

## **DISPOSITION OF ABANDONED AND UNCLAIMED PROPERTY**

### **§ 1301.1. DEFINITIONS**

As used in this article, unless the context otherwise requires:

"BUSINESS ASSOCIATION" shall include any corporation (other than a public corporation), joint stock company, business trust, partnership or any association of two (2) or more individuals for business purposes, whether organized or operated under State or Federal law.

"CRIME VICTIM'S COMPENSATION FUND" shall mean the special nonlapsing fund created by the act of November 24, 1998 (P.L. 882, No. 111), known as the "Crime Victims Act."

"ELECTRONIC" shall mean relating to technology having electrical, digital, magnetic, wireless, optical, electromagnet or similar capabilities.

"FINANCIAL INSTITUTION" shall include 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.

"GENERAL USE PREPAID CARDS" shall mean cards issued only by a bank or other similarly regulated financial institution or by a licensed money transmitter and shall mean plastic cards or other electronic payment devices which are:

- (i) usable and honored upon presentation at multiple, unaffiliated merchants or service providers for goods or services or at automated teller machines (ATMs); and
- (ii) issued in a requested prepaid amount which amount may be, at the option of the issuer, increased in value or reloaded if requested by the holder.

The term shall not include debit cards linked to a deposit account or prepaid telephone calling cards. The term also shall not include flexible spending arrangements, including health reimbursement arrangements, as defined in section 106(c)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 106(c)(2)); flexible spending accounts subject to section 125 of the Internal Revenue Code of 1986; Archer MSAs as defined in section 220(d) of the Internal Revenue Code of 1986; dependent care reimbursement accounts subject to section 129 of the Internal Revenue Code of 1986; health savings accounts subject to section 223(d) of the Internal Revenue Code of 1986; or similar accounts from which, under the Internal Revenue Code of 1986 and its implementing regulations, individuals may pay medical expenses, health care expenses, dependent care expenses or similar expenses on a pretax basis.

"GIFT CARD" shall mean plastic cards or other electronic payment devices which are:

- (i) usable and honored upon presentation at a single merchant or an affiliated group or merchants that share the same name, mark or logo, or usable at multiple, unaffiliated merchants or service providers for the future purchase or delivery of any goods or services; and
- (ii) issued in a specified prepaid amount and may or may not be increased in value or reloaded.

The term shall not include general use prepaid cards or debit cards linked to a deposit account. The term also shall not include flexible spending arrangements, including health reimbursement arrangements, as defined in section 106(c)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 106(c)(2)); flexible spending accounts subject to section 125 of the Internal Revenue Code of 1986; Archer MSAs as defined in section 220(d) of the Internal Revenue Code of 1986; dependent care reimbursement accounts subject to section 129 of the Internal Revenue Code of 1986; health savings accounts subject to section 223(d) of the Internal Revenue Code of 1986; or similar accounts from which, under the Internal Revenue Code and its implementing regulations, individuals may pay medical expenses, health care expenses, dependent care expenses or similar expenses on a pretax basis.

"GIFT CERTIFICATE" shall mean a written promise which is:

- (i) usable and honored upon presentation at a single merchant or an affiliated group of merchants that share the same name, mark or logo, or usable at multiple, unaffiliated merchants or service providers for the future purchase or delivery of any goods or services; and
- (ii) issued in a specific prepaid amount and may or may not be increased in value or reloaded.

The term shall not include general use prepaid cards or debit cards linked to a deposit account. The term also shall not include flexible spending arrangements, including health reimbursement arrangements, as defined in section 106(c)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 106(c)(2)); flexible spending accounts subject to section 125 of the Internal Revenue Code of 1986; Archer MSAs as defined in section 220(d) of the Internal Revenue Code of 1986; dependent care reimbursement accounts subject to section 129 of the Internal Revenue Code of 1986; health savings accounts subject to section 223(d) of the Internal Revenue Code of 1986; or similar accounts from which, under the Internal Revenue Code and its implementing regulations, individuals may pay medical expenses, health care expenses, dependent care expenses or similar expenses on a pretax basis.

"HOLDER" shall mean a person obligated to hold for the account of or deliver or pay to the owner, property which is subject to this article and shall include any person in possession of property subject to this article belonging to another, or who is a trustee in case of a trust, or is indebted to another on an obligation subject to this article and the agent or legal representative of the person obligated, the person in possession, the trustee or the debtor.

“INDICATED AN INTEREST IN PROPERTY” shall mean any contact, communication or transaction, related to property, from the owner, or involving some affirmative action by the owner, which is documented in a contemporaneous record prepared by or on behalf of the holder or in the possession of the holder, including:

- (i) a written contact, communication or transaction;
- (ii) a secure or password-protected electronic contact, communication or transaction;
- (iii) a verbal contact, communication or transaction, in which the holder takes reasonable action to verify the identity of the owner; or
- (iv) a contact, communication or transaction, which is evidenced by other criteria provided by the State Treasurer.

"INSURER" shall include any person authorized to conduct an insurance business under the laws of this Commonwealth or under the laws of any other jurisdiction.

"OWNER" shall mean a person that has a legal or equitable interest in property subject to this article or a person whose name appears on the record of a holder as the person entitled to property held, issued or owing by the holder and shall include a depositor in case of a deposit, a creditor, claimant, or payee in case of other choses in action and a legal representative of the person with the interest, the entitled person, the depositor, the creditor, the claimant or the payee.

"PERSON" shall include any individual, business association, government, or political subdivision, public corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

"PROPERTY" shall include 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. The term shall not include property deemed lost at common law.

“RECORD” shall mean information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"QUALIFIED GIFT CERTIFICATE" shall mean a gift certificate or gift card that does not contain any of the following:

- (i) An expiration date or a period of time after which it expires.
- (ii) Any type of post-sale charge or fee, including, but not limited to, a service charge, dormancy fee, account maintenance fee, cash-out fee, replacement card fee or activation or reactivation fee.

The term shall not include general use prepaid cards.

"RESTITUTION" shall mean restitution ordered by a court in accordance with the provisions of 18 Pa.C.S. § 1106 (relating to restitution for injuries to person or property) and collected in accordance with the provisions of 42 Pa.C.S. § 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties).

“UNITED STATES SAVINGS BOND” shall mean property, tangible or intangible, in the form of a savings bond issued by the United States Treasury, whether in paper, electronic or paperless form, along with all proceeds of the savings bond.

"UTILITY" shall include 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.

**§ 1301.2. PROPERTY SUBJECT TO CUSTODY AND CONTROL OF THE COMMONWEALTH**

- (a) All abandoned and unclaimed property and property without a rightful or lawful owner 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. Where the records of the holder do not show a last known address of the owner of a traveler’s check or money order, it shall be presumed that the state in which the traveler’s check or money order was issued is the state of the last known address of the owner; 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.
- (b) Property is payable or distributable for the purpose of this article notwithstanding the owner’s failure to make demand or to present any instrument or document otherwise required to receive payment.
- (c) Any property presumed to be abandoned and unclaimed under this article that is held by a rural electric cooperative organized or qualified to do business in this Commonwealth under 15 Pa.C.S. Ch. 73 (relating to electric cooperative corporations) may, at the discretion of the rural electric cooperative, be retained and used by the rural electric cooperative if the property is used within the rural electric cooperative’s service territory for energy assistance, educational or civic purposes under a program adopted by the board of directors of the rural electric cooperative. The rural electric cooperative shall comply with the reporting requirements of this act with respect to such property and shall include with its report a certificate of compliance with the provisions of this

subsection that is signed by the chief executive officer of the rural electric cooperative.

### **§ 1301.3. 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 three (3) years 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
  - (ii.1) affirmatively, in written or electronic communication, changed or assented to a change in the terms and conditions under which the deposit, shares or claim is held; or
  - (iii) otherwise indicated an interest in the deposit, shares or claim as evidenced by a writing on file with the holder; or
  - (iv) received tax reports or regular statements of the deposits, shares or claim by certified mail or other method of communication that will provide the financial institution with a record that such report or statement was transmitted and received; or
  - (v) owned other property held by the financial institution to which subclause (i), (ii), (iii) or (iv) applies.
2. A deposit under clause 1 shall include any interest or dividend which the financial institution would pay to the owner upon claim therefor. The charges which may be excluded hereunder shall not include any charge due to inactivity imposed, directly or indirectly, after December 31, 1981 unless there is a valid and enforceable written contract between the financial institution and the owner of the deposit pursuant to which the financial institution may impose said charge.
3. Any sum payable on checks or on written instruments 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 three (3) years, or in the case of travelers checks, fifteen (15) years, or in the case of money orders, six (6) years in calendar year 2003 and seven (7) years in calendar year 2004 and thereafter, 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. An indication of interest in a check or instrument on which a financial institution is directly liable shall be recognized if it is made

with respect to the interests of the remitter, the payee or a person entitled to enforce the instrument.

4. 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 three (3) years from the date on which the rental period expired.
5. The following deposits described in clause 1 shall be excluded from the presumption of being abandoned and unclaimed only while the conditions described below are in effect:
  - (i) deposits during any period when withdrawals may be made only upon an order of a court of competent jurisdiction.
  - (ii) deposits established under 20 Pa.C.S. Ch. 53 (relating to Pennsylvania Uniform Transfers to Minors Act) or similar law concerning transfers to minors while the custodianship has not been terminated.
  - (iii) burial reserve accounts and similar deposits established under written agreements to provide for the funeral and/or burial expenses of a person while the person is still alive.

#### **§ 1301.4. 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:
  1. 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 three (3) 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 three (3) 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.
  2. 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.

3. 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.
  4. Property distributable in the course of a demutualization or related reorganization of an insurance company is deemed abandoned two (2) years after the date of the demutualization or reorganization if instruments or statements reflecting the distribution are either mailed to the owner and returned by the post office as undeliverable or not mailed to the owner because of a known bad address on the books and records of the holder.
- (b) In the case of insurance other than life insurance, the following property held or owing by an insurer is presumed abandoned and unclaimed:
1. 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 three (3) years after the moneys have or shall become due and payable under the provisions of such contracts of insurance.
  2. 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.

#### **§ 1301.5. 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 three (3) 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 (2) years or more after the date it became payable in accordance with the final order providing for the refund.

#### **§ 1301.6. 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 or gift card which has remained

unredeemed for two (2) years or more after its redemption period has expired or after the minimum period specified in section 915 (c) of the Consumer Credit Protection Act (Public Law 90-321, 15 U.S.C. § 16931-1 (c)), whichever occurs later, or for three (3) years or more from the date of issuance if no redemption period is specified. The provisions of this clause shall not apply to a qualified gift certificate.

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 or indicated an interest in such property, within three (3) 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, whenever the owner has not claimed or indicated an interest in such sum within three (3) 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 or indicated an interest in such sum within three (3) 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 or indicated an interest in such property, within three (3) years after the date prescribed for payment or delivery.

**§ 1301.7. 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 (2) years after the date for final distribution.

**§ 1301.8. PROPERTY HELD BY AGENTS-IN-FACT AND FIDUCIARIES**

(a) The following property held by agents-in-fact or fiduciaries is presumed abandoned and unclaimed:

1. All property held by an agent-in-fact or in a fiduciary capacity for the benefit of another person, three (3) years after the holder has lost contact with the owner, unless the owner has, within that three (3) year period:
  - (i) increased or decreased principal;



- (ii) accepted payment of principal or income; or
  - (iii) otherwise indicated an interest in the property or in other property of the owner in the possession, custody or control of the holder.
2. An individual retirement account, a retirement plan for self-employed individuals or similar account or a retirement plan created pursuant to federal law or the laws of this Commonwealth, three (3) years after the holder has lost contact with the owner, unless the owner has, within that three (3) year period:
- (i) commenced receiving distributions of principal or income;
  - (ii) increased or decreased the principal;
  - (iii) received payment of principal or income; or
  - (iv) otherwise indicated an interest in the account or plan or in other property of the owner in possession, custody or control of the holder.
- (b) Except as provided under subsection (c), the date on which the holder has lost contact with the owner is:
1. The date a second consecutive communication sent by the holder by first class United States mail to the owner is returned to the holder undelivered by the United States postal service; or
  2. If the second communication is made later than thirty (30) days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States postal service.
- (c) If the owner does not receive communications from the holder by United States mail, the holder shall attempt to confirm the owner's interest in the property by sending the owner an electronic mail communication not later than two (2) years after the owner's last indication of interest in the property. If the holder receives notification that the electronic mail communication was not received or if the owner does not respond to the electronic mail communication within thirty (30) days after the communication was sent, the holder shall promptly attempt to contact the owner by first class United States mail. If the mail is returned to the holder undelivered by the United States postal service, the holder shall be deemed to have lost contact with the owner on the date of the owner's last indication of interest in the property.

**§ 1301.9. PROPERTY HELD BY COURTS AND PUBLIC OFFICERS AND AGENCIES**

The following property is presumed abandoned and unclaimed:

1. except as provided in clauses 2 and 2.1 or clause 6, 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 three (3) years from the date it first became demandable or distributable.

2. Bicycles held for the owner by a municipality unclaimed by the owner for more than ninety (90) days from the date it first became demandable or distributable.
  - 2.1 All tangible property, other than bicycles, held for the owner by a municipality unclaimed by the owner for more than three (3) years from the date it first became demandable or distributable.
3. The bicycles held pursuant to clause 2 and tangible property held pursuant to clause 2.1 and which the State Treasurer refuses in writing to accept may be disposed of by the municipality to the highest bidder after due notice by advertisement for bids or at public auction at such time and place as may be designated by the municipality or the governing body may, by resolution, donate the bicycles or such tangible property to a charitable organization. Any proceeds from the sale of the bicycles or such tangible property shall be retained by the municipality and used for municipal purposes.
4. Bicycles held by or acquired by the Commonwealth for ninety (90) days may be disposed of at public auction at such time and place as may be designated by the State Treasurer. Proceeds of such sale or sales shall be deposited in the General Fund.
5. All property held by or subject to the control of any court, public corporation, public authority or instrumentality of the Commonwealth or by a public officer or political subdivision thereof, which is without a rightful or lawful owner, to the extent not otherwise provided for by law, held for more than one year.
6. Restitution held for the owner by any court, public corporation, public authority or instrumentality of the Commonwealth, or by a public officer or political subdivision thereof, unclaimed by the owner for more than three (3) years from the date it first became demandable or distributable.

**§ 1301.10. MISCELLANEOUS PROPERTY HELD FOR OR OWING TO ANOTHER**

The following property, held or owing to any owner, is presumed abandoned and unclaimed:

1. All property, not otherwise covered by this article, which is admitted in writing by the holder and adjudicated to be due, which is held or owing in the ordinary course of the holder's business, which has remained unclaimed by the owner for more than three (3) years after it became payable or distributable and in which the owner has not indicated an interest is presumed abandoned and unclaimed except for clause 2.
2. Wages or other compensation for personal services that have remained unclaimed by the owner for more than two (2) years after the wages or other compensation for personal services become payable or are distributed are presumed abandoned and unclaimed.

**§ 1301.10a. NOTICE GIVEN BY HOLDER**

- (a) The holder of property presumed abandoned shall send notice to the owner, not more than one hundred twenty (120) days nor less than sixty (60) days prior to the date in which the corresponding report is to be submitted to the State Treasurer, stating that the holder is in possession of property subject to this article, if:
  - 1. The holder of property has in its records an address for the owner which the holder's records do not disclose to be inaccurate; and
  - 2. The value of the property is fifty dollars (\$50) or more.
- (b) Written notice shall be sent by first class mail, unless the owner has previously agreed to a method of electronic notice that remains valid to contact the owner, and include:
  - 1. A description of the property.
  - 2. A description of the property ownership.
  - 3. The value of the property, if known.
  - 4. Any information necessary to contact the holder to prevent the reporting of the property to the State Treasurer.
- (c) In addition to the notice required under subsection (a), the holder of property may give additional notice at any time between the date of last activity by or communication with the owner of the property and the date the holder transfers the property to the custody and control of the state treasurer.
- (d) In addition to the verification required under section 1301.11, the holder of property shall include an affirmation of compliance with subsection (a).
- (e) No cost or fee shall be imposed upon an owner associated with any notice under this section.

**§ 1301.10b. UNITED STATES SAVINGS BONDS**

- (a) It is the intent of the general assembly to allow the State Treasurer to obtain possession of unredeemed and unclaimed United States savings bonds on behalf of residents of this Commonwealth but held by the Federal government to permit and facilitate the right of Pennsylvania bond holders to be reunited with the bond holders' United States savings bonds proceeds.
- (b) Any sum due as principal or interest on a United States savings bond or debenture, or coupons attached thereto, whenever the bond has remained unclaimed and unredeemed by the owner for more than three (3) years after its date of final maturity and in which the owner has not indicated an interest, shall be presumed abandoned and unclaimed.

- (c) Notwithstanding any law to the contrary, United States savings bonds that are unclaimed property pursuant to section 1301.10(1) shall escheat to the Commonwealth three (3) years after becoming unclaimed property by virtue of the provisions of section 1301.2. All property rights and legal title to and ownership of United States saving bonds or proceeds from the bonds, including all rights, powers and privileges of survivorship of any owner, co-owner or beneficiary, shall vest solely in the commonwealth according to procedures set forth in subsections (d), (e), (f), (g) and (h).
- (d) Within one hundred eighty (180) days after becoming reportable as unclaimed property pursuant to section 1301.10(1), if no claim has been filed in accordance with the provisions of section 1301.19 for a United States savings bond, the State Treasurer may commence a civil action in Commonwealth court for a determination that the United States savings bond shall escheat to the Commonwealth. The State Treasurer may postpone bringing the action until sufficient United States savings bonds have accumulated to justify, in the State Treasurer's opinion, the expense of the proceedings.
- (e) The State Treasurer shall make service by publication of the proceeding in accordance with Pa.R.C.P. no. 430 (relating to service pursuant to special order of court. Publication). In addition, the notice shall name any known owner, co-owner or beneficiary to be served and notify the person that:
1. The person has been sued in Commonwealth court;
  2. The person shall answer the petition or other pleading or otherwise defend, on or before a specified date, not less than forty-one (41) days after the date the notice is first published;
  3. If the person does not answer or otherwise respond, the petition or other pleading shall be taken as true, and judgment, the nature of which shall be stated, shall be rendered accordingly.
- (f) The Commonwealth court, if satisfied by evidence that the state treasurer has substantially complied with the laws of this commonwealth, shall enter a judgment that the United States saving bond has escheated to the commonwealth if:
1. No person files a claim or appears at the hearing to substantiate a claim; or
  2. The commonwealth court determines that a claimant is not entitled to the property claimed by the claimant.
- (g) The State Treasurer shall redeem the United States savings bonds escheated to the commonwealth. The proceeds, minus administrative expenses and expenses incurred by the Commonwealth in securing title to the bonds, from the redemption of United States savings bonds shall be deposited in the general fund in accordance with the provisions of section 1301.18.
- (h) Notwithstanding any law to the contrary, a person making a claim for United States savings bonds escheated to the Commonwealth under this section, or for the proceeds

from the bonds, may file a claim with the State Treasurer. Upon providing sufficient proof of the validity of the person's claim, the State Treasurer shall pay the claim. If payment has been made to a claimant, no action shall be maintained by any other claimant against the Commonwealth or any officer of the Commonwealth, for or on account of the funds.

**§ 1301.11. REPORT OF PROPERTY SUBJECT TO CUSTODY AND CONTROL OF THE COMMONWEALTH UNDER THIS ARTICLE**

- (a) Every person holding property which became subject to custody and control of the Commonwealth under this article during the preceding year shall report to the State Treasurer as hereinafter provided.
- (b) The report shall be verified and shall include:
  - 1. Except with respect to travelers checks and money orders, 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 fifty dollars (\$ 50) 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 fifty dollars (\$ 50) each may be reported in the aggregate;
  - 3. The date when the property became payable, demandable, returnable or the date upon which the property was declared or found to be without a rightful or lawful owner, and the date of the last transaction with the owner with respect to the property; and
  - 4. Other information consistent with law which the State Treasurer prescribes by regulations as necessary for administration of this article.
- (c) If the person holding property subject to custody and control of the Commonwealth under this article 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 article. The State Treasurer may postpone for a period not exceeding six (6) 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; if made by a court, by an officer of the court; and if made by a public officer of the United States, of the Commonwealth of Pennsylvania

or any political subdivisions thereof or of any other state or political subdivision thereof, by that public officer.

- (f) Subsequent to the filing of the reports required by this section, the State Treasurer shall compile a list of the abandoned and unclaimed property contained in the reports. The listing shall contain the names, items of property and last known addresses, if any, of the owners listed in the reports. The State Treasurer shall, after the notification period provided for in section 1301.12, make the listing available for examination, inspection or copying at fees to be determined by the State Treasurer
- (g) All agreements or powers of attorney to recover or collect abandoned and unclaimed property contained in the reports filed under this article shall be valid and enforceable only if the agreements:
  - 1. are in writing and duly signed and acknowledged by the owner;
  - 2. clearly state the fee or compensation to be paid, which shall not exceed fifteen per centum of the value of the abandoned and unclaimed property;
  - 3. disclose the nature and value of the property;
  - 4. disclose the name and address of the holder and, if known, whether the abandoned and unclaimed property has been paid or delivered to the State Treasurer;
  - 5. identify the name, address and telephone number of the person assisting in the location, delivery or recovery of the abandoned and unclaimed property; and
  - 6. identify the valid certificate of registration number assigned to the person assisting in the location, delivery or recovery of the abandoned and unclaimed property under section 1301.11a
- (h) Deleted
- (i) Subsection (g) shall not apply to any agreement or power of attorney entered into between the personal representative, guardian, trustee or other person in a representative capacity to the owner of the property in which such person has an interest for a fixed fee or hourly or daily rate not contingent upon the discovery of property or the value of property discovered: Provided, however, That any such agreement under this subsection for the purpose of evading the provisions of subsection (g) shall be void.
- (j) Nothing in this section shall be construed to prevent an owner from asserting at any time that any agreement to locate or reveal abandoned and unclaimed property reported to the State Treasurer is based on an excessive or unjust consideration.
- (k) To the maximum extent feasible, the State Treasurer shall be entitled to request and receive and shall utilize and be provided with such facilities, resources and data of any

court, department, division, board, bureau, commission or agency of the Commonwealth or any political subdivision thereof as it may reasonably request to carry out properly its powers and duties hereunder.

**§ 1301.11a. CERTIFICATE OF FINDER REGISTRATION**

- (a) Except for a person who is admitted to practice law before a court of a Federal or State jurisdiction or subject to section 1301.11(i), a person may not on behalf of another:
1. engage in an activity for the purpose of locating, delivering, recovering or assisting in the recovery of abandoned or unclaimed property; and
  2. receive a fee, compensation, commission or other remuneration for the activity under clause 1 without first obtaining a certificate of registration from the State Treasurer in accordance with this section.
- (b) An application for a certificate of registration shall be in writing and on the form prescribed by the State Treasurer and accompanied by a recent full face color photograph of the applicant. In addition to information that may be requested by the State Treasurer, the application shall provide the following:
1. the applicant's full name, telephone number, e-mail address, home address and work address;
  2. a statement that the applicant has not, during the ten-year period immediately preceding the submission of the application, violated a provision of this article or has been convicted of a felony or an offense of:
    - (i) theft or other related offenses against property as enumerated under 18 Pa.C.S. Ch. 39 (relating to theft and related offenses) or its equivalent if committed in another jurisdiction;
    - (ii) forgery or other fraudulent practices as enumerated in 18 Pa.C.S. Ch. 41 (relating to forgery and fraudulent practices) or its equivalent if committed in another jurisdiction; or
    - (iii) perjury, false swearing, fraud or other offense, as enumerated in 18 Pa.C.S. Ch. 49 Subch. A (relating to perjury and falsification in official matters) or its equivalent if committed in another jurisdiction;
  3. A statement that, to the applicant's knowledge, the applicant is not the subject of an ongoing investigation or prosecution involving an alleged violation of a provision of this article or an offense of:
    - (i) theft or other related offenses against property as enumerated under 18 Pa.C.S. Ch. 39 or its equivalent if committed in another jurisdiction;
    - (ii) forgery or other fraudulent practices as enumerated in 18 Pa.C.S. Ch. 41 or its equivalent if committed in another jurisdiction; or
    - (iii) perjury, false swearing, fraud or other offense as enumerated in 18 Pa.C.S. Ch. 49 Subch. A or its equivalent if committed in another jurisdiction; and
  4. The notarized signature of the applicant immediately following an

acknowledgment that a false or perjured statement subjects the applicant to criminal liability.

- (c) Upon the filing of the application, the State Treasurer may investigate the applicant to verify the information provided in the application and to determine the applicant's eligibility for a certificate of registration under this section. False information on an application is grounds for a denial, nonrenewal, suspension or revocation of the applicant's certificate of registration.
- (d) A certificate of registration with a unique registration number may be issued to an applicant if the following conditions are met:
  - 1. During the ten-year period immediately preceding the submission of the application, the applicant has not violated a provision of this article or has been convicted of a felony or an offense of:
    - (i) theft or other related offenses against property as enumerated under 18 Pa.C.S. Ch. 39 or its equivalent if committed in another jurisdiction;
    - (ii) forgery or other fraudulent practices as enumerated in 18 Pa.C.S. Ch. 41 or its equivalent if committed in another jurisdiction; or
    - (iii) perjury, false swearing, fraud or other offense as enumerated in 18 Pa.C.S. Ch. 49 Subch. A or its equivalent if committed in another jurisdiction; and
  - 2. The applicant has executed a sworn statement that is a commitment to conduct his actions as a finder of abandoned and unclaimed property in compliance with this article and the regulations promulgated under this article.
- (e) The certificate of registration issued under this section is for a period of two (2) years and may be renewed every two (2) years if the following conditions are met:
  - 1. The applicant submits a renewal application form prescribed by the State Treasurer.
  - 2. The applicant meets the conditions set forth under subsection (d).
  - 3. The applicant is not the subject of an ongoing investigation or order of revocation by the State Treasurer or the equivalent in another jurisdiction, or an ongoing investigation or prosecution by a law enforcement agency involving an offense enumerated under subsection (d) 1.

#### **§1301.11b. REVOCATION OF FINDER REGISTRATION**

- (a) After notice and an opportunity for a hearing, the State Treasurer may revoke, suspend or refuse to issue or renew a certificate of registration if the following are found:
  - 1. The person violated a provision of this article, the regulations promulgated under this article or has been convicted of a felony or an offense of:
    - (i) theft or other related offenses against property as enumerated under 18 Pa.C.S. Ch. 39 (relating to theft and related offenses) or its equivalent if



- committed in another jurisdiction;
    - (ii) forgery or other fraudulent practices as enumerated in 18 Pa.C.S. Ch. 41 (relating to forgery and fraudulent practices) or its equivalent if committed in another jurisdiction; or
    - (iii) perjury, false swearing, fraud or other offense, as enumerated in 18 Pa.C.S. Ch. 49 Subch. A (relating to perjury and falsification in official matters) or its equivalent if committed in another jurisdiction.
  - 2. In the opinion of the State Treasurer, the person's conduct as a finder of abandoned or unclaimed property undermines the confidence of the public or warrants the belief that the person's business will not be conducted honestly and fairly.
- (b) The State Treasurer may investigate an allegation or complaint of misconduct involving an applicant for or a person holding a certification of registration.
  - (c) In conducting an investigation under this section, the State Treasurer may compel, by subpoena, witnesses to testify in relation to any alleged misconduct or complaint and may require the production of a book, record or other document pertaining to that matter. If a person fails to file a statement or report, obey a subpoena, give testimony, produce a book, record or other document as required by a subpoena, or permit photocopying of a book, record or other document subpoenaed, the Commonwealth Court, upon application made to it by the State Treasurer, may compel obedience by an attachment proceeding for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify in the court.
  - (d) If a person is engaged in an activity that constitutes a violation of this article or has attempted or committed an offense identified under subsection (a) 1, the State Treasurer shall immediately revoke the certificate of registration of the person.

**§1301.11c. APPEALS**

- (a) The Commonwealth Court shall be vested with exclusive appellate jurisdiction to consider appeals of a final order, determination or decision of the State Treasurer involving the issuance, nonissuance, renewal, nonrenewal, revocation or suspension of a certification of registration under this article.
- (b) Notwithstanding law to the contrary, orders, determinations or decisions of the State Treasurer involving the issuance, nonissuance, renewal, nonrenewal, revocation or suspension of a certification of registration under this article shall be affirmed unless it is found that the State Treasurer committed an error of law or that the order, determination or decision was arbitrary and there was a capricious disregard of the evidence.

**§ 1301.12. NOTICE AND PUBLICATION OF LISTS OF PROPERTY SUBJECT TO CUSTODY AND CONTROL OF THE COMMONWEALTH UNDER THIS ARTICLE**

- (a) Within twelve (12) months from the filing of the report required by section 1301.11, the State Treasurer shall cause notice to be published at least once in a legal newspaper as well as an English language newspaper of general circulation in the county in which the owner of the property had a last known address appearing from the verified report filed by the holder or, if there is no name or address or the owner is not a Pennsylvania resident, then at least one time in the Pennsylvania Bulletin. Notice shall also be posted on the Internet website of the Treasury Department.
- (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 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 a proof of claim should be presented by the owner to the holder within three (3) months from the date of the published notice, and that thereafter claims should be filed with the State Treasurer.
- (c) The State Treasurer is not required to include in such notice published in an English language newspaper of general circulation any item of less than two hundred fifty dollars (\$ 250) or to include in such notice published in a legal newspaper any item of less than two hundred fifty dollars (\$ 250), unless the State Treasurer, in either instance, deems such publication to be in the public interest.
- (d) Within nine (9) months from the receipt of the report required by section 1301.11, the State Treasurer shall mail a notice to each person having an address listed who appears to be entitled to property of the value of two hundred fifty dollars (\$ 250) or more subject to custody and control of the Commonwealth under this article. The mailed notice shall contain:
1. A statement that, according to a report filed with the State Treasurer, property is being held to which the addressee appears entitled;
  2. The name and address of the holder of 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, claims should thereafter be filed with the State Treasurer.

- (e) This section is not applicable to sums payable on traveler's checks and money orders or to property reported to be without a rightful or lawful owner.
- (f) Compliance with the publication requirements of this section shall be based on the best available commercial rates and subject to available appropriations.

### **§ 1301.13. PAYMENT OR DELIVERY**

- (a) Every person who holds property subject to the custody and control of the Commonwealth shall, after compliance with section 1301.11, where required, and 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 article, pay or deliver to the State Treasurer all property subject to custody and control of the Commonwealth under this article, 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 article, the holder need not pay or deliver the property to the State Treasurer, 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 article
- (c) Notwithstanding subsection (a) of this section, in the case of the deposits and the sums payable under clauses 1 and 3 of section 1301.3 the amount of such deposits and such sums shall be paid to the State Treasurer on or before the final date for filing the report required by section 1301.11.
- (d) Any person who holds property which may become subject to the custody and control of the Commonwealth pursuant to this act may, with the consent of the State Treasurer, report and deliver such property prior to the expiration of any holding period specified for such reporting. Any person who pays or delivers property prior to the expiration of such holding period shall be relieved of further liability pursuant to section 1301.14 Property thus reported may be disposed of pursuant to section 1301.17, but in no event shall the period for filing of claims be diminished by such early delivery or disposition.

### **§ 1301.14. RELIEF FROM LIABILITY BY PAYMENT OR DELIVERY**

Upon the payment or delivery of the property to the State Treasurer, the Commonwealth shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers property to the State Treasurer under this article is relieved of all liability with respect to the safekeeping of 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 State Treasurer pursuant to this article may make payment to any person

appearing to such holder to be entitled thereto. In the case of deposits and sums paid to the State Treasurer under subsection (c) of section 1301.13, financial institutions shall make payment to any person appearing to such financial institution to be entitled thereto. Upon proof of such payment by a holder and proof that the payee was entitled thereto, the State Treasurer shall forthwith reimburse the holder for such payment together with interest from the date of receipt of such proofs by the State Treasurer to a date within thirty (30) days of the date of mailing of the reimbursement. Interest under this section shall be at the rate prevailing for tax over payments on the date of receipt of the proofs by the State Treasurer as provided for in section 806 of this act.

#### **§ 1301.15. INCOME ACCRUING AFTER PAYMENT OR DELIVERY**

When property is paid or delivered to the State Treasurer under this article, the owner is entitled to receive income or other increments actually received by the State Treasurer.

#### **§ 1301.16. PERIODS OF LIMITATION**

Except as herein below 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 article, nor affect the duty to file a report or to pay or deliver the property to the State Treasurer, as required by this article, nor bar any action by the State Treasurer under this article, provided that:

1. If any holder required to file a report under any act in effect prior to the effective date of this article, or under this article, 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 (15) years after such report has been or is filed.
2. 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 (15) years after the property first became escheatable or payable into the State Treasury without escheat.

#### **§ 1301.17. DISPOSITION OF PROPERTY**

- (a) Within a reasonable time after delivery to the State Treasurer of any property under this article, the State Treasurer may sell it to the highest bidder at public sale in whatever city in the Commonwealth affords, in the State Treasurer's judgment, the most favorable market for the property involved. The State Treasurer may decline the highest bid or reoffer the property for sale if the State Treasurer considers the price bid insufficient. The State Treasurer need not offer any property for sale, if, in the State Treasurer's 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 State Treasurer may sell the

property without notice by publication or otherwise. The language provided in this section grants to the State Treasurer express authority to sell any property, including, but not limited to, stocks, bonds, notes, bills and all other public or private securities.

- (c) Property reported or delivered to the custody or control of the State Treasurer pursuant to this act may be donated to the use of the Commonwealth or any of its political subdivisions or otherwise consumed or discarded, at the discretion of the State Treasurer where, in the opinion of the State Treasurer, the costs associated with delivery, notice or sale exceed the value of the property. Property which is refused or is to be donated to the use of a political subdivision shall first be offered to the political subdivision which holds the property. A donee or purchaser at any sale conducted by the State Treasurer pursuant to this article 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 State Treasurer shall execute all documents necessary to complete the transfer of title.
- (d) The State Treasurer shall be responsible to an owner only for the amount actually received by the State Treasurer upon the sale of any property pursuant to subsections (a), (b) and (c).
- (e) The State Treasurer shall be required to sell all stocks, bonds and other negotiable financial instruments upon receipt of such items. The State Treasurer shall not be held liable for any loss or gain in the value that the financial instrument would have obtained had the financial instrument been held instead of being sold.

**§ 1301.18. DEPOSIT OF FUNDS**

- (a) Except as provided in subsection (a.1), all funds received under this article, including the proceeds from the sale of property under section 1301.17, shall forthwith be deposited by the State Treasurer in the General Fund of the Commonwealth except that the State Treasurer shall retain in a separate trust fund an amount not exceeding twenty-five thousand dollars (\$ 25,000) plus twenty per centum of deposits and sums paid to the State Treasurer under subsection (c) of section 1301.13 during the preceding twelve (12) months from which the State Treasurer shall make reimbursements under section 1301.14 and prompt payment of claims duly allowed under section 1301.19.

Before making the deposit, the State Treasurer 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 regular business hours.

- (a.1)1. On or before the thirtieth day of June, all of the funds received under clause 6 of section 1301.9 shall forthwith be deposited annually by the state Treasurer in the Crime Victim's Compensation Fund.

2. Of these funds, the State Treasurer shall transfer five per centum in a special fund hereby established in the State Treasury to be designated the Rightful Owners' Claims Payment Fund from which the State Treasurer shall make reimbursements and prompt payments of claims for funds received under clause 6 of section 1301.9 duly allowed as provided by this act.
  3. If at any time the State Treasurer determines that there are insufficient funds in the Rightful Owners' Claims Payment Fund to pay all claims duly allowed by the State Treasurer or by order of a court of law to be paid, the State Treasurer shall withdraw from the Crime Victim's Compensation Fund an amount sufficient to pay such claims and need only notify the administrators of the Crime Victim's Compensation Fund as to when and what amount shall be withdrawn.
  4. If, however, the Rightful Owners' Claims Payment Fund has sufficient funds to satisfy all claims duly allowed by the State Treasurer or by order of a court of law to be paid throughout the twelve (12) month period immediately following the annual deposit by the State Treasurer in the Crime Victim's Compensation Fund.
  5. Before making the deposit in the Crime Victim's Compensation Fund and the Rightful Owners' Claims Payment Fund, the State Treasurer shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property. The record with respect to any specific claim shall be available to the claimant at all regular business hours.
  6. Notwithstanding any other provision of this subsection, the State Treasurer shall make reimbursements and prompt payment of claims for funds received under clause 6 of section 1301.9 first under clause (2) of this subsection and then from other available sources as provided by this act.
- (b) The General Assembly shall annually appropriate to the State Treasurer such funds as it deems necessary and appropriate to administer this article.

#### **§ 1301.19. CLAIM FOR PROPERTY PAID OR DELIVERED**

Any person claiming an interest in any property paid or delivered to the Commonwealth under this article may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the State Treasurer.

#### **§ 1301.20. DETERMINATION OF CLAIMS**

- (a) The State Treasurer shall consider any claim filed under this article and may hold a hearing and receive evidence concerning it. If a hearing is held, the State Treasurer shall prepare a finding and a decision in writing on each claim filed, stating the substance of

any evidence heard by the State Treasurer and the reasons for the State Treasurer's decision. The decision shall be a public record.

- (b) If the claim is allowed, the State Treasurer shall make payment forthwith.

**§ 1301.21. JUDICIAL ACTION UPON DETERMINATIONS**

- (a) Any person aggrieved by a decision of the State Treasurer may appeal to the Commonwealth Court. The appeal shall be filed within thirty (30) days after the decision of the State Treasurer. The case shall be heard in Commonwealth Court's appellate jurisdiction.
- (b) Any person as to whose claim the State Treasurer has failed to take action within ninety (90) days after the filing of the claim may commence an action in the Commonwealth Court to establish his claim within one hundred twenty (120) days from the filing of the claim. The action shall be tried de novo without a jury.

**§ 1301.22. ELECTION TO TAKE PAYMENT OR DELIVERY**

The State Treasurer may decline to receive any item of property reported, in which event the holder thereof shall be discharged of any liability to the Commonwealth with respect thereto. Unless the holder of the property is notified to the contrary within ninety (90) days after filing the report required under section 1301.11, the State Treasurer shall be deemed to have elected to receive the custody of the property.

**§ 1301.23. EXAMINATION OF RECORDS**

- (a) The State Treasurer may require a person who has not filed a report, or a person who the State Treasurer believes has filed an inaccurate, incomplete or false report, to file a verified report in a form specified by the State Treasurer. The report must state whether the holder, or agent thereof, is holding property reportable under this article, describe property not previously reported or as to which the State Treasurer has made inquiry and specifically identify and state the amounts of property that may be in issue.
- (b) The State Treasurer, at reasonable times and upon reasonable notice, may examine the records of any person or agent thereof to determine whether the person has complied with this article. The administrator may conduct the examination even if the person believes it is not in possession of any property that must be reported, paid or delivered under this article. The State Treasurer may contract with any other person to conduct the examination on behalf of the State Treasurer, the selection of whom shall not be questioned.
- (c) The State Treasurer at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association or financial association that is the holder of property presumed abandoned if the administrator has given the notice required by subsection (b) to both the association or organization and the

agent at least 90 days before the examination.

- (d) Documents and working papers obtained or compiled by the State Treasurer, or the State Treasurer's agents, employees or designated representatives, in the course of conducting an examination are confidential and are not public records, but the documents and papers may be:
  - 1. used by the State Treasurer in the course of an action to collect unclaimed property or otherwise enforce this article;
  - 2. used in joint examinations conducted with or pursuant to an agreement with another state, the Federal Government or any other governmental subdivision, agency or instrumentality;
  - 3. produced pursuant to subpoena or court order; or
  - 4. disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this subdivision, if the other state is bound to keep the documents and papers confidential.
- (e) If an examination of the records of a holder results in the disclosure of property reportable under this article, the State Treasurer may assess the cost of the examination against the holder at the rate of \$200 a day for each examiner, or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable. The cost of an examination made pursuant to subsection (c) may be assessed only against the business association or financial institution.
- (f) If, after the effective date of this section, a holder does not maintain the adequate records and the records of the holder that are available are insufficient to permit the preparation of a report, the State Treasurer may require the holder to report and pay to the State Treasurer the amount the State Treasurer reasonably estimates, on the basis of any available records of the holder or by any other reasonable method of estimation that the State Treasurer may select.

**§ 1301.24. PROCEEDING TO COMPEL REPORTING OR DELIVERY**

- (a) If any person refuses to report or to pay or deliver property to the State Treasurer as required under this article, including property subject to written demands pursuant to section 1301.3 and the amount required to be paid pursuant to section 1301.23(b), 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. The State Treasurer bears the burden of proof regarding the estimation of the value of property pursuant to this article.
- (b) If any holder fails, without proper cause,
  - (i) to report or



- (ii) to pay and deliver to the State Treasurer property subject to custody and control of the Commonwealth under this article, such holder shall be liable to pay to the State Treasurer interest at the rate of twelve per centum 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 State Treasurer under subsection (a), and such interest shall be recoverable in the same action.
- (c) If a holder fails, without proper cause, to report or to pay and deliver to the State Treasurer property subject to custody and control of the Commonwealth under this article, the holder shall pay a penalty not to exceed one thousand dollars (\$1,000) per day to the State Treasurer beginning with the day after the report should have been filed and continuing each day thereafter until a proper report is filed with the State Treasurer. The State Treasurer may waive all or a portion of the penalty for good cause.

### **§ 1301.25. PENALTIES**

- (a) Any person who, without proper cause, fails to render any report or perform other duties required under this article, shall, upon conviction in a summary proceeding be sentenced to pay a fine of one hundred dollars (\$100) for each day such report is withheld, but not more than ten thousand dollars (\$10,000).
- (b) Any person who, without proper cause, refuses to pay or deliver property to the State Treasurer as required under this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or imprisonment for not more than twenty-four (24) months, or both.
- (c) Upon good cause shown, the State Treasurer may waive, in whole or in part, interest and penalties under subsections (a) and (b) and shall waive penalties if the holder acted in good faith and without negligence
- (d) A person who is found to have violated section 1301.11 or 1301.11a, in addition to other sanctions under this article, shall be guilty of a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not to exceed one thousand dollars (\$1,000) for the first offense. A person who is found guilty of a subsequent offense shall be subject to a fine not to exceed five thousand dollars (\$5,000).

### **§ 1301.26. REGULATIONS**

- (a) The State Treasurer is hereby authorized to make necessary regulations to carry out the provisions of this article.
- (b) Within twelve (12) months of the effective date of this subsection, the State Treasurer shall promulgate regulations regarding estimation calculations. Pending the promulgation of the regulations and prior to issuing any demand pursuant to section 1301.24 that incorporates any estimate of amounts due following the State Treasurer's

examination of a holder's records, the State Treasurer shall promulgate a statement of policy regarding estimation calculations. Estimation procedures set forth by the statement of policy shall conform to generally accepted auditing standards. The statement of policy shall expire upon promulgation of final regulations or one year from the effective date of this subsection, whichever occurs first.

**§ 1301.27. EFFECT OF LAWS OF OTHER STATES**

This article 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 article.

**§ 1301.28A. INTERDEPARTMENTAL COOPERATION**

- (a) The head of any department, board, commission, agency or instrumentality of the Commonwealth shall, unless otherwise prohibited by law, disclose to the State Treasurer the last known address of individuals listed in the Treasury Department's records as owners of unclaimed property.
- (b) Notwithstanding subsection (a), section 731 of this act and sections 274, 353(f) and 408(b) of the act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," the Department of Revenue shall disclose to the State Treasurer the last known address of individuals listed in the Treasury Department's records as owners of unclaimed property.
- (c) Upon receipt of the information referred to in subsections (a) and (b), the Treasury Department shall keep the information confidential and shall use it solely to assist in the process of returning unclaimed property to its rightful owner.

**§ 1301.28b. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL ACT**

- (a) Except as set forth in subsection (b), this article modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act (Public Law 106-229, 15 U.S.C. § 7001 et seq.).
- (b) This article does not:
  - 1. modify, limit or supersede section 101(c) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001(c)); or
  - 2. authorize electronic delivery of the notice described in section 103(b) of the Electronic Signatures in Global and National Commerce Act (15 U.S.S. § 7003(b)).