effect before the
effective date of this 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.

SECTION 28. Rules. The administrator may adopt necessary
rules to carry out this act.

SECTION 29. Uniformity of application and construction.
This act shall be applied and construed to effectuate its general
purpose to make uniform the law with respect to the subject of
this act among states enacting it.

SECTION 30. Severability clause. If any provision of this
act or the application thereof to any person or circumstance is
held invalid, the invalidity does not affect other provisions or
applications of this act that can be given effect without the
invalid provision or application, and to this end the provisions
of this act are severable.

SECTION 31. Sections 89-12-1, 89-12-3, 89-12-5, 89-12-7,
89-12-9, 89-12-11, 89-12-13, 89-12-14, 89-12-15, 89-12-16,
89-12-17, 89-12-19, 89-12-21, 89-12-23, 89-12-25, 89-12-27,
SECTION 32. Section 7-7-42, Mississippi Code of 1972, is amended as follows:

7-7-42. Any State of Mississippi warrant issued by the State Fiscal Officer against any fund in the State Treasury which has not been presented to the State Treasurer for payment within one (1) year after the last day of the month in which it was originally issued, shall be null and void, the obligation thereafter shall be unenforceable and the State Fiscal Officer shall not issue an additional warrant.

The State Fiscal Officer is authorized and directed to cancel all outstanding warrants over one (1) year old at the end of each month and shall notify the State Treasurer who shall remove such warrants from his list of outstanding warrants.

The State Fiscal Officer shall transfer the funds reflected by the cancellation of the warrant to the Abandoned Property Fund created in Section 13 of this act, where the funds shall remain for five (5) years. After five (5) years, if the funds are unclaimed, the State Treasurer shall transfer the funds back to the original source of funds.
This section is applicable to warrants issued on and after January 1, 2000.

SECTION 33. Section 39-5-23, Mississippi Code of 1972, is amended as follows:

39-5-23. (1) The Mississippi Department of Archives and History is * * * authorized and empowered to solicit and accept donations, bequests, devises, gifts and grants of money from individuals, organizations and federal, state and local governmental bodies, to be deposited in the Historic Properties Trust Fund, which is * * * created in the State Treasury. Contributions to the Historic Properties Trust Fund may be undesignated or earmarked for the purpose of acquiring, preserving, restoring, supporting, operating and administering Mississippi Landmark properties or for use on specific historical projects that have been authorized by the Department of Archives and History. The Mississippi Department of Archives and History may deposit federal funds received under Section 2 * * *, Chapter 487, Laws of 2000, as amended by * * * Chapter 509, Laws of 2003, into the Historic Properties Trust Fund and may use such funds for the purposes provided in subsection (2) of Section 2 * * *, Chapter 487, Laws of 2000, as amended by * * * Chapter 509, Laws of 2003. The State Treasurer shall invest all monies in the Historic Properties Trust Fund as other state funds are authorized to be invested, and any interest earned shall be deposited into the fund.
(2) The Mississippi Department of Archives and History is **authorized and empowered to solicit and accept donations, bequests, devises, gifts and grants of money and real and personal property. The Board of Trustees of the Department of Archives and History may, in its discretion, sell such real and personal property by public or private sale and shall deposit proceeds derived from such sale into the Historic Properties Trust Fund.

(3) (a) The Board of Trustees of the Mississippi Department of Archives and History is authorized to establish the Mississippi Landmark Grant Program within the Historic Properties Trust Fund to help ensure the preservation of Mississippi Landmark properties.

   (b) The Board of Trustees of the Mississippi Department of Archives and History may deposit funds appropriated by the Legislature, or funds transferred from the Historic Properties Financing Fund **created in Section 13(4) of this act, into the account established for the Mississippi Landmark Grant Program within the Historic Properties Trust Fund. That portion of the proceeds of bonds issued under Sections 1 through 16 **, Chapter 543, Laws of 2002, shall be deposited, in the manner provided in Sections 1 through 16 **, Chapter 543, Laws of 2002, into the account established for the Mississippi Landmark Grant Program within the Historic Properties Trust Fund. All funds deposited in the account for the Mississippi Landmark Grant Program shall be used exclusively for the purpose of acquiring,
preserving, restoring, supporting, operating and administering
Mississippi Landmark properties or those properties to be
designated as Mississippi Landmarks.

(c) The board of supervisors of every county and the
governing authorities of every municipality in the state may make
contributions to the Mississippi Department of Archives and
History, to be deposited into the account for the Mississippi
Landmark Grant Program. Such contributions may be undesignated or
earmarked for use on specific Mississippi Landmark properties.

(d) The Board of Trustees of the Mississippi Department of
Archives and History shall have all powers necessary to
implement and administer the Mississippi Landmark Grant Program,
and the board of trustees shall promulgate all rules and
regulations necessary for the implementation and administration of
the program.

SECTION 34. Section 43-13-120, Mississippi Code of 1972, is
amended as follows:

43-13-120. (1) Any person who is a Medicaid recipient and
is receiving medical assistance for services provided in a
long-term care facility under the provisions of Section 43-13-117
from the Division of Medicaid in the Office of the Governor, who
dies intestate and leaves no known heirs, shall have deemed,
through his acceptance of such medical assistance, the Division of
Medicaid as his beneficiary to all such funds in an amount not to
exceed Two Hundred Fifty Dollars ($250.00) which are in his
possesson at the time of his death. Such funds, together with any accrued interest thereon, shall be reported by the long-term care facility to the State Treasurer in the manner provided in subsection (2).

(2) The report of such funds shall be verified, shall be on a form prescribed or approved by the Treasurer, and shall include:
(a) the name of the deceased person and his last known address prior to entering the long-term care facility; (b) the name and last known address of each person who may possess an interest in such funds; and (c) any other information which the Treasurer prescribes by regulation as necessary for the administration of this section. The report shall be filed with the Treasurer prior to November 1 of each year in which the long-term care facility has provided services to a person or persons having funds to which this section applies.

(3) Within one hundred twenty (120) days from November 1 of each year in which a report is made pursuant to subsection (2), the Treasurer shall cause notice to be published in a newspaper having general circulation in the county of this state in which is located the last known address of the person or persons named in the report who may possess an interest in such funds, or if no such person is named in the report, in the county in which is located the last known address of the deceased person prior to entering the long-term care facility. If no address is given in the report or if the address is outside of this state, the notice
shall be published in a newspaper having general circulation in
the county in which the facility is located. The notice shall
contain (a) the name of the deceased person; (b) his last known
address prior to entering the facility; (c) the name and last
known address of each person named in the report who may possess
an interest in such funds; and (d) a statement that any person
possessing an interest in such funds must make a claim therefor to
the Treasurer within ninety (90) days after such publication date
or the funds will become the property of the State of Mississippi.
In any year in which the Treasurer publishes a notice of abandoned
property under Section * * * 9 of this act, the Treasurer may
combine the notice required by this section with the notice of
abandoned property. The cost to the Treasurer of publishing the
notice required by this section shall be paid by the Division of
Medicaid.

(4) Each long-term care facility that makes a report of
funds of a deceased person under this section shall pay over and
deliver such funds, together with any accrued interest thereon, to
the Treasurer not later than ten (10) days after notice of such
funds has been published by the Treasurer as provided in
subsection (3). If a claim to such funds is not made by any
person having an interest therein within ninety (90) days of the
published notice, the Treasurer shall place such funds in the
special account in the State Treasury to the credit of the
"Governor's Office - Division of Medicaid" to be expended by the
Division of Medicaid for the purposes provided under Mississippi Medicaid Law.

(5) This section shall not be applicable to any Medicaid patient in a long-term care facility of a state institution listed in Section 41-7-73, who has a personal deposit fund as provided for in Section 41-7-90.

SECTION 35. Section 81-27-8.005, Mississippi Code of 1972, is amended as follows:

81-27-8.005. All unclaimed property remaining in the hands of a liquidated state trust company shall be subject to the provisions of the Mississippi Uniform Unclaimed Property Act (Section 1 of this act et seq.).

SECTION 36. This act shall take effect and be in force from and after July 1, 2013.