

## CHAPTER 12 UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

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§ 89-12-1. Short title.

#### Statute text

This chapter shall be known and may be cited as the "Uniform Disposition of Unclaimed Property Act."

#### History

Sources: Laws, 1982, ch. 497, § 1, eff from and after July 1, 1982.

#### Annotations

Cross references- Authority of municipalities with respect to lost, stolen, abandoned or misplaced personal property, see § 21-39-21.

Liquidated state trust company unclaimed property, see § 81-27-8.005 et seq.

Comparable Law Notes- Alabama Code, §§ 35-12-20 through 35-12-48.

Arkansas Code Annotated, §§ 18-28-201 through 18-28-233.

Tennessee Code Annotated, §§ 66-29-101 through 66-29-137.

#### Annotations

#### ATTORNEY GENERAL OPINIONS

Uniform Disposition of Unclaimed Property Act (Miss. Code Sections 89-12-1 et seq.) provides procedure for return of forfeited property where promptness requirement of Miss. Code Section 41-29-177 was not complied with, and for disposing of property where owners cannot be located. Magee, Jan. 8, 1993, A.G. Op. #92-0909.

#### RESEARCH AND PRACTICES REFERENCES

ALR. Uniform Disposition of Unclaimed Property Act. 98 A.L.R.2d 304.

Am Jur. 1 Am. Jur. 2d, Abandoned, Lost, and Unclaimed Property §§ 1 et seq.  
Jurisdictions adopting Uniform Disposition of Unclaimed Property Act, see Am. Jur. 2d Desk Book, Item No. 124.

25 Am. Jur. Proof of Facts 2d 685, Abandonment of Tangible Personal Property.

CJS. 30A C.J.S., Escheat §§ 1 et seq.

§ 89-12-3. Definitions.

## Statute text

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

(a) "Banking organization" means any national or state bank, trust company, savings bank, land bank, private banker, or any similar organization which is engaged in business in this state.

(b) "Business association" means any corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals, whether organized for profit or nonprofit, including, but not limited to, a banking organization, financial organization, life insurance corporation and utility.

(c) "Financial organization" means any federal or state savings and loan association, building and loan association, credit union, cooperative bank or investment company, or any similar organization which is engaged in business in this state.

(d) "Holder" means any person in possession of property subject to the provisions of this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to the provisions of this chapter.

(e) "Insurance corporation" means any association or corporation transacting in this state the business of insurance involving in any manner a person or property.

(f) "Intangible personal property" includes, but is not limited to:

(i) Monies, checks, drafts, deposits, interest, dividends, and income;

(ii) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(iii) Monies deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(iv) Amounts due and payable under the terms of insurance policies;

(v) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits;

(vi) Shares of corporate stock and other intangible ownership interests in business associations; and

(vii) Bonds, notes and other debt obligations.

(g) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to the provisions of this chapter, or his legal representative.

(h) "Apparent owner" means the person who appears from the records of the holder to be entitled to property held by the holder.

(i) "Person" means any individual, business association, government or political subdivision or agency, corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest, or any other legal or commercial entity whether such person is acting in his own right or in a representative capacity.

(j) "Treasurer" means the State Treasurer of the State of Mississippi.

(k) "Utility" means any person who owns or operates in this state 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.

#### History

Sources: Laws, 1982, ch. 497, § 2; Laws, 1991, ch. 451, § 1, eff from and after July 1, 1991.

#### Annotations

Cross references- State treasurer, generally, see §§ 7-9-1 et seq.

#### Annotations

#### ATTORNEY GENERAL OPINIONS

Money qualifies as "intangible personal property" under Miss. Code Section 89-12-3(f)(i). Magee, Jan. 8, 1993, A.G. Op. #92-0909.

§ 89-12-5. Presumed abandonment of property held or owing by bank or other business association.

#### Statute text

(1) Subject to the provisions of Sections 89-12-17 and 89-12-19, the following property held or owing by a banking or financial organization or by a business association shall be presumed abandoned:

(a) Any demand, savings, or matured time deposit made in this state with a banking organization or financial organization, together with any interest or dividend thereon, excluding any charges that may have accrued, unless the owner has, within five (5) years:

(i) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(ii) Corresponded in writing with the banking organization or financial organization concerning the deposit; or

(iii) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization or financial organization.

(b) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, but not limited to, certificates of deposit, drafts, money orders and traveler's checks, that, with the exception of traveler's checks and money orders, has been outstanding for more than five (5) years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler's checks, that has been outstanding for more than fifteen (15) years from the date of its issuance, or, in the case of money orders, that has been outstanding for more than seven (7) years from the date of its issuance, unless the owner has within five (5) years, or within fifteen (15) years in the case of traveler's checks or within seven (7) years in the case of money orders, corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association.

(2) Any certificate of deposit made in this state with a banking organization, together with an interest or dividend thereon, with a maturity date equal to or greater than ten (10) years shall be exempt from the time limit provisions of this chapter.

#### History

Sources: Laws, 1982, ch. 497, § 3; Laws, 1991, ch. 451, § 2, eff from and after July 1, 1991.

#### Annotations

Cross references- Sums payable on money orders or traveler's checks presumed abandoned under this section as exempt from notice requirement, see § 89-12-27.

Payment or delivery of abandoned property to treasurer, see § 89-12-29.

#### Annotations

### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. 2d, Abandoned, Lost, and Unclaimed Property § 7.

1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost and Unclaimed Property, Form 1.1 (complaint, petition, or declaration-allegation-property as subject to abandonment); Form 1.2 (allegation-relinquishment of possession to property); Form 1.3 (allegation-intent to abandon property); Form 1.4 (allegation-intent to abandon property-as voluntary and unconditional).

Young, Trial Handbook for Mississippi Lawyers § 19:19.

CJS. 30A C.J.S., Escheat § 3.

§ 89-12-7. Presumed abandonment of unclaimed funds held or owing by life insurance corporation.

#### Statute text

(1) Subject to the provisions of Section 89-12-17, funds held or owing by a life insurance corporation under any life or endowment insurance policy or annuity contract which has matured or terminated shall be presumed abandoned if unclaimed and unpaid for more than five (5) years after the funds became due and payable as established from the records of the corporation.

(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 corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it shall be 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 corporation. This presumption is a presumption affecting the burden of proof.

- (3) A life insurance policy not matured by actual proof of the death of the insured according to the records of the corporation shall be deemed to be matured and the proceeds due and payable if:
- (a) The insured has attained, or would have attained if he were living, the limiting age under the mortality table on which the reserve is based;
  - (b) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in paragraph (a) of this subsection; and
  - (c) Neither the insured nor any other person appearing to have an interest in the policy has, within the preceding five (5) years, according to the records of the corporation:
    - (i) Assigned, readjusted, or paid premiums on the policy,
    - (ii) Subjected the policy to loan, or
    - (iii) Corresponded in writing with the life insurance corporation concerning the policy.
- (4) Any funds otherwise payable according to the records of the corporation shall be deemed due and payable although the policy or contract has not been surrendered as required.

#### History

Sources: Laws, 1982, ch. 497, § 4; Laws, 1991, ch. 451, § 3, eff from and after July 1, 1991.

#### Annotations

Cross references- Regulation of the insurance industry, generally, see §§ 83-1-1 et seq.

Recovery by another state of property paid or delivered to treasurer under this chapter, see § 89-12-21.

#### Annotations

### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. 2d, Abandoned, Lost, and Unclaimed Property § 9.  
1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost and Unclaimed Property, Form 1.1 (complaint, petition, or declaration-allegation-property as subject to abandonment); Form 1.2 (allegation-relinquishment of possession to property); Form 1.3 (allegation-intent to abandon property); Form 1.4 (allegation-intent to abandon property-as voluntary and unconditional).  
Young, Trial Handbook for Mississippi Lawyers § 19:19.

CJS. 30A C.J.S., Escheat § 3.

§ 89-12-9. Presumed abandonment of funds held or owing by utility.

#### Statute text

Subject to the provisions of Section 89-12-17 of this chapter, the following funds held or owing by any utility shall be presumed abandoned:

(a) Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than five (5) years after the termination of the services for which the deposit or advance payment was made.

(b) Any sum which a utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest thereon, less any lawful deduction, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than five (5) years after the date it became payable in accordance with the final determination or order providing for the refund.

#### History

Sources: Laws, 1982, ch. 497, § 5; Laws, 1991, ch. 451, § 4, eff from and after July 1, 1991.

#### Annotations

Cross references- Regulation of public utilities, generally, see §§ 77-1-1 et seq.

#### Annotations

### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. 2d, Abandoned, Lost, and Unclaimed Property § 10.  
1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost and Unclaimed Property, Form 1.1 (complaint, petition, or declaration-allegation-property as subject to abandonment); Form 1.2 (allegation-relinquishment of possession to property); Form 1.3 (allegation-intent to abandon property); Form 1.4 (allegation-intent to abandon property-as voluntary and unconditional).

CJS. 30A C.J.S., Escheat § 3.

§ 89-12-11. Presumed abandonment of dividend, interest and the like held or owing by business association for or to shareholder, bondholder and the like.

#### Statute text

(1) Subject to the provisions of Section 89-12-17, and except as otherwise provided in subsections (2) and (5) of this section, stock or other intangible ownership interest in a business association which is held by the association, the existence of which is evidenced by records available to the association, is presumed abandoned if a dividend, distribution or other sum payable as a result of the interest has remained unclaimed by the owner for five (5) years and during that time the owner has not:

(a) Communicated in writing with the association regarding the interest or a dividend, distribution or other sum payable as a result of the interest; or

(b) Otherwise communicated with the association regarding the interest or a dividend, distribution or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

(2) At the expiration of a five-year period following the failure of the owner to claim a dividend, distribution or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least five (5) dividends, distributions or other sums paid during the period, none of which has been claimed by the owner. If five (5) dividends, distributions or other sums are paid during the five-year period, the time period leading to a presumption of abandonment commences on the date that payment of the first unclaimed dividend, distribution or other sum became due and payable. If five (5) dividends, distributions or other sums are not paid during the presumptive period, the period continues to run until there have been five (5) dividends, distributions or other sums that have not been claimed by the owner.

(3) The running of the five-year period of abandonment ceases immediately upon the occurrence of a communication as described in subsection (1) of this section. If any future dividend, distribution or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution or other sum became due and payable.

(4) At the time an interest is presumed abandoned under this section, any dividend, distribution or other sum then held for or owing to the owner as a result of the interest, and not previously abandoned, is presumed abandoned.

(5) This section does not apply to any stock or other intangible ownership of interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions or other sums payable as a result of the interest unless the records available to the State Treasurer show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within five (5) years communicated in any manner described in subsection (1) of this section.

(6) Notwithstanding anything in this section or any other section in this chapter to the contrary, the property presumed abandoned under this chapter shall not include capital credits or patronage refunds offered for payment by nonprofit cooperative electric power associations, nonprofit cooperative water and sewer associations, or nonprofit agricultural cooperative marketing associations, but rather such unclaimed funds shall be used for the benefit of the general membership of such associations.

#### History

Sources: Laws, 1982, ch. 497, § 6; Laws, 1991, ch. 451, § 5; Laws, 1997, ch. 415, § 1, eff from and after July 1, 1997.

#### Annotations

Amendments- The 1997 amendment revised subsection (6), so as to exempt certain payments by nonprofit agricultural cooperative marketing associations.

#### Annotations

Cross references- Regulation of corporations, associations and partnerships, generally, see §§ 79-1-1 et seq.

Sale of securities listed on stock exchange, see § 89-12-30.

Relief from liability upon payment or delivery of abandoned property to treasurer, see § 89-12-31.

Annotations

#### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. 2d, Abandoned, Lost, and Unclaimed Property § 8.  
1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost and Unclaimed Property, Form 1.1 (complaint, petition, or declaration-allegation-property as subject to abandonment); Form 1.2 (allegation-relinquishment of possession to property); Form 1.3 (allegation-intent to abandon property); Form 1.4 (allegation-intent to abandon property-as voluntary and unconditional).

Young, Trial Handbook for Mississippi Lawyers § 19:19.

CJS. 30A C.J.S., Escheat § 3.

§ 89-12-13. Presumed abandonment of intangible personal property held by fiduciary.

Statute text

Subject to the provisions of Section 89-12-17, any intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person shall be presumed abandoned unless the owner has, within five (5) years after it became payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

History

Sources: Laws, 1982, ch. 497, § 7; Laws, 1991, ch. 451, § 6, eff from and after July 1, 1991.

Annotations

#### RESEARCH AND PRACTICES REFERENCES

Am Jur. Young, Trial Handbook for Mississippi Lawyers § 19:19.

CJS. 30A C.J.S., Escheat § 3.

§ 89-12-14. Presumed abandonment of intangible property held by business association, federal, state or local government or governmental subdivision, agency or entity.

#### Statute text

(1) All intangible property, including, but not limited to, any interest, dividend, or other earnings thereon, less any lawful charges, held by a business association, federal, state or local government or governmental subdivision, agency or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within five (5) years after the date prescribed for payment or delivery, is presumed abandoned and subject to the custody of this state as unclaimed property if:

(a) The last known address of the owner is unknown; and  
(b) The person or entity originating or issuing the intangible property is this state or any political subdivision of this state, or is incorporated, organized, created or otherwise located in this state.

(2) The provisions of subsection (1) of this section shall not apply to property that is or may be presumed abandoned and subject to the custody of this state pursuant to any other provision of law containing a dormancy period different than that prescribed in subsection (1) of this section.

(3) The provisions of subsection (1) of this section shall apply to all property held at the time of the effective date of this section, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.

(4) Insofar and only insofar as funds reflected by the cancellation of State of Mississippi warrants are unclaimed and presumed abandoned, the State Treasurer shall transfer such funds out of the Abandoned Property Fund established by Section 89-12-37 to the original fund source after the expiration of five (5) years as required herein.

#### History

Sources: Laws, 1991, ch. 451, § 7; Laws, 1992, ch. 408, § 1; Laws, 2000, ch. 501, § 2, eff from and after passage (approved Apr. 27, 2000).

#### Annotations

Amendments- The 2000 amendment added (4).

#### Annotations

#### ATTORNEY GENERAL OPINIONS

Unclaimed and unidentifiable funds in district attorney's pre-trial intervention account are unclaimed property to be disposed of under statute, involving report to State Treasurer, publication of names of persons appearing to own property, and payment of property to State Treasurer. Pacific, Dec. 16, 1992, A.G. Op. #92-0912.

Money or intangible property, which was subject of forfeiture proceedings which did not take place promptly, could be presumed "abandoned" under Miss. Code Section 89-12-14. Magee, Jan. 8, 1993, A.G. Op. #92-0909.

## RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost and Unclaimed Property, Form 1.1 (complaint, petition, or declaration-allegation-property as subject to abandonment); Form 1.2 (allegation-relinquishment of possession to property); Form 1.3 (allegation-intent to abandon property); Form 1.4 (allegation-intent to abandon property-as voluntary and unconditional).

§ 89-12-15. Presumed abandonment of intangible personal property held in ordinary course of holder's business.

### Statute text

All intangible personal property not otherwise covered by the provisions of this chapter, including any income or increment thereon and deducting any charges that may have accrued, that is held in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five (5) years after it became payable or distributable shall be presumed abandoned.

### History

Sources: Laws, 1982, ch. 497, § 8; Laws, 1991, ch. 451, § 8, eff from and after July 1, 1991.

### Annotations

## RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost and Unclaimed Property, Form 1.1 (complaint, petition, or declaration-allegation-property as subject to abandonment); Form 1.2 (allegation-relinquishment of possession to property); Form 1.3 (allegation-intent to abandon property); Form 1.4 (allegation-intent to abandon property-as voluntary and unconditional).

Young, Trial Handbook for Mississippi Lawyers § 19:19.

CJS. 30A C.J.S., Escheat § 3.

§ 89-12-16. Presumed abandonment of tangible personal property or intangible personal property held by federal government, federal agency, or any officer or appointee thereof.

### Statute text

(1) All tangible personal property or intangible personal property, including choses in action in amounts certain, and all debts owed or entrusted funds or other property held by the federal government, or any federal agency, or any officer, or appointee thereof, shall

be presumed abandoned in this state if the last known address of the owner of the property is in this state and the property has remained unclaimed for five (5) years.  
(2) This section shall apply to all abandoned property held by the federal government, or any federal agency, or any officer, or any appointee thereof, at the time of the effective date of this section, or at any time thereafter, regardless of when such property became presumptively abandoned.

#### History

Sources: Laws, 1991, ch. 451, § 9, eff from and after July 1, 1991.

#### Annotations

#### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost and Unclaimed Property, Form 1.1 (complaint, petition, or declaration-allegation-property as subject to abandonment); Form 1.2 (allegation-relinquishment of possession to property); Form 1.3 (allegation-intent to abandon property); Form 1.4 (allegation-intent to abandon property-as voluntary and unconditional).

§ 89-12-17. Additional conditions for presumption of abandonment of intangible personal property.

#### Statute text

Unless otherwise provided by statute of this state, intangible personal property shall be presumed abandoned under the provisions of this chapter if the conditions for presumption of abandonment stated in the provisions of this chapter exist, and if:

- (a) The last-known address of the apparent owner is in this state as shown on the records of the holder; or
- (b) No address of the apparent owner appears on the records of the holder, and
  - (i) The last-known address of the apparent owner is in this state, or
  - (ii) The holder is domiciled in this state and has not previously paid the property to the state of the last-known address of the apparent owner, or
  - (iii) The holder is a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last-known address of the apparent owner; or
- (c) The last-known address of the apparent owner, as shown on the records of the holder, is in a state designated by regulation adopted by the treasurer as a state that does not provide by law for presumption of abandonment or escheat of such property and the holder is
  - (i) Domiciled in this state, or
  - (ii) A government or governmental subdivision or agency of this state; or
- (d) The last-known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is

- (i) Domiciled in this state, or
- (ii) A government or governmental subdivision or agency of this state.

#### History

Sources: Laws, 1982, ch. 497, § 9, eff from and after July 1, 1982.

#### Annotations

Cross references- Application of this section to presumed abandonment of property held or owing by bank or other business association, see § 89-12-5.

Application of this section to presumed abandonment of unclaimed funds held or owing by life insurance corporation, see § 89-12-7.

Application of this section to presumed abandonment of funds held or owing by utility, see § 89-12-9.

Application of this section to presumed abandonment of dividend, interest and the like held or owing by business association for stockholder, bondholder and the like, see § 89-12-11.

Application of this section to presumed abandonment of intangible personal property held by fiduciary, see § 89-12-13.

Recovery by another state of property paid or delivered to treasurer under this chapter, see § 89-12-21.

#### Annotations

### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost and Unclaimed Property, Form 1.1 (complaint, petition, or declaration-allegation-property as subject to abandonment); Form 1.2 (allegation-relinquishment of possession to property); Form 1.3 (allegation-intent to abandon property); Form 1.4 (allegation-intent to abandon property-as voluntary and unconditional).

§ 89-12-19. Additional conditions for presumption of abandonment of sum payable on money order, traveler's check and the like.

#### Statute text

Any sum payable on a money order, traveler's check, or other similar written instrument (other than a third-party bank check) on which a business association is directly liable shall be presumed abandoned under the provisions of this chapter if the conditions for presumption of abandonment stated in Section 89-12-5 exist and if:

- (a) The books and records of such business association show that such money order, traveler's check, or similar written instrument was purchased in this state;
- (b) The business association has its principal place of business in this state, and the books and records of the business association do not show the state in which such money order, traveler's check, or similar written instrument was purchased; or
- (c) The business association has its principal place of business in this state, the books and records of the business association show the state in which such money order, traveler's check, or similar written instrument was purchased, and the laws of the state of purchase do not provide for presumption of abandonment or escheat of the sum payable on such instrument.

#### History

Sources: Laws, 1982, ch. 497, § 10, eff from and after July 1, 1982.

#### Annotations

Cross references- Recovery by another state of property paid or delivered to treasurer under this chapter, see § 89-12-21.

#### Annotations

### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost and Unclaimed Property, Form 1.1 (complaint, petition, or declaration-allegation-property as subject to abandonment); Form 1.2 (allegation-relinquishment of possession to property); Form 1.3 (allegation-intent to abandon property); Form 1.4 (allegation-intent to abandon property-as voluntary and unconditional).

§ 89-12-21. Recovery by another state of property paid or delivered to treasurer under this chapter.

#### Statute text

- (1) At any time after property has been paid or delivered to the treasurer under the provisions of this chapter, another state shall be entitled to recover the property if:
  - (a) The property was presumed abandoned in this state under the provisions of paragraph (b) of Section 89-12-17 because no address of the apparent owner of the property appeared on the records of the holder when the property was presumed abandoned under the provisions of this chapter, the last-known address of the apparent owner was, in fact, in such other state, and, under the laws of that state, the property was presumed abandoned in or escheated to that state;
  - (b) The last-known address of the apparent owner of the property appearing on the records of the holder is in such other state and, under the laws of that state, the property was presumed abandoned in or escheated to that state;
  - (c) The property is the sum payable on a traveler's check, money order, or other similar instrument that was presumed abandoned in this state under the provisions of Section 89-

12-19, the traveler's check, money order or other similar instrument was, in fact, purchased in such other state, and, under the laws of that state, the property was presumed abandoned in or escheated to that state; or

(d) The property is funds held or owing by a life insurance corporation that was presumed abandoned in this state by application of the presumption provided by subsection (2) of Section 89-12-7, the last-known address of the person entitled to the funds was, in fact, in such other state, and, under the laws of that state, the property was presumed abandoned in or escheated to that state.

(2) The claim of another state under this section to recover property shall be presented in writing to the treasurer, who shall consider the claim within ninety (90) days after it is presented. He may hold a hearing and receive evidence on such claim. He shall allow the claim if he determines that the other state is entitled to the property.

(3) Paragraphs (a) and (b) of subsection (1) shall not apply to property described in paragraph (c) or (d) of that subsection.

#### History

Sources: Laws, 1982, ch. 497, § 11, eff from and after July 1, 1982.

§ 89-12-23. Report to treasurer by holder of property presumed abandoned.

#### Statute text

(1) Every person holding funds or other intangible personal property presumed abandoned under the provisions of this chapter shall report to the Treasurer with respect to the property as hereinafter provided.

(2) The report shall be verified, shall be on a form prescribed or approved by the Treasurer, and shall include:

(a) Except with respect to traveler's 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 more than One Hundred Dollars (\$100.00) presumed abandoned under the provisions of this chapter;

(b) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(c) 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 One Hundred Dollars (\$100.00) each may be reported in aggregate;

(d) Except for any property reported in the aggregate, 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

(e) Other information which the Treasurer prescribes by regulation as necessary for the administration of this chapter.

(3) If the person holding property presumed abandoned under the provisions of this chapter 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.

(4) The report shall be filed annually through 1984, and reports shall be filed every third year thereafter. The report shall be filed before November 1 of each year in which a report is required as of June 30 next preceding. The Treasurer may postpone the reporting date upon written request by any person required to file a report.

(5) If the holder of property presumed abandoned under the provisions of this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the required report, endeavor to communicate with the owner and take reasonable steps to prevent abandonment from being presumed. The mailing of notice to the last-known address of the owner by the holder shall constitute compliance with this subsection and no further act on the part of the holder shall be necessary.

(6) 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.

(7) Every person who is requested in writing by the Treasurer shall file a report stating that such person is not holding any abandoned property which is reportable pursuant to the provisions of this section.

(8) The initial report filed under this chapter shall include all items of property that would have been presumed abandoned if this chapter had been in effect since July 1, 1969, and all such property shall be subject to the provisions of this chapter.

#### History

Sources: Laws, 1982, ch. 497, § 12; Laws, 1991, ch. 451, § 10, eff from and after July 1, 1991.

#### Annotations

Cross references- Mailed notice and published notice of names of persons appearing to own property presumed abandoned, see § 89-12-27.

Payment or delivery of abandoned property to treasurer, see § 89-12-29.

Discretion of treasurer to decline to receive property presumed abandoned, see § 89-12-43.

#### Annotations

### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. Legal Forms 2d, Abandoned, Lost, and Unclaimed Property § 1:56 (report to state official by person holding property presumed abandoned under Uniform Disposition of Unclaimed Property Act).

1 Am. Jur. Legal Forms 2d, Abandoned, Lost, and Unclaimed Property § 1:57 (report to state official by holder of abandoned property).

CJS. 30A C.J.S., Escheat §§ 2, 3.

§ 89-12-25. Agreements to locate property presumed abandoned; prohibitions; approval.

Statute text

(1) It is unlawful for a person to seek to receive from another person or contract with a person for a fee or compensation for locating property which he knows has been reported, paid or delivered to the Treasurer pursuant to the provisions of this chapter prior to seven (7) months after the date of payment or delivery of the property by the holder to the Treasurer as required by Section 89-12-29.

(2) The Treasurer shall approve all contracts entered into between two (2) or more persons whereby one (1) party to the contract agrees to furnish the other party with information concerning property reported to the Treasurer under this chapter. The agreed upon fee in such contracts shall not exceed ten percent (10%) of the value of the recoverable property or Fifty Dollars (\$50.00), whichever is greater. Nothing in this section shall be construed to prevent an owner from asserting at any time that an agreement to locate property is based upon an excessive or unjust consideration.

History

Sources: Laws, 1982, ch. 497, § 13; Laws, 1991, ch. 451, § 11, eff from and after July 1, 1991.

§ 89-12-27. Published notice of names of persons appearing to own property presumed abandoned; mailed notice.

Statute text

(1) Within one hundred twenty (120) days from the filing of the report required by Section 89-12-23, the Treasurer shall cause notice to be published in a newspaper having general circulation in the county of this state in which is located the last-known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his or her principal place of business in this state.

(2) The published notice shall be entitled "Notice of names of persons appearing to be owners of abandoned property," and shall contain:

(a) The names in alphabetical order and last-known addresses, if any, of persons listed in the report and entitled to notice in the county as specified in subsection (1) of this section;

(b) 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 Treasurer; and

(c) A statement that any person claiming an interest in the property must file a proof of claim with the Treasurer as set forth in Section 89-12-39.

(3) The Treasurer shall not be required to publish in the notice any item of less than One Hundred Dollars (\$100.00) unless he deems publication to be in the public interest.

(4) Within one hundred twenty (120) days from the receipt of the report required by Section 89-12-23, the Treasurer shall mail a notice to each person having an address

listed therein who appears to be entitled to property valued at One Hundred Dollars (\$100.00) or more and presumed abandoned under the provisions of this chapter.

(5) The mailed notice shall contain:

(a) A statement that property is being held to which the addressee appears entitled;

(b) A statement that any person claiming an interest in the property must file a proof of claim with the Treasurer as set forth in Section 89-12-39.

(6) This section shall not be applicable to sums payable on traveler's checks or money orders presumed abandoned under the provisions of Section 89-12-5.

#### History

Sources: Laws, 1982, ch. 497, § 14; Laws, 1983, ch. 478; Laws, 1993, ch. 460, § 1, eff from and after July 1, 1993.

#### Annotations

Cross references- Procedures for disposition of funds of medicaid patients in long-term care facilities who die intestate and without heirs, see § 43-13-120.

Payment or delivery of abandoned property to treasurer, see § 89-12-29.

#### Annotations

### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. 2d, Abandoned, Lost, and Unclaimed Property § 34.

1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost, and Unclaimed Property, Forms 11 et seq. (rights and duties of finder).

1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost, and Unclaimed Property, Form 41 (complaint, petition, or declaration-against finder-for failure to give notice of finding).

9 Am. Jur. Pl & Pr Forms (Rev), Escheat, Form 4 (notice of names of apparent owners of unclaimed bank deposits).

§ 89-12-29. Payment or delivery of abandoned property to treasurer.

#### Statute text

(1) Except as otherwise provided in subsection (2) of this section, a person who is required to file a report under Section 89-12-23 shall pay or deliver to the Treasurer all abandoned property together with the report.

(2) If the owner established the right to receive the abandoned property to the satisfaction of the holder before the property has been delivered, or it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property to the Treasurer, and the property is no longer presumed abandoned.

(3) The holder of an interest under Section 89-12-11 shall deliver a duplicate certificate or other evidence of ownership, if the holder does not issue certificates of ownership, to the Treasurer. Upon delivery of a duplicate certificate to the Treasurer, the holder and any

transfer agent, registrar or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate, is relieved of all liability of every kind in accordance with the provisions of Section 89-12-31 to every person, including any person acquiring the original certificate of the duplicate of the certificate issued to the Treasurer, for any losses or damages resulting to any person by the issuance and delivery to the Treasurer of the duplicate certificate.

#### History

Sources: Laws, 1982, ch. 497, § 15; Laws, 1993, ch. 460, § 2, eff from and after July 1, 1993.

#### § 89-12-30. Sale of securities listed on stock exchange.

##### Statute text

(1) Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the Treasurer considers advisable.

(2) Unless the Treasurer considers it to be in the best interests of the state to do otherwise, all securities presumed abandoned under Section 89-12-11 and delivered to the Treasurer must be held for at least three (3) years before they may be sold. If the Treasurer sells any securities delivered pursuant to Section 89-12-11 before the expiration of the three-year period, any person making a claim pursuant to this chapter before the end of that time period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater. A person making a claim under this chapter after the expiration of the time period is entitled to receive either the securities delivered to the Treasurer by the holder, if they still remain in the hands of the Treasurer, or the proceeds received from sale, but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the Treasurer.

(3) The purchaser of property at any sale conducted by the Treasurer pursuant to this chapter takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The Treasurer shall execute all documents necessary to complete the transfer of ownership.

#### History

Sources: Laws, 1991, ch. 451, § 14, eff from and after July 1, 1991.

#### § 89-12-31. Holder relieved from liability upon payment or delivery of abandoned property to treasurer.

##### Statute text

(1) Upon the payment or delivery of property to the Treasurer, the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the Treasurer in good faith is relieved of all liability for any claim then existing or which may arise or be made in respect to the property.

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

(3) The holder of an interest under Section 89-12-11 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificate of ownership to the administrator.

(4) Any holder who has paid moneys to the Treasurer pursuant to the provisions of this chapter 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 Treasurer shall forthwith reimburse the holder for the payment.

#### History

Sources: Laws, 1982, ch. 497, § 16; Laws, 1991, ch. 451, § 12, eff from and after July 1, 1991.

#### Annotations

#### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost, and Unclaimed Property, Form 31 (petition or application-by finder-to deliver unclaimed or abandoned property to public officer and relieve finder of responsibility to owner).

§ 89-12-33. Owner entitled to further income or increments.

#### Statute text

When property other than money is paid or delivered to the Treasurer under this chapter, the owner is entitled to receive from the Treasurer any dividends, interest or other increments realized or accruing on the property at or before liquidation or conversion into money.

#### History

Sources: Laws, 1982, ch. 497, § 17; Laws, 1991, ch. 451, § 13, eff from and after July 1, 1991.

§ 89-12-35. Effect of expiration of period of limitation.

#### Statute text

The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by the provisions of this chapter, or to pay or deliver abandoned property to the treasurer.

#### History

Sources: Laws, 1982, ch. 497, § 18, eff from and after July 1, 1982.

#### Annotations

### JUDICIAL DECISIONS

#### 1. IN GENERAL.

Section 89-12-35 of the Uniform Disposition of Unclaimed Property Act did not apply retroactively to lift the bar of the statute of limitations regarding the reporting and payment of funds held by an insurance company as "abandoned property." *Cole v. National Life Ins. Co.*, 549 So. 2d 1301 (Miss. 1989).

§ 89-12-37. Abandoned property fund; abandoned property claims payment fund.

#### Statute text

(1) All funds received under the provisions of this chapter shall forthwith be deposited by the Treasurer in a special fund hereby established in the State Treasury to be designated the "Abandoned Property Fund," except that the Treasurer shall deposit in a separate special fund hereby established in the State Treasury to be designated the "Abandoned Property Claims Payment Fund" an amount not exceeding One Hundred Fifty Thousand Dollars (\$150,000.00) from which he shall make prompt payment of claims duly allowed by him as hereinafter provided. Before making the deposits in either special fund, he shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and the name and last known address of each insured person or annuitant and, with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation and the amount due. The record shall be available for public inspection at all reasonable business hours.

(2) There is created within the Abandoned Property Fund in the State Treasury a trust to be known as the Historic Properties Financing Fund, which shall be used as provided in this section. On July 1, 1999, Ten Million Dollars (\$10,000,000.00) in the Abandoned Property Fund shall be set aside and placed in the Historic Properties Financing Fund created herein. The principal of the Historic Properties Financing Fund shall remain inviolate within the Abandoned Property Fund, and shall be invested in the same manner as the remainder of the Abandoned Property Fund. The interest and income earned from the investment of the principal of the Historic Properties Financing Fund shall be transferred quarterly to the Mississippi Landmark Grant Program account within the

Historic Properties Trust Fund created under Section 39-5-23. The transferred money shall be utilized by the Department of Archives and History for the purposes as specified in Section 39-5-23(3).

(3) Notwithstanding subsections (1) and (2) of this section, the funds reflected by the cancellation of State of Mississippi warrants that constitute part of the Abandoned Property Fund shall be transferred by the State Treasurer back to the original fund source if unclaimed by the owner within the time specified in Section 7-7-42.

#### History

Sources: Laws, 1982, ch. 497, § 19; Laws, 1999, ch. 486, § 2; Laws, 2000, ch. 501, § 3, eff from and after passage (approved Apr. 27, 2000).

#### Annotations

Amendments- The 1999 amendment added (2).

The 2000 amendment substituted "Historic Properties" for "Historic Property" in the third sentence of (2); and added (3).

§ 89-12-39. Claim for abandoned property paid or delivered to treasurer; determination; interest.

#### Statute text

(1) Any person claiming an interest in any property delivered to the state under the provisions of this chapter may file a claim on the form prescribed by the Treasurer.

(2) The Treasurer shall consider any claim filed under the provisions of subsection (1) of this section, 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.

(3) If the validity of a claim shall be determined in favor of the claimant, the Treasurer shall pay over to the claimant only that amount which the Treasurer actually received, without deduction for costs of notices or for service charges, together with interest at the rate of one-twelfth of one percent (1/12 of 1%) per month from the time when it was received by the Treasurer to the time when it was paid by him to the claimant. However, if the property claimed was interest bearing to the owner on the date of surrender by the holder, then the Treasurer shall instead add interest at a rate not to exceed five-twelfths of one percent (5/12 of 1%) per month or the lesser current market rate. The interest on interest-bearing property shall begin to accumulate on the date that the property is delivered to the Treasurer and shall cease on the earlier of the expiration of fifteen (15) years following delivery or the date on which payment is made to the owner. No interest on the interest-bearing property shall be payable for any period prior to July 1, 1982. Any holder who pays to the owner property which has been delivered to the state and which, if claimed from the Treasurer, would be subject to the provisions of this section as interest-bearing property, shall add interest as provided in this section. The added interest shall be repaid to the holder by the Treasurer in the same manner as the principal.

#### History

Sources: Laws, 1982, ch. 497, § 20; Laws, 1993, ch. 460, § 3, eff from and after July 1, 1993.

#### Annotations

#### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. 2d, Abandoned, Lost, and Unclaimed Property § 24.

9 Am. Jur. Pl & Pr Forms (Rev), Escheat, Forms 31 et seq. (administrative proceedings for recovery of property).

1 Am. Jur. Legal Forms 2d, Abandoned, Lost, and Unclaimed Property § 1:63 (claim for property delivered to state or proceeds from sale thereof under Uniform Disposition of Unclaimed Property Act).

CJS. 30A C.J.S., Escheat § 21.

§ 89-12-41. Judicial review of action of treasurer upon claim.

#### Statute text

Any person aggrieved by a decision of the treasurer or as to whose claim the treasurer has failed to act within ninety (90) days after the filing of the claim, may commence an action in the circuit court of the first judicial district of Hinds County, Mississippi, to establish his claim. The proceeding shall be brought within thirty (30) days after the decision of the treasurer or within sixty (60) days from the filing of the claim if the treasurer fails to act.

#### History

Sources: Laws, 1982, ch. 497, § 21, eff from and after July 1, 1982.

#### Annotations

#### RESEARCH AND PRACTICES REFERENCES

Am Jur. 1 Am. Jur. Pl & Pr Forms (Rev), Abandoned, Lost, and Unclaimed Property, Form 1 (complaint, petition, or declaration for determination of claims to abandoned personal property); Form 4 (instruction to jury as to elements of abandonment).

9 Am. Jur. Pl & Pr Forms (Rev), Escheat, Forms 42 et seq. (judicial proceedings for recovery of property).

§ 89-12-43. Treasurer may decline to receive property presumed abandoned.

#### Statute text

The treasurer, after receiving reports of property deemed abandoned pursuant to the provisions of this chapter, may decline to receive any property reported which he deems to have a value less than the cost of giving notice, or he may, if he deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within thirty (30) days after filing the report required under Section 89-12-23, the treasurer shall be deemed to have elected to receive the custody of the property.

#### History

Sources: Laws, 1982, ch. 497, § 22, eff from and after July 1, 1982.

§ 89-12-45. Examination of records by treasurer or designated regulatory authority.

#### Statute text

(1) The Treasurer may at reasonable times and upon reasonable notice examine the records of any person to determine if such person has complied with the provisions of this chapter. The Treasurer may designate the Commissioner of Banking and Consumer Finance or other appropriate regulatory authority to examine the records of institutions of regulated industries to determine if such institutions have complied with the provisions of this chapter.

(2) If, in connection with such examination, property which should have been reported pursuant to the provisions of this chapter is discovered, the holder shall pay a per diem rate equal to actual costs per examination as the cost of conducting the examination.

(3) If any person refuses to permit the examination provided in this section or to deliver property to the Treasurer as required under the provisions of this chapter, the Treasurer shall bring an action in a court of appropriate jurisdiction to compel such examination or to enforce such delivery.

#### History

Sources: Laws, 1982, ch. 497, § 23; Laws, 1994, ch. 622, § 161, eff from and after July 1, 1994.

§ 89-12-47. Penalties for failure to make reports or to pay or deliver abandoned property.

#### Statute text

(1) Any person who willfully fails to render any report or perform other duties required under the provisions of this chapter shall, upon conviction thereof, be punished by a fine of Five Dollars (\$5.00) for each day the report is withheld, but not more than One Hundred Dollars (\$100.00).

(2) Any person who willfully refuses to pay or deliver abandoned property to the Treasurer as required under the provisions of this chapter shall, upon conviction thereof, be punished by a fine of not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00), or imprisonment for not more than six (6) months, or both, in the discretion of the court.

(3) In addition to any damages, penalties, or fines for which a person may be liable under any other provision of law, any person who fails to report, pay or deliver abandoned property within the time prescribed by the provisions of this chapter shall pay to the Treasurer interest at the rate of one percent (1%) per month on the property or the value thereof from the date the property should have been paid or delivered, but in no event prior to July 1, 1982; except that if the failure to report, pay or deliver is the result of mistake or other good cause shown, the Treasurer may reduce the rate of interest or waive the interest payable thereon.

#### History

Sources: Laws, 1982, ch. 497, § 24; Laws, 1993, ch. 460, § 4, eff from and after July 1, 1993.

§ 89-12-49. Rules and regulations.

#### Statute text

The treasurer is hereby authorized to adopt necessary rules and regulations to carry out the provisions of this chapter.

#### History

Sources: Laws, 1982, ch. 497, § 25, eff from and after July 1, 1982.

#### Annotations

### RESEARCH AND PRACTICES REFERENCES

Am Jur. 25 Am. Jur. Proof of Facts 2d 685, Abandonment of Tangible Personal Property.

§ 89-12-51. Repealed.

#### Statute text

Repealed by Laws, 1992, ch. 408, § 2, eff from and after July 1, 1992.

[Laws, 1982, ch. 497, § 27; Laws 1985, ch. 403, § 2]

#### Annotations

Editor's note- Former Section 89-12-51 provided that the Uniform Disposition of Unclaimed Property Act (§§ 89-12-1 et seq.) did not apply to property presumed abandoned under the laws of another state before July 1, 1982.

§ 89-12-53. Chapter inapplicable to property of minor or incompetent.

#### Statute text

The provisions of this chapter shall not apply to any person who is the owner of any type of property described herein where such person is either a minor or mentally incompetent, nor to any person who is the owner of any type of property described herein which is subject to the provisions of Section 43-13-120.

#### History

Sources: Laws, 1982, ch. 497, § 27; Laws, 1985, ch. 403, § 2, eff from and after passage (approved March 25, 1985).

§ 89-12-55. Uniformity of interpretation.

#### Statute text

This chapter shall be so construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

#### History

Sources: Laws, 1982, ch. 497, § 28, eff from and after July 1, 1982.

§ 89-12-57. Provisions of chapter supplemental to § 21-39-21.

#### Statute text

This chapter shall not be construed as repealing the provisions of Section 21-39-21, but shall be additional and supplemental to those provisions.

#### History

Sources: Laws, 1982, ch. 497, § 29, eff from and after July 1, 1982.