

**PROPOSED
DISPOSITION OF
ABANDONED AND UNCLAIMED
PROPERTY ACT**

General Assembly of the Commonwealth of Pennsylvania

JOINT STATE GOVERNMENT COMMISSION

Harrisburg, Pennsylvania

1969

The Joint State Government Commission was created by Act of 1937, July 1, P. L. 2460, as last amended 1959, December 8, P. L. 1740, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

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1969—1971

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FOREWORD

The proposed codification of laws relating to escheat of money and property is the culmination of the directive to the Joint State Government Commission contained in Senate Resolution No. 108, Session of 1964. The proposal codifies into one act existing statutory and judicial law, thereby eliminating obsolete matter and terminology, clarifying ambiguities, and fixing with greater certainty the rights, duties, liabilities, and privileges of the Commonwealth and corporations, associations, partnerships, and persons with respect to escheats.

Pursuant to the foregoing resolution, a task force was appointed to conduct the study. To aid in the inquiry, the Joint State Government Commission appointed an advisory committee giving representation to the fiscal interests of the Commonwealth as represented by the Department of Revenue and the Department of Justice and to the business community directly affected by such a proposed codification.

The task force and advisory committee reviewed all existing Pennsylvania law, the Uniform Disposition of Unclaimed Property Act, and laws of other states, including the Florida Disposition of Unclaimed Property Act. The proposal specifically reflects the decision of the United States Supreme Court in *Texas v. New Jersey*, 379 U.S. 674, 85 S. Ct. 626 (1965).

The structure and philosophy of the Uniform Act was the basis from which the committee began its considerations. Accordingly, the proposal substitutes the concept of perpetual custody by the Commonwealth for the previous sovereign right of escheat. Under the proposal the owner retains the right of recovery of his property or its value at any time, no matter how remote. The procedure by which the Commonwealth takes custody of property subject to the act is made uniform and greatly simplified as compared to existing escheat proceedings. In view of the custodial concept, the proposed statute does not provide for informers' fees. The proposed act is broader in scope with respect to the property subject to its provisions.

There is submitted herewith the Proposed Disposition of Abandoned and Unclaimed Property Act together with Comments where appropriate.

Suggestions, criticisms, and recommendations regarding the Proposed Disposition of Abandoned and Unclaimed Property Act should be addressed to William H. Nast, Jr., Esquire, Joint State Government Commission, Post Office Box 1361, Harrisburg, Pennsylvania.

AN ACT

Providing for the custody and control of abandoned and unclaimed property; providing for its disposition; imposing powers and duties on the Secretary of Revenue; and imposing penalties.

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AN ACT

Providing for the custody and control of abandoned and unclaimed property; providing for its disposition; imposing powers and duties on the Secretary of Revenue; and imposing penalties.

THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA HEREBY ENACTS AS FOLLOWS:

SECTION 1. *Short Title.*—This act shall be known and may be cited as the “Disposition of Abandoned and Unclaimed Property Act.”

SECTION 2. *Definitions.*—As used in this act, unless the context otherwise requires:

(1) “Business association” includes any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association of two or more individuals for business purposes, whether organized or operated under State or Federal law.

(2) “Financial institution” includes a bank, a private bank, a bank and trust company, a savings association, a savings bank, a trust company, a savings and loan association, a building and loan association, a credit union, and any issuer of travelers checks, money orders, or similar monetary obligations or commitments, whether organized or operated under State or Federal law.

(3) “Holder” includes any person in possession of property subject to this act belonging to another, or who is a trustee in case of a trust, or is indebted to another on an obligation subject to this act.

(4) “Insurer” includes any person authorized to conduct an insurance business under the laws of this Commonwealth or under the laws of any other jurisdiction.

(5) “Owner” includes a depositor in case of a deposit, a creditor, claimant, or payee in case of other choses in action, or any other person having a legal or equitable interest in property subject to this act, or his legal representative.

(6) “Person” includes any individual, business association, government, political subdivision, public corporation, public authority, estate, trust,

two or more persons having a joint or common interest, or any other legal or commercial entity.

(7) “Property” includes all real and personal property, tangible or intangible, all legal and equitable interests therein, together with any income, accretions, or profits thereof and thereon, and all other rights to property, subject to all legal demands on the same.

(8) “Secretary” means the Secretary of Revenue of the Commonwealth of Pennsylvania.

(9) “Utility” includes any person who owns or operates for public use, any plant, equipment, property, franchise, or license for the transmission of communications, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

Comment: Clause (1): “Business association” is derived from Section 1(b) of the Uniform Disposition of Unclaimed Property Act.

Clause (2): “Financial institution” is derived in part from Section 102(11) of the Inheritance and Estate Tax Act of 1961.

Clause (3): “Holder” is derived from Section 1(d) of the Uniform Disposition of Unclaimed Property Act.

Clause (4) is purposely broader than the definition in Section 1(e) of the Uniform Disposition of Unclaimed Property Act; e.g., it is not limited to insurers doing business within the state, nor is it limited to insurers of the lives of persons. *Cf.*, Florida Disposition of Unclaimed Property Act, Section 1(e), Fla. Stats. Ann., Vol. 20A, §717 *et seq.*

Clause (5): “Owner” is derived from Section 1(f) of the Uniform Disposition of Unclaimed Property Act, except that the phrase “a beneficiary in case of a trust” was deleted as redundant.

Clause (6): “Person” is derived from Section 1(g) of the Uniform Disposition of Unclaimed Property Act.

Clause (7): “Property” is defined to avoid repetition throughout the act. Wherever it appears, its broad concept (which includes its income and appreciation) is intended unless it is otherwise limited.

Clause (9): “Utility” is derived from Section 1(h) of the Uniform Disposition of Unclaimed Property Act.

SECTION 3. *Abandoned and Unclaimed Property Subject to Custody and Control of the Commonwealth.*—All abandoned and unclaimed property as hereafter set forth is subject to the custody and control of the Commonwealth:

- (1) If it is tangible and physically located within the Commonwealth;
or
- (2) If it is intangible, and
 - (i) The last known address of the owner, as shown by the records of the holder, is within the Commonwealth; or
 - (ii) The last known address of the owner as shown by the records of the holder is within a jurisdiction, the laws of which do not provide for the escheat or custodial taking of such property, and the domicile of the holder is within the Commonwealth; or
 - (iii) No address of the owner appears on the records of the holder and the domicile of the holder is within the Commonwealth; or
 - (iv) No address of the owner appears on the records of the holder and the domicile of the holder is not within the Commonwealth, but it is proved that the last known address of the owner is in the Commonwealth.

Comment: It is intended that all specific kinds of property designated as “abandoned and unclaimed” in Sections 4 through 11, be subject to the custody and control of the Commonwealth. This section incorporates the principles set forth in the decision of the United States Supreme Court in *Texas v. New Jersey*, 379 U. S. 674, 85 S. Ct. 626 (1965).

SECTION 4. *Property Held by Financial Institutions.*—The following property held or owing by a financial institution is presumed abandoned and unclaimed:

- (1), Any demand, saving or matured time deposit in a financial institution, or any funds paid toward the purchase of shares or other interest in a savings association, savings and loan or building and loan association, excluding any charges that may lawfully be withheld, unless within the preceding twenty-one years with respect to any savings deposits or any funds paid toward the purchase of shares or other interest in a savings and loan or building and loan association, or within the preceding ten years in all other cases, the owner has:
 - (i) Increased the amount of the deposit, shares, or claim, otherwise than

by the crediting of accrued interest, or decreased it, or presented to the holder evidence of the deposit, shares or claim; or

(ii) Corresponded in writing with the holder concerning the deposit, shares or claim; or

(iii) Otherwise indicated an interest in the deposit, shares or claim as evidenced by a writing on file with the holder.

(2) Any sum payable on checks certified in the Commonwealth or on written instruments issued in the Commonwealth, including, but not limited to, drafts, money orders, and travelers checks on which a financial institution is directly liable, and (i) which have been outstanding for more than ten years, or in the case of travelers checks, twenty-one years, from the date payable or from the date of issuance if payable on demand; and (ii) the owner, of which has not written to the financial institution concerning it, nor otherwise indicated an interest as evidenced by a writing on file with the financial institution.

(3) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository in the Commonwealth on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, if the same has not been claimed by the owner for more than seven years from the date on which the rental period expired.

Comment: Clause (1) is derived from Section 2, Subsections (a) and (b), of the Uniform Disposition of Unclaimed Property Act. The 10-year period for demand deposits continues existing law. (Act of 1915, June 7, P. L. 878, as amended.) Because savings accounts and travelers checks are apt to be purposely left dormant for longer periods of time, a 21-year limitation is provided.

Clauses (2) and (3) are derived from Section 2(c) and (d) of the Uniform Disposition of Unclaimed Property Act.

SECTION 5. *Property Held by Insurers.*—(a) In the case of life insurance, the following property held or owing by an insurer is presumed abandoned and unclaimed:

Any moneys held or owing by an insurer as established by its records

under any contract of annuity or policy of life insurance including premiums returnable or dividends payable, unclaimed and unpaid for more than seven years after the moneys have or shall become due and payable under the provisions of such contract of annuity or policy of insurance. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding seven years, (i) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or (ii) corresponded in writing with the insurer concerning the policy.

If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the insurer or if it is not definite and certain from the records of the insurer what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the insurer.

Moneys otherwise payable according to the records of the insurer are deemed due and payable although the policy or contract has not been surrendered as required.

(b) In the case of insurance other than life insurance, the following property held or owing by an insurer is presumed abandoned and unclaimed:

Any moneys held or owing by an insurer as established by its records under any contract of insurance other than annuity or life insurance, including premiums or deposits returnable or dividends payable to policy or contract holders or other persons entitled thereto, unclaimed and unpaid for more than seven years after the moneys have or shall become due and payable under the provisions of such contracts of insurance.

If a person other than the insured, the principal, or the claimant is entitled to the funds and no address of such person is known to the insurer or if it is not definite and certain from the records of the insurer what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured, the principal, or the claimant according to the records of the insurer.

Comment: This section is derived from Section 3 of the Florida Disposition of Unclaimed Property Act, Fla. Stats. Ann., Vol. 20A, §717 *et seq.*

SECTION 6. *Property Held by Utilities.*—The following funds held or owing by any utility are presumed abandoned and unclaimed:

(1) Any customer advance, toll, deposit, or collateral security or any other property held by any utility if under the terms of an agreement the advance toll, deposit, collateral security or other property is due to or demandable by the owner and has remained unclaimed for seven years or more from the date when it first became due to or demandable by the owner under the agreement.

(2) Any sum which a utility has been ordered to refund, less any lawful deductions, and which has remained unclaimed by the person appearing on the records of the utility entitled thereto for two years or more after the date it became payable in accordance with the final order providing for the refund.

Comment: This section is derived from Section 4 of the Uniform Disposition of Unclaimed Property Act.

SECTION 7. *Property Held by Business Associations.*—The following property held or owing by a business association is presumed abandoned and unclaimed:

(1) The consideration paid for a gift certificate which has remained unredeemed for two years or more after its redemption period has expired or for seven years or more from the date of issuance if no redemption period is specified.

(2) Any certificate of stock or participating right in a business association, for which a certificate has been issued or is issuable but has not been delivered, whenever the owner thereof has not claimed such property, or corresponded in writing with the business association concerning it, within seven years after the date prescribed for delivery of the property to the owner.

(3) Any sum due as a dividend, profit, distribution, payment or distributive share of principal held or owing by a business association, when-

ever the owner has not claimed such sum or corresponded in writing with the business association concerning it within seven years after the date prescribed for payment or delivery.

(4) Any sum due as principal or interest on the business association's bonds or debentures, or coupons attached thereto, whenever the owner has not claimed such sum or corresponded in writing with the business association concerning it within seven years after the date prescribed for payment.

(5) Any sum or certificate or participating right due by a cooperative to a participating patron, whenever the owner has not claimed such property, or corresponded with the cooperative concerning the same within seven years after the date prescribed for payment or delivery.

Comment: This section is derived from Section 5 of the Uniform Disposition of Unclaimed Property Act. Clause (1) specifically covers gift certificates thereby reversing *Murdock v. John B. Stetson Co.*, 32 D. & C. 2d 300 (1962).

SECTION 8. *Property Held in the Course of Dissolution of Business Associations, Financial Institutions, Insurers, and Utilities.*—The following property held in the course of dissolution of a business association, financial institution, insurer or utility is presumed abandoned and unclaimed:

Any property distributable in the course of dissolution of a business association, financial institution, insurer or utility organized under the laws of, or created in, the Commonwealth, unclaimed by the owner within two years after the date for final distribution.

Comment: This section is derived from Section 6 of the Uniform Disposition of Unclaimed Property Act but is broader in scope.

SECTION 9. *Property Held by Fiduciaries.*—The following property held by fiduciaries is presumed abandoned and unclaimed:

All property held in a fiduciary capacity for the benefit of another person, unless the owner within seven years after it has or shall become payable or distributable has increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the

property or otherwise indicated an interest therein as evidenced by a writing on file with the fiduciary.

Comment: This section is derived from Section 7 of the Uniform Disposition of Unclaimed Property Act. However, it is not restricted to “intangible personal property.”

SECTION 10. *Property Held by Courts and Public Officers and Agencies.*—The following property is presumed abandoned and unclaimed:

All property held for the owner by any court, public corporation, public authority, or instrumentality of the United States, the Commonwealth, or any other state, or by a public officer or political subdivision thereof, unclaimed by the owner for more than seven years from the date it first became demandable or distributable.

Comment: This section is derived from Section 8 of the Uniform Disposition of Unclaimed Property Act. However, it is not restricted to “intangible personal property.”

SECTION 11. *Miscellaneous Property Held for or Owing to Another.*—The following property, held or owing to any owner, is presumed abandoned and unclaimed:

All property, not otherwise covered by this act, that is admitted in writing by the holder and adjudicated to be due, that is held or owing in the ordinary course of the holder’s business, and that has remained unclaimed by the owner for more than seven years after it became payable or distributable is presumed abandoned and unclaimed.

Comment: This section is derived from Section 9 of the Uniform Disposition of Unclaimed Property Act. However, it is not restricted to “intangible personal property.”

SECTION 12. *Report of Property Subject to Custody and Control of the Commonwealth under This Act.*—(a) Except as hereinafter provided in subsection (f), every person holding property which became subject to custody and control of the Commonwealth under this act during the preceding year shall report to the secretary as hereinafter provided.

(b) The report shall be verified and shall include:

(1) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of twenty-five dollars (\$25) or more;

(2) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under twenty-five dollars (\$25) each may be reported in the aggregate;

(3) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(4) Other information which the secretary prescribes by rules or regulations as necessary for administration of this act.

(c) If the person holding property subject to custody and control of the Commonwealth under this act is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed on or before April 15 of the year following the year in which the property first became subject to custody and control of the Commonwealth under this act. The secretary may postpone for a period not exceeding six months the reporting date upon written request by any person required to file a report.

(e) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

(f) The initial report under this act shall be filed within six months of the effective date of this act and shall include, (i) all items of property as to which the periods of dormancy specified in sections 4 to 11 hereof expired during the preceding year, and (ii) all items of property subject to custody and control of the Commonwealth not included in reports required to be filed during the preceding fourteen years as provided under existing statutes.

Comment: This section is derived from Section 11 of the Uniform Disposition of Unclaimed Property Act.

SECTION 13. *Notice and Publication of Lists of Property Subject to Custody and Control of the Commonwealth under This Act.*—(a) Within six months from the filing of the report required by section 12, the secretary shall cause notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in the county in which the holder of the property has his principal place of business in the Commonwealth or, if there is no such place, then in Dauphin County.

(b) The published notice shall be entitled “Notice of Names of Persons Appearing to be Owners of Abandoned and Unclaimed Property,” and shall contain:

(1) The names and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified and the name and address of the holder;

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the holder;

(3) A statement that if proof of claim is not presented by the owner to the holder and if the owner’s right to receive the property is not established to the holder’s satisfaction within three months from the date of the second published notice, the abandoned or unclaimed property will be placed in the custody of the secretary to whom all further claims must thereafter be directed.

(c) The secretary is not required to publish in such notice any item of less than twenty-five dollars (\$25) unless he deems such publication to be in the public interest.

(d) Within six months from the receipt of the report required by section 12, the secretary shall mail a notice to each person having an address listed who appears to be entitled to property of the value of twenty-five dollars (\$25) or more subject to custody and control of the Commonwealth under this act. The mailed notice shall contain:

(1) A statement that, according to a report filed with the secretary, property is being held to which the addressee appears entitled;

(2) The name and address of the person holding the property and any

necessary information regarding changes of name and address of the holder;

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the secretary to whom all further claims must be directed.

Comment: This section is derived from Section 12 of the Uniform Disposition of Unclaimed Property Act.

SECTION 14. *Payment or Delivery.*—(a) Every person who holds property subject to the custody and control of the Commonwealth shall, within sixty days after receipt of written demand from the secretary and after compliance with section 13, where required, pay or deliver to the secretary all property subject to custody and control of the Commonwealth under this act, except that, if the owner establishes his right to receive the property to the satisfaction of the holder, or if it appears that for some other reason the property is not then subject to custody and control of the Commonwealth under this act, the holder need not pay or deliver the property to the secretary, but in lieu thereof shall file a verified written explanation of the proof of claim or as to the reason the property is not subject to custody and control of the Commonwealth.

(b) A receipt shall be issued on behalf of the Commonwealth for all property received under this act.

Comment: This section is derived from Section 13 of the Uniform Disposition of Unclaimed Property Act. Subsection (b) is added to provide for the issuance of a receipt on behalf of the Commonwealth.

SECTION 15. *Relief from Liability by Payment or Delivery.*—Upon the payment or delivery of the property to the secretary, the Commonwealth shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers property to the secretary under this act is relieved of all liability with respect to such property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to such property. Any holder who has paid moneys to the secretary pursuant to this act may make payment to any person appearing to

such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the secretary shall forthwith reimburse the holder for the payment.

Comment: This section is derived from Section 14 of the Uniform Disposition of Unclaimed Property Act.

SECTION 16. *Income Accruing After Payment or Delivery.*—When property is paid or delivered to the secretary under this act, the owner is entitled to receive income or other increments actually received by the secretary.

Comment: This section is derived from Section 15 of the Uniform Disposition of Unclaimed Property Act; it restricts the recovery by the owner to that which is “actually received by the Secretary.”

SECTION 17. *Periods of Limitation.*—Except as hereinbelow set forth, the expiration of any period of time specified by statute or court order, during which an action may be commenced or maintained, or could have been commenced or maintained, by the owner against the holder of the property, shall not prevent such property from being subject to the custody and control of the Commonwealth under this act, nor affect the duty to file a report or to pay or deliver the property to the secretary, as required by this act, nor bar any action by the secretary under this act, provided that:

(a) If any holder required to file a report under any act in effect prior to the effective date of this act, or under this act, has filed or files a report, no action shall be commenced or maintained against such holder unless it has been or is commenced within fifteen years after such report has been or is filed.

(b) If any holder was not required to file a report under any act in effect prior to the effective date hereof, no action shall be commenced or maintained unless it has been or is commenced within fifteen years after the property first became escheatable or payable into the State Treasury without escheat.

Comment: This section makes it clear that any statute of limitation preventing the owner from recovering from the holder will not prevent the Commonwealth from taking

custody and control. A 15-year statute of limitation is placed on the Commonwealth, provided the required reports are filed. In *Commonwealth v. Insurance Company of North America*, 432 Pa. 525 (1968), the Supreme Court reached the same conclusion with respect to the Act of July 10, 1963, P. L. 233, even though the act did not refer to the filing of reports as a basis for the commencing of the statute of limitations.

SECTION 18. *Sale of Property*.—(a) Within a reasonable time after delivery to him of any property under this act, the secretary shall sell it to the highest bidder at public sale in whatever city in the Commonwealth affords, in his judgment, the most favorable market for the property involved. The secretary may decline the highest bid or reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) If the property is of a type customarily sold on a recognized market or of a type which is subjected to widely distributed standard price quotations, the secretary may sell the property without notice by publication or otherwise. Any sale of other property held under this section shall be preceded by a single publication of notice thereof, at least three weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold.

(c) The purchaser at any sale conducted by the secretary pursuant to this act shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The secretary shall execute all documents necessary to complete the transfer of title.

Comment: This section is derived from Section 17 of the Uniform Disposition of Unclaimed Property Act. In connection with Subsection (b), see Section 9-504(3) of the Uniform Commercial Code. 1953, April 6, P. L. 3, as amended 1959, October 2, P. L. 1023.

SECTION 19. *Deposit of Funds*.—(a) All funds received under this act, including the proceeds from the sale of property under section 18, shall forthwith be deposited by the secretary in the General Fund of the Com-

monwealth, except that the secretary shall retain in a separate trust fund an amount not exceeding twenty-five thousand dollars (\$25,000) from which he shall make prompt payment of claims duly allowed by him as hereinafter provided. Before making the deposit he shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of an insurer, its number, the name of the insurer, and the amount due. The record with respect to any specific claim shall be available to the claimant at all reasonable business hours.

(b) Before making any deposit to the credit of the General Fund, the secretary may deduct: (i) reasonable costs in connection with sale of the property, (ii) reasonable costs of mailing and publication in connection with any property, and (iii) reasonable service charges.

Comment: This section is derived from Section 18 of the Uniform Disposition of Unclaimed Property Act.

SECTION 20. *Claim for Property Paid or Delivered.*—Any person claiming an interest in any property paid or delivered to the Commonwealth under this act may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the secretary.

Comment: This section is derived from Section 19 of the Uniform Disposition of Unclaimed Property Act. Under the custodial concept of this act the true owner can always reclaim his property or the proceeds derived therefrom upon proper compliance with this act.

SECTION 21. *Determination of Claims.*—(a) The secretary shall consider any claim filed under this act and may hold a hearing and receive evidence concerning it. If a hearing is held, he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.

(b) If the claim is allowed, the secretary shall make payment forthwith.

Comment: This section is derived from Section 20 of the Uniform Disposition of Unclaimed Property Act.

SECTION 22. *Judicial Action upon Determinations.*—Any person aggrieved by a decision of the secretary or as to whose claim the secretary has failed to act within ninety days after the filing of the claim, may commence an action in the court of appropriate jurisdiction to establish his claim. The proceeding shall be brought within ninety days after the decision of the secretary or within one hundred eighty days from the filing of the claim if the secretary fails to act. The action shall be tried de novo without a jury.

Comment: This section is derived from Section 21 of the Uniform Disposition of Unclaimed Property Act.

SECTION 23. *Election to Take Payment or Delivery.*—The secretary may decline to receive any item of property reported which he deems to have a value less than the cost of giving notice and holding sale, in which event the holder thereof is discharged of any liability to the Commonwealth with respect thereto. Unless the holder of the property is notified to the contrary within one hundred twenty days after filing the report required under section 12, the secretary shall be deemed to have elected to receive the custody of the property.

Comment: This section is derived from Section 22 of the Uniform Disposition of Unclaimed Property Act.

SECTION 24. *Examination of Records.*—If the secretary has reason to believe that any holder has failed to report property that should have been reported pursuant to this act, the secretary may, at reasonable times and upon reasonable notice, examine the records of such person with respect to such property.

Comment: This section is derived from Section 23 of the Uniform Disposition of Unclaimed Property Act.

SECTION 25. *Proceeding to Compel Reporting or Delivery.*—(a) If any person refuses to report or deliver property to the secretary as required under this act, the Commonwealth shall bring an action in a court of appropriate jurisdiction to enforce reporting or delivery. In any such action the Pennsylvania Rules of Civil Procedure shall apply, including without limitation those pertaining to discovery.

(b) If any holder fails, without proper cause, (i) to report or (ii) to pay and deliver to the secretary property subject to custody and control of the Commonwealth under this act, such holder shall be liable to pay to the secretary interest at the rate of twelve percent per annum from the time such report should have been filed, to be computed on the value of such property as established in an action by the secretary under subsection (a) above, and such interest shall be recoverable in the same action.

Comment: Section 25(a) is derived from Section 24 of the Uniform Disposition of Unclaimed Property Act. Subsection (b) provides for interest where there is a failure to report or pay and deliver as required. See The Fiscal Code, 1929, April 9, P. L. 343, §1720(a) and Act of 1915, June 7, P. L. 878, §10, as amended, 1921, April 21, P. L. 223.

SECTION 26. *Penalties.*—(a) Any person who, without proper cause, fails to render any report or perform other duties required under this act, shall, upon conviction in a summary proceedings, be sentenced to pay a fine of ten dollars (\$10) for each day such report is withheld, but not more than one thousand dollars (\$1,000).

(b) Any person who, without proper cause, refuses to pay or deliver property to the secretary as required under this act shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisonment for not more than twelve months, or both.

SECTION 27. *Rules and Regulations.*—The secretary is hereby authorized to make necessary rules and regulations to carry out the provisions of this act.

SECTION 28. *Effect of Laws of Other States.*—This act shall not apply to any property that has been presumed abandoned, escheated, or subject to custody and control of another jurisdiction under the laws of such other jurisdiction prior to the effective date of this act.

Comment: This section is derived from Section 27 of the Uniform Disposition of Unclaimed Property Act.

SECTION 29. *Repeals.*—(a) The following acts and parts of acts, and all amendments and supplements thereto, are hereby repealed to the extent specified:

(1) The act of September 29, 1787 (2 Sm. L. 425), entitled “An act to declare and regulate escheats,” absolutely.

(2) The act of May 2, 1889 (P. L. 66), entitled “An act defining and regulating escheats in cases where property is without a lawful owner, and providing for more convenient proceedings relative to the same,” absolutely.

(3) The act of June 7, 1915 (P. L. 878), entitled “An act providing for the escheat of deposits of money or property of another received for storage or safe-keeping; the dividends, profits, debts, and interest on debts of corporations, companies, banks, trust companies, insurance companies, limited partnerships, and partnership associations, organized under the laws of this Commonwealth, except mutual saving-fund society not having a capital stock represented by shares, and except also building and loan associations, and property held for the benefit of another by the same, and the profits, accretions, and interest on such property, as well as interest thereon accrued, or which should have accrued, between the fixing of the amount of such property by the award of any court and the actual distribution thereof,” absolutely.

(4) The act of May 16, 1919 (P. L. 169), entitled “An act providing for the payment into the State Treasury of unclaimed funds in the hands of fiduciaries; defining the term fiduciary; providing for the refunding of such funds from the State Treasury with interest to persons entitled thereto, and making an appropriation therefor; prohibiting the discharge of such fiduciaries, the release of their sureties, or the final distribution of funds in their possession, until after compliance with the provisions of this act; and imposing penalties,” absolutely.

(5) Sections 205, 504, 614, 1720 and Article XII, act of April 9, 1929 (P. L. 343), known as “The Fiscal Code,” absolutely.

(6) The act of April 8, 1937 (P. L. 284), entitled “An act requiring county officers and persons formerly occupying county offices in counties of the first class to pay over to the county treasurer for safekeeping certain unclaimed moneys, and providing for the payment of such moneys out

of the county treasury to claimants, and for the escheat of unclaimed moneys,” absolutely.

(7) The act of April 29, 1937 (P. L. 539), entitled “An act requiring unemployment relief orders, issued by the State Veterans’ Commission, to be presented for payment within a certain period, otherwise to be cancelled, and the moneys appropriated for their payment to be escheated to the Commonwealth, and credited to the current appropriation to such commission for unemployment relief purposes,” absolutely.

(8) The act of June 25, 1937 (P. L. 2063), entitled “An act providing for the payment into the State Treasury, without escheat, of certain moneys and property subject to escheat under existing law, namely unclaimed dividends and profits, certain debts, and interest on certain debts, proceeds of policies of insurance, stock and customers deposits held by certain limited partnerships and unincorporated associations, joint-stock associations, companies and corporations doing business under the laws of this Commonwealth; declaring the legislative intent with respect to such payments; requiring reports of such money and property by, and imposing other duties upon, such partnerships, associations, and corporations; conferring powers and imposing duties on certain State officers, boards, and departments; providing for jurisdiction of courts, and for proceedings for the recovery of such moneys and property by the Attorney General at the suggestion of the Department of Revenue; providing for refunds of such moneys and property; and prescribing penalties,” absolutely.

(9) The act of May 11, 1949 (P. L. 1140), known as the “Unclaimed Funds Act for Life Insurance Companies,” absolutely.

(10) The act of May 17, 1949 (P. L. 1403), known as the “Municipal Unclaimed Moneys Act,” absolutely.

(11) Insofar as it is inconsistent with section 17 and subsection (c) of section 29 of this act, the act of July 10, 1963 (P. L. 233), entitled “An act providing for repose in actions to escheat or compel payment without escheat.”

(12) The act of July 31, 1963 (P. L. 426), entitled “An act providing for the credit of moneys to various funds in the State Treasury held for the payment of outstanding checks; providing for the escheat of moneys where checks are not presented within seven years; and providing for

issuance of replacement checks issued in lieu of outstanding checks when presented," absolutely.

(b) All other acts and parts of acts, general, local, and special, are repealed insofar as they are inconsistent herewith.

(c) All existing causes of action and defenses, including but not limited to, the fifteen-year statute of repose, set forth in the act of July 10, 1963 (P. L. 233), entitled "An act providing for repose in actions to escheat or compel payment without escheat," shall be preserved.

SECTION 30. *Time of Taking Effect.*—This act shall take effect on January 1, 1971.

