

DISTRICT OF COLUMBIA OFFICIAL CODE 2001 EDITION
DIVISION VII. PROPERTY.
TITLE 41. PERSONAL PROPERTY.
(CURRENT AS OF 2005)
DC ST § 41-101

Formerly cited as DC ST 1981 § 42-201

District of Columbia Official Code 2001 Edition

(Mar. 5, 1981, D.C. Law 3-160, § 101, 27 DCR 5150.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 42-201.

Legislative History of Laws

Law 3-160 was introduced in Council and assigned Bill No. 3-267, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 14, 1980 and October 28, 1980, respectively. Signed by the Mayor on November 10, 1980, it was assigned Act No. 3-287 and transmitted to both Houses of Congress for its review.

Transfer of Functions

Pursuant to Reorganization Plan No. 1 of 1992, effective July 7, 1992, all of the duties and functions of the Unclaimed Property Unit in the Department of Finance and Revenue established under the District of Columbia Uniform Disposition of Unclaimed Property Act § 42-201 et seq., the rules issued pursuant thereto and Mayor's Order 81-82, dated March 27, 1981, 28 DCR 1740, which delegated to the Department of Finance and Revenue the Mayor's authority to administer the act and to issue rules are hereby transferred to the Office of the District of Columbia Controller within the office of Financial Management. The existing Unclaimed Property Unit within the Department of Finance and Revenue is abolished.

Current through September 18, 2006

§ 41-101. Findings; purpose.

The District of Columbia currently lacks statutory authority to act as custodian for substantial sums of abandoned personal property within its jurisdiction. This chapter is intended to mandate the report and delivery by holders and to authorize the receipt for safekeeping and fiscal growth by the District of Columbia of any and all personal property which is abandoned, without regard either to any maximum length of time for which such property was abandoned or to any statute limiting the right to sue to claim such property.

§ 41-102. Definitions.

As used in this chapter, the term:

- (1) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held by the holder.
- (2) "Attorney General" means the chief legal officer of a state.
- (3) "Banking organization" means any bank, trust company, savings bank, or a private banker or such other individual or organization defined by the laws of the United States or of the District of Columbia as a bank or banking

organization.

(4) "Business association" means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, financial organization, insurance company, mutual fund, utility, or other business entity consisting of one or more persons, whether or not for profit.

(5) "District" means within the geographical boundaries of the District of Columbia.

(6) "Domicile" means, with respect to businesses:

(A) The state of incorporation in the case of a corporation incorporated under the laws of a state;

(B) The state of the principal place of business in the case of a person not incorporated under the laws of a state; or

(C) The state of the principal place of business in the United States of America in the case of any other person. For purposes of this chapter, the term "state" includes the District of Columbia.

(7) "Employee benefit trust distribution" means any money, life insurance, endowment, or annuity policy or proceeds thereof, securities or other intangible property, and any tangible property that is distributable to a participant, former participant, or the beneficiary, estate, or heirs of a participant, former participant or beneficiary, from a trust or custodial fund established under a plan to provide health and welfare, pension, vacation, severance, retirement benefit, death benefit, stock purchase, profit sharing, employee savings, supplemental unemployment insurance benefits, or similar benefits.

(8) "Financial organization" means any savings and loan association, building and loan association, credit union, or investment company.

(9) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(10) "Holder" means any person wherever organized or domiciled:

(A) In possession of property belonging to another;

(B) Who is a trustee in case of a trust; or

(C) Who is indebted to another on an obligation.

(11) "Intangible personal property" means all choses or things in action.

(12) "Last known address" means a description of the location of the apparent owner for the purpose of the delivery and receipt of mail.

(13) "Life insurance corporation" means any association or corporation including any nonprofit relief association as defined by § 47-2611, transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, without limitation, endowments and annuities.

(14) "Mayor" means the Mayor of the District of Columbia or the Mayor's authorized agent.

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

(16) "Person" means an individual, business association, government or governmental subdivision or agency, public corporation, public authority, estate, trust, 2 or more persons having a joint or common interest, or any

other legal or commercial entity.

(16A) "Property" means a fixed and certain interest in or right in an intangible property that is held, issued, or owed in the course of a holder's business, or by a government or governmental entity, and all income or increments therefrom, including that which is referred to as or evidenced by any of the following:

(A) Money, check, draft, deposit, interest, dividend, or income;

(B) Credit balance, customer overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused airline ticket, unused ticket, mineral proceed, or unidentified remittance and electronic fund transfer;

(C) Stock or other evidence of ownership or an interest in a business association;

(D) Bond, debenture, note, or other evidence of indebtedness;

(E) Money deposited to redeem stocks, bonds, coupons, or other securities or to make distributions;

(F) An amount due and payable under the terms of an insurance policy, including policies providing life insurance, property and casualty insurance, workers compensation insurance, or health and disability benefits insurance; or

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

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

(17) "Utility" means 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.

§ 41-103. Property presumed abandoned.

(a) All intangible personal property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than 3 years after it became payable or distributable is presumed abandoned.

(b) Property presumed abandoned shall include, but is not limited to: Drafts, credit balances, credit checks, uncashed vendor checks, and any other outstanding checks.

(c) Property subject to this chapter shall be deemed payable or distributable notwithstanding the owner's failure to present any instrument or document evidencing the owner's right to receive the payment provided therein.

(d) A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of

payment, satisfaction, discharge, and want of consideration are affirmative defenses that must be established by the holder.

§ 41-104. General rules for taking custody of unclaimed intangible property.

Unless otherwise provided by statute of the District of Columbia, intangible personal property is subject to a presumption of abandonment under this chapter if the conditions leading to a presumption of abandonment as described in §§ 41-103 and 41-105 through 41-116 are satisfied, and any one of the following conditions is met:

(1) The last known address of the apparent owner, as shown on the records of the holder, is in the District;

(2) The records of the holder do not reflect the identity of the person entitled to the property and it is established that the property was owned or payable to a person whose last known address is in the District;

(3) The records of the holder do not reflect the last known address of the apparent owner, and it is established that:

(A) The last known address of the person entitled to the property is in the District; or

(B) The holder is either domiciled in the District or is the District government and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;

(4) The last known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide an escheat or abandoned property law applicable to the property in question and the holder is:

(A) Domiciled in the District; or

(B) The District government;

(5) The last known address of the apparent owner, as shown on the record of the holder, is in a foreign nation and the holder is:

(A) Domiciled in the District; or

(B) The District government;

(6)(A) The transaction out of which the property arose occurred in the District;

(B)(i) The identity of the person entitled to the property is unknown;

(ii) The last known address of the apparent owner or other person entitled to the property is unknown; or

(iii) The last known address of the apparent owner is in a state that does not provide an escheat or unclaimed property law applicable to the property; and

(C) The holder is domiciled in a state that does not provide an escheat or abandoned property law applicable to the property; or

(7) The holder is domiciled in the District and has not previously paid or delivered the property to a state.

§ 41-105. Conditions precedent to presumption of abandonment of traveler's checks and money orders.

Any sum payable on a money order, traveler's check, or similar written instrument (other than a 3rd party bank check) on which a banking or financial organization or a business association is directly liable is presumed abandoned if the appropriate conditions leading to a presumption of abandonment as

described in §§ 41-103 and 41-104 are satisfied and:

- (1) The books and records of the banking or financial organization or business association show that the money order, traveler's check, or similar written instrument was purchased in the District;
- (2) The banking or financial organization or the business association has its principal place of business in the District and the books and records of the business association do not show the state in which the money order, traveler's check, or similar written instrument was purchased; or
- (3) The banking or financial organization or the business association has its principal place of business in the District, the books and records of the banking or financial organization or business association show the state in which the money order, traveler's check, or similar written instrument was purchased and the state of purchase does not provide an escheat or abandoned property law applicable to the delivery of the sum payable on such instrument to the state.

§ 41-106. Bank deposits and funds in financial organizations.

(a) Any demand, savings, or matured time deposit with a banking or financial organization, including deposits that are automatically renewable, and any funds paid toward the purchase of shares, a mutual investment certificate, or any other interest in a financial organization is presumed abandoned unless the owner within 3 years has:

- (1) In the case of a deposit, increased or decreased the amount of the deposit or presented the passbook or other similar evidence of the deposit for the crediting of interest;
- (2) Communicated in writing with the banking or financial organization concerning the property;
- (3) Otherwise indicated an interest in the property as evidenced by a memorandum on file prepared by an employee of the banking or financial organization;
- (4) Owned other property held by the banking or financial organization for which paragraph (1), (2), or (3) of this subsection are applicable; provided, that the banking or financial organization communicates in writing with regard to the property that would otherwise be presumed abandoned under this subsection to the owner at the address to which communications regarding the other property are regularly sent; or
- (5) Had another relationship with the banking or financial organization concerning which the owner has:
 - (A) Communicated in writing with the banking or financial organization; or
 - (B) Otherwise indicated an interest as evidenced by a memorandum on file prepared by an employee of the banking or financial organization; provided, that the banking or financial organization communicates in writing with regard to the property that would otherwise be abandoned under this subsection to the owner at the address to which communications regarding the other relationship are regularly sent.

(b) For purposes of subsection (a) of this section, the term "property" includes any interest or dividends thereon.

(c) Any sum payable on a traveler's check issued by a banking or financial institution or a business association in the District that has been outstanding for more than 15 years after its issuance is presumed abandoned if the owner,

for more than 15 years, has not communicated in writing with the banking or financial organization or business association concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization or business association.

(c-1) Any sum payable on a money order issued by a banking or financial institution or a business association in the District that has been outstanding for more than 7 years after its issuance is presumed abandoned if the owner, for more than 7 years, has not communicated in writing with the banking or financial organization or business association concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization or business association.

(d) A sum payable on any other written instrument on which a banking or financial organization or business association in the District is directly liable, including, but not limited to, certified checks, or drafts, that has been outstanding for more than 3 years after it was payable, or after its issuance if payable on demand, is presumed abandoned unless the owner has, within 3 years, communicated 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 prepared by an employee of the banking or financial organization or business association.

(e) No holder may impose with respect to property described in subsection (a) of this section any charges due to dormancy or inactivity, or cease payment of interest unless:

(1) There is a valid, enforceable, written contract between the holder and the owner of the property pursuant to which the holder may impose such charges or cease payment of interest;

(2) The holder regularly imposes such charges or ceases accrual or payment of interest and does not regularly reverse or otherwise cancel such charges or retroactively pay interest with respect to such property; and

(3) For property in excess of \$10, the holder, no more than 3 months prior to the initial imposition of such charges or cessation of interest, gives written notice to the owner of the amount of such charges at the last known address of the owner that such charges will be imposed or that interest will cease; except, that the notice provided in this section need not be given with respect to charges imposed or accrued or interest ceased prior to January 1, 1980.

(4) The amount of the deduction is limited to an amount that is not unconscionable.

(f) No holder shall deduct from the amount of any draft, registered check, money order, certified check, traveler's check, cashier's check, treasurer's check, or any similar written instrument any charges imposed by reason of the failure to present such items for encashment unless:

(1) There is a valid, enforceable, written contract between the holder and the owner of the property pursuant to which the holder may impose such charges; and

(2) The holder regularly imposes such charges and does not regularly reverse or otherwise cancel such charges with respect to such property.

(g) Notwithstanding any provision to the contrary in this section, in the event that any type of property subject to this section is an asset of an Individual Retirement Account established pursuant to the Employee Retirement Security Act of 1974 (26 U.S.C. § 408 (a)) or of a Keogh Plan established pursuant to the Internal Revenue Code of 1954 (26 U.S.C. § 401 (a)), respectively, it shall not be deemed matured or otherwise reportable if, under the terms of such plan, distribution of all or part of the property would not then be mandatory.

(h) Any property automatically renewable according to its terms that is subject to subsection (a) of this section shall be deemed matured for purposes of this section upon the expiration of its initial term. If at the time provided for delivery in § 41-119, a penalty or forfeiture in the payment of interest would result from the delivery of any such property, the time for delivery shall be extended until such time as no penalty for forfeiture would result.

41-107. funds owing under life insurance policies

(a) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than 3 years after the funds became due and payable as established from the records of the insurance company holding or owing the funds.

(b) If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who 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 company.

(c) For purposes of this section, a life or endowment insurance policy or annuity contract not mature by actual proof of the death of the insured or annuitant according to the records of the company is matured and the proceeds due and payable if:

(1) The company knows that the insured or annuitant has died; or

(2)(A) The insured has attained, or would have attained if the insured 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 under the mortality table on which the reserve is based; and

(C) Neither the insured nor any other person appearing to have an interest in the policy within the preceding 5 years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

(d) For the purposes of this section, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being mature or terminated under subsection (a) of this section if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds of the

policy before the depletion of the cash surrender value of the policy by the application of those provisions.

§ 41-108. Deposits and refunds held by utilities.

The following funds held or owing by any utility are presumed abandoned:

- (1) Any deposit, including any interest thereon, made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than one year after the termination of the services for which the deposit or advance payment was made; and
- (2) Any sum which a utility has been ordered to refund and which was received for utility services rendered, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than one year after it became payable in accordance with the final determination or order providing for the refund, regardless of whether the final determination or order requires any person entitled to a refund to make a claim.

§ 41-109. Stock and other intangible interests in business associations.

(a) Subject to § 41-104, any stock, other certificate of ownership, or other intangible ownership interest, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to the owner, is presumed abandoned if the owner has not claimed it, corresponded in writing with the business association concerning it, or otherwise communicated with the association concerning it, as evidenced by a memorandum or other record on file with the association within 3 years after the date prescribed for payment or delivery.

(b) Subject to § 41-104, any intangible interest in a business association, as evidenced by the stock records or membership records of the association, is presumed abandoned if:

- (1) The interest in the association is owned by a person who for more than 3 years has not:
 - (A) Claimed a dividend, profit, distribution, interest, payment on principal, or other sum held or owing by the association for or to the person; or
 - (B) Corresponded in writing with the association or otherwise communicated with the association, as evidenced by a memorandum or other record on file with the association;
- (2) The association does not know the location of the owner at the end of the 3-year period; and
- (3) With respect to the intangible interest in a business association, the business association shall be deemed the holder.
- (4) The return of official shareholder notifications or communications by the postal service as undeliverable shall be evidence that the association does not know the location of the owner.

(c) Subject to § 41-104, any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to the owner, is presumed abandoned at the time the stock, other certificate of ownership, or other intangible ownership interest to which it attaches is

presumed abandoned.

(d) This chapter does not apply to any stock or other intangible ownership interest enrolled in a plan that provided for the automatic reinvestment of dividends, distribution, or other sums payable as a result of the interest unless one or more of the following applies:

(1) The records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not, within 3 years, communicated in any manner described in subsection (a) of this section.

(2) Three years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or by the postal service as undeliverable, and the owner has not within those 3 years communicated in any manner described in subsection (a) of this section. The 3-year period from the return of official shareholder notifications or communications shall commence from the earlier of the return of the second such mailing or the time the holder discontinues mailings to the shareholder.

§ 41-110. Property of business associations and banking or financial organizations held in course of dissolution.

All intangible personal property distributable in the course of a voluntary or involuntary dissolution of a business association, banking organization, or financial organization organized under the laws of or created in the District, that is unclaimed by the owner within 60 days after the date of final distribution, is presumed abandoned.

§ 41-111. Property held by fiduciaries.

(a) All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person, is presumed abandoned unless the owner, within 3 years after it becomes payable or distributable, has increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary.

(b) For the purpose of this section, if a person holds property as an agent for a business association, the agent is deemed to hold the property in a fiduciary capacity for that business association unless the agreement between the agent and the business association provides otherwise.

(c) For the purposes of this chapter, if a person is deemed to hold property in a fiduciary capacity for a business association alone, that person is the holder of the property only insofar as the interest of the business association in the property is concerned and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

§ 41-112. Property held by public officers and agencies.

Except for property held by the Property Clerk of the Metropolitan Police Department, as provided in subchapter X of Chapter 1 of Title 5, all intangible personal property held for the owner by any public corporation, public authority, or public officer of the District government, that has remained unclaimed by the owner for more than one year, is presumed abandoned.

§ 41-113. Employee benefit trust distributions.

All employee benefit trust distributions and any income or other increment thereon is presumed abandoned if the owner within 3 years after it becomes payable or distributable has not accepted the distribution, corresponded in writing concerning the distribution, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary of the trust or custodial fund or administrator of the plan under which the trust or fund is established.

§ 41-114. Gift certificates and credit memos.

(a) Gift certificates and credit memos held or owing in the ordinary course of the holder's business that have remained unclaimed by the owner for more than 5 years after becoming payable or distributable are presumed abandoned.

(b) If a gift certificate or credit memo is redeemable for cash or merchandise, its value for purposes of this chapter shall be the amount paid by the purchaser.

41-115. Contents of safe deposit box or other safekeeping repository.

Except as provided in § 30-103, all personal property, tangible or intangible, held in a safe deposit box or any other safekeeping repository in the District by any person in the ordinary course of business, which is unclaimed by the owner for 3 years or more from the date on which the lease or rental period on the box or other repository expired is presumed abandoned.

§ 41-116. Unpaid wages or other compensation.

Wages or other compensation for personal services held or owing in the ordinary course of the holder's business that have remained unclaimed by the owner for more than one year after the compensation becomes payable or distributable are presumed abandoned.

§ 41-117. Report of property presumed abandoned.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the Mayor with respect to the property as provided in this section.

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

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

(2) In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where it is held and may be inspected by the Mayor, in which case the report must set forth any amounts owing to the holder as shown by § 41-118;

(3) 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 \$50 shall be reported in the aggregate upon the aggregation exceeding \$50;

(4) 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;

(5) Other information which the Mayor prescribes by rule as necessary for the

administration of this chapter; and

(6) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any and if known, of each person appearing from the records of the holder to be the owner of any property of the value of \$50 or more presumed abandoned under this chapter.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or the present holder has changed his or her name while holding the property, the present holder shall file with his or her report all known names and addresses of each previous holder of the property.

(d) The report as of the prior June 30th must be filed before November 1st of each year, but a report with respect to a life insurance company must be filed before May 1st of each year as of December 31 next preceding. The Mayor may postpone the reporting date upon written request by any person required to file a report. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminated the accrual or additional interest on the amount paid.

(e)(1) The holder of property presumed abandoned shall send written notice to the owner, not more than 120 days or less than 60 days before filing the report, stating that the holder is in possession of property subject to this chapter, if:

(A) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate; and

(B) The value of the property is \$50 or more.

(2) In calendar year 1998, a report concerning all property presumed to be abandoned as of October 21, 1997, must be filed no later than January 2, 1998.

(f) Verification, if made by a partnership, must 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.

§ 41-118. Notice of abandoned property.

(a) Within 120 days from the filing of the report required by § 41-117, the Mayor shall cause notice to be published at least once each week for 2 consecutive weeks in a newspaper of general circulation in the District.

(b) The published notice shall be entitled "Notice of Names of Persons Appearing To Be Owners of Abandoned Property" and shall contain:

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

(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 Mayor; and

(3) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the Mayor.

(c) The Mayor is not required to publish notice of any item of less than \$50 in value unless the Mayor deems such publication to be in the public interest.

(d) Within 120 days from the receipt of the report required by § 41-117, the Mayor shall mail a notice to each person having an address listed who appears to be entitled to property of a value of \$50 or more presumed abandoned under

this chapter.

(e) The mailed notice shall contain:

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

(2) The name and address of the person holding the property and any necessary information regarding the changes of name and address of the holder; and

(3) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the Mayor and a statement that information about the property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the Mayor.

(f) This section is not applicable to sums payable on traveler's checks or money orders and similar written instruments that are presumed abandoned under § 41-105.

(g) With respect to property reported and delivered on or before January 2, 1998, pursuant to § 41-117(e), the Mayor shall cause the newspaper notice required by subsection (a) of this section to be completed no later than May 1, 1998.

§ 41-119. Payment or delivery of abandoned property.

(a) Except for property held in a safe deposit box or other safekeeping depository, upon filing a report required by § 41-117, the holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the Mayor the property described in the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe deposit box or other safekeeping depository shall not be delivered to the Mayor until 120 days after filing the report required in § 41-117.

(b) Repealed.

(c) Repealed.

(d) The holder of an interest under § 41-109 shall deliver a duplicate certificate or other evidence of ownership to the Mayor if the holder does not issue certificates of ownership. Upon delivery of a duplicate certificate to the Mayor, 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 § 41-120 to every person, including any person acquiring the original certificate or the duplicate of the certificate delivered to the Mayor, for any losses or damages resulting to any person by the issuance

and delivery to the Mayor of the duplicate certificate.

§ 41-120. Custody by the District government; holder relieved from liability; payment of safe deposit box or repository charges; reimbursement of holder paying claim; reclaiming by owner.

(a) Upon the payment or delivery of property to the Mayor, the District government assumes custody and responsibility for the safekeeping of the property. Any person who pays or delivers property to the Mayor in good faith under this chapter is relieved of all liability to the extent of the value of

the property so paid or delivered for any claim then existing or which may arise thereafter or be made in respect to the property. Property removed from a safe deposit box or other safekeeping repository may be received by the Mayor subject to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges and the actual cost of the opening thereof, which rent and charges must be paid out of the proceeds remaining after the Mayor has deducted therefrom his or her selling costs.

(b) Any holder who has paid money to the Mayor pursuant to this chapter may make payment to any person appearing to the holder to be entitled thereto, and, upon filing proof of payment and proof that the payee was entitled thereto, the Mayor shall reimburse the holder for the payment without deduction of any fee or other charges. If reimbursement is sought for a payment made on a negotiable instrument including, but not limited to, a traveler's check or money order, the holder must be reimbursed under this subsection upon filing proof that the instrument was duly presented to the holder and that payment was made to a person who appeared to the holder to be entitled to payment.

(c) Any holder who has delivered property to the Mayor pursuant to this chapter may reclaim the property without payment of any fee or other charges upon filing proof that the owner has claimed the property from the holder. The Mayor, in the Mayor's discretion, may accept an affidavit of the holder stating the facts that entitle the holder to reimbursement under this subsection as sufficient proof.

§ 41-121. Crediting of dividends, interest, or increments to owner's account.

Whenever property other than money is paid or delivered to the Mayor under this chapter, any dividends, interest, or other increments realized or accruing, on the property at or before liquidation or conversion thereof into money, shall be credited, upon receipt, to the owner's account by the Mayor.

§ 41-122. Sale of abandoned property.

(a) All abandoned property other than money delivered to the Mayor under this chapter which remains unclaimed 1 year after the delivery to the Mayor may be sold to the highest bidder at public sale. The Mayor may decline the highest bid and re-offer the property for sale if the Mayor considers the price bid insufficient. The Mayor need not offer any property for sale if, in the Mayor's opinion, the probable cost of sale exceeds the value of the property.

(b) Any sale held under subsection (a) of this section shall be preceded by at least a single publication of notice thereof, at least 3 weeks in advance of sale, in a newspaper of general circulation in the District.

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

(d) Unless the Mayor considers it to be in the best interest of the District to do otherwise, all securities abandoned under § 41-109 must be held for at least 3 years before the Mayor may sell them. If the Mayor sells any securities delivered pursuant to § 41-109 before the expiration of the 3-year

period, any person making a claim pursuant to this chapter before the end of 3 years 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 is greater, less any deduction for fees pursuant to § 41-123(c). A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the Mayor by the holder, if they still remain in the hands of the Mayor, or the proceeds received from the sale, less any amounts deducted pursuant to § 41-123(c); but no person has any claim under this chapter against the District, 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 Mayor.

§ 41-123. Deposit of funds.

(a) During the first 2 years after the effective date of this chapter, no less than 50% of all property received under this chapter, including the proceeds from the sale of abandoned property under § 41-122, shall be deposited by the Mayor in a separate trust fund or kept for safekeeping with a holder which is a bank or trust company in order to make prompt payment of claims duly allowed by the Mayor as provided by this section. The remainder percentage of funds received and any income or increment to the funds deposited in the trust fund accruing during such 2 years may be deposited in the General Fund of the District government.

(b)(1) All funds received or kept under this chapter after the 2 year period described in subsection (a) of this section, including the proceeds from the sale of abandoned property under § 41-122, shall be deposited by the Mayor in the General Fund of the District government, except that the Mayor shall retain in a separate trust fund an amount not less than \$100,000 in order to make prompt payment of claims duly allowed by the Mayor as provided by this chapter.

(2) Before making the deposit the Mayor shall record at least the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and beneficiary and, with respect to each policy or contract listed in the report of a life insurance corporation, the policy or contract number, and the name of the corporation.

(3) The record shall be available for public inspection during regular business hours. The Mayor of the District of Columbia is authorized to establish and collect reasonable fees for services rendered by the Department of Finance and Revenue for the searching and reproduction of records and other services as may, in the judgment of the Mayor, be necessary to defray the cost of providing services.

(c) Before making any deposit to the credit of the General Fund of the District government, the Mayor may deduct:

(1) Any costs in connection with the sale of abandoned property, or with the disposition by other means of abandoned property under § 41-122;

(2) Any costs of mailing and publication in connection with any abandoned property;

(3) Reasonable service charges; and

(4) The costs incurred in examining records of holders of abandoned property and collecting such property from such holders.

§ 41-124. Filing of claim with Mayor for abandoned property.

Any person, excluding a state, claiming an interest in any property paid or delivered to the Mayor under this chapter may file a claim to the property or to the net proceeds from its sale. The claim must be on a form prescribed by the Mayor and must be verified by the claimant.

§ 41-125. Determination of claims by Mayor.

(a) The Mayor shall within 30 days of the receipt of any claim either pay the claim or give written notice to the claimant of a denial in whole or in part. Upon a denial or a failure by the Mayor to respond within 30 days, the claimant may request a hearing on the claim. Upon such request the Mayor shall hold a hearing and receive evidence in accordance with § 2-509.

(b) If the claim is determined in favor of the claimant, the Mayor shall make payment of only that amount which the Mayor actually received plus any dividends or interest allowed under § 41-121. The claim shall be paid without deduction for costs of notices or sale or for service charges.

§ 41-126. Claim of state to recover property.

(a) At any time after property has been paid or delivered to the Mayor under this chapter, a state is entitled to recover the property if:

(1) The property was presumed abandoned in the District because the apparent owner was unknown when the property was presumed abandoned under this chapter, the last known address of the apparent owner was in fact in that state, and, under the laws of that state, the property escheated to or was subject to a claim of abandonment by that state;

(2) The last known address of the apparent owner of the property appearing on the records of the holder is in that state and, under the laws of that state, the property has escheated to or become subject to a claim of abandonment by that state;

(3) The records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in that state, and, under the laws of that state, the property has escheated to or become subject to a claim of abandonment by that state;

(4) The property was presumed abandoned to the District government under § 41-104(5) and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or

(5) The property is the sum payable on a traveler's check, money order, or other similar instrument that was presumed abandoned to the District under § 41-105, the traveler's check, money order, or other similar instrument was in fact purchased in that state, and, under the laws of that state, the property has escheated to or become subject to a claim of abandonment by that state.

(b) The claim of a state to recover escheated or abandoned property under this section must be presented in a form prescribed by the Mayor, who shall consider the claim within 30 days after it is presented. The Mayor shall allow the claim if the Mayor determines that the claiming state is entitled to the abandoned property.

(c) In connection with all property so delivered to a state, the Mayor shall seek indemnification from the state making the claim.

§ 41-127. Judicial review of Mayor's decision.

Any person aggrieved by a decision of the Mayor, or as to whose claim the Mayor has failed to hold a hearing within a reasonable time pursuant to § 41-125(a), may have such claim reviewed pursuant to § 2-510.

§ 41-128. Election to take payment or delivery.

(a) The Mayor, after receiving reports of property deemed abandoned pursuant to this chapter, may decline to receive any property reported which the Mayor considers to have a value less than the cost of giving notice and holding sale, if the Mayor considers it desirable because of the small sum involved. The Mayor may postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within 120 days after filing the report required under § 41-117, the Mayor shall be deemed to have elected to receive the custody of the property; provided, that with respect to reports filed no later than June 20, 1981, pursuant to § 41-117(d), the Mayor shall have no more than 30 days after the filing of the reports to decline to receive any reported property.

(b) If a holder elects to report and deliver property otherwise subject to this chapter prior to the time that the property is presumed abandoned, the Mayor, if the Mayor deems it in the best interest of the owner, may consent in writing to accept the report and delivery of the property upon the conditions and terms as the Mayor shall prescribe. The property delivered under this subsection shall be held by the Mayor and shall not be presumed abandoned until such time as the property would otherwise be presumed abandoned under this chapter.

(c) Any property delivered to the Mayor pursuant to this chapter which has no apparent commercial value shall be retained by the Mayor until such time as the Mayor determines to destroy or otherwise dispose of it.

§ 41-129. Periods of limitation.

(a) The expiration of any period of time specified by contract, statute, or court order, during which a claim for recovery of money or property can be made, or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, does not prevent the money or property from being presumed abandoned property, or affect any duty to file a report required by this chapter or to pay or deliver abandoned property to the Mayor.

(b) No action or proceeding may be commenced by the Mayor to enforce any provision of this chapter in regard to the reporting, delivery, or payment of property more than 10 years after the holder specifically identified the property in a report filed with the Mayor or gave express notice to the Mayor of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.

§ 41-130. Verified reports; examination of records; subpoenas.

(a) The Mayor may require that any person shall file a verified report stating

whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.

(b) The Mayor 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. It shall be no defense to such a request for examination that the person believes it is not in possession of any property reportable or deliverable under this chapter.

(c) If a person under § 41-111 is treated as the holder of the property only insofar as the interest of the business association in such property is concerned, the Mayor may pursuant to subsection (b) of this section examine the records of the person; provided, that the Mayor shall give the notice required by subsection (b) of this section to both the person and the business association not less than 90 days prior to the examination.

(c-1) If in connection with an examination of the records of a holder property which should have been reported pursuant to this chapter is discovered, the holder may be assessed a fee for the actual costs of the examination in addition to any interest charge or penalty that may be due under § 41-135.

(d) If a holder shall fail to maintain the records required by § 41-132 and the available records of the holder for the periods subject to the chapter are not sufficient to permit the preparation of a report and delivery of abandoned property, the holder shall be ordered to report and deliver such property as may reasonably be estimated based upon any other records of the holder which exist.

(e) If any holder refuses to permit the holder's records to be examined, the Mayor may issue a subpoena to compel the holder to testify and produce the records pursuant to § 1-301.21.

§ 41-131. Confidentiality.

Any information or records required to be furnished to the Mayor as provided in this chapter shall be confidential and shall not be disclosed to any person except the person who furnished the same to the Mayor and except as provided in §§ 41-118 and 41-123 or as may be necessary in the proper administration of this chapter alone.

§ 41-132. Retention of records.

(a) Except as provided in subsection (b) of this section and unless the Mayor provides otherwise by rule, every holder required to file a report under § 41-117 shall, as to any property for which it has obtained the address of the owner, maintain a record of the name and address of the owner for 10 years after the date the property may have become reportable.

(b) Any business association that sells in the District traveler's checks, money orders, or other similar written instruments, other than 3rd party bank checks on which the business association is directly liable or that provides those traveler's checks, money orders, or similar written instruments to others for sale in the District, shall maintain a record of such instruments while they remain outstanding indicating the state and date of issue for 3 years after the date the property may have become reportable. The record may be destroyed after the record has been retained for such reasonable time as the Mayor by rule shall designate.

§ 41-133. Action to compel delivery of abandoned property.

If any person refuses to pay or deliver abandoned property to the Mayor as required under this chapter, the Mayor may bring an action in the Superior Court of the District of Columbia to compel such delivery.

§ 41-134. Reciprocal actions and agreements.

(a) At the request of a state, the Corporation Counsel may bring an action in the name of the administrator of the requesting state, in any court of appropriate jurisdiction to enforce the unclaimed property laws of the requesting state against a holder in the District of property subject to escheat or a claim of abandonment by that state, if that state has agreed to pay expenses incurred by the Corporation Counsel in bringing the action.

(b) The Mayor may request that the attorney general of a state or any other person bring an action in the name of the Mayor in that state. The District government shall pay all expenses including attorney's fees in any action under this subsection. Any expenses paid pursuant to this subsection may not be deducted from the amount that is subject to the claim by the owner in accordance with this chapter.

(c)(1) The Mayor may enter into an agreement to provide and to receive information needed to enable the District government and a state to audit or otherwise determine unclaimed property that the District or the state may be entitled to escheat or subject to a claim of custody as abandoned property.

(2) The Mayor may by rule require the reporting of information needed to enable the Mayor to comply with agreements made pursuant to this section and prescribe the form, including verification of the information to be reported, and the times for filing the reports.

(d) The Mayor may join with states to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

§ 41-135. Interest and penalties.

(a) Any person who fails to pay or deliver property within the time prescribed by this chapter shall be required to pay interest at the rate of 1 1/2 % per month or fraction of a month on the property or value of the property from the date the property should have been paid or delivered.

(b) Except as otherwise provided in subsection (c) of this section, a holder who fails to report, pay, or deliver property within the time prescribed under this chapter, or fails to perform other duties imposed by this chapter, shall pay to the Mayor, in addition to the interest as provided in subsection (a) of this section, a civil penalty of \$200 for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of \$10,000.

(c) A holder who willfully fails to report, pay, or deliver property within the time prescribed under this chapter, or fails to perform other duties imposed by this chapter, shall pay to the Mayor, in addition to the interest as provided in subsection (a) of this section, a civil penalty of \$1,000 for each day the report, payment, or delivery is withheld, or the duty is not performed, up to a maximum of \$25,000, plus 25% of the value of any property that should have been paid or delivered.

(d) The interest or penalty or any part of the interest or penalty as imposed in subsection (b) or (c) of this section may be waived by the Mayor if the person's failure to pay or deliver property is satisfactorily explained to the Mayor and if the failure has resulted from a mistake by the person in understanding or applying the law or the facts which require that person to pay or deliver property as provided in this chapter.

(e) For purposes of this section, the term "person" also includes an officer or employee of a

corporation, or member or employee of a partnership or association, who as an officer, employee, or member is responsible to report, pay, or deliver abandoned property to the Mayor as required under this chapter.

(f) A holder who fails to exercise due diligence as provided in § 41-117 will be assessed a \$10 penalty per item.

§ 41-136. Enforcement.

(a) All fines levied pursuant to § 41-135(a) are civil in nature.

(b) The Mayor may issue a notice of violation to any person who violates a provision of this chapter. The notice shall:

(1) State the nature of the violation; and

(2) Describe the procedures provided in this section.

(c) A notice of violation shall be the summons and complaint for purposes of this section. A duplicate of the notice of violation shall be served personally on the person to whom it is issued as provided in subsection (d) of this section. The original or a facsimile thereof shall be filed with the Corporation Counsel and shall be deemed a record kept in the ordinary course of business and shall be prima facie evidence of the facts contained therein.

(d) A notice of violation shall be served personally upon the alleged violator. If the alleged violator is not present the notice of violation shall be served by affixing such notice to the place of business in a conspicuous place.

(e) The Mayor shall prescribe the form for the notice of violation. A Mayor's rule or order establishing the amount of collateral shall be submitted by the Mayor to the Council of the District of Columbia for a 30 calendar day review period, excluding days of Council of the District of Columbia recess. No such rules or regulations shall take effect until the end of the 30 calendar day period beginning on the day such rules or regulations are transmitted by the Mayor to the Chairman of the Council of the District of Columbia, and then, only if during such period, the Council of the District of Columbia does not adopt a resolution disapproving such rules and regulations in whole or in part.

(f) A person shall answer a notice of violation within 20 days by:

(1) Depositing and forfeiting collateral in an amount established by rule or order of the Mayor; or

(2) Depositing collateral in an amount established by rule or order of the Mayor and requesting the Superior Court of the District of Columbia to set a trial date.

(g) Unless otherwise provided, the conduct of any civil trial commenced pursuant to subsections (b), (c), (d), (e) and (f) of this section shall be governed by the Superior Court of the District of Columbia Rules of Civil Procedure.

(h) In such trial, the complaint of a violation of this chapter shall be brought in the name of the District of Columbia by the Corporation Counsel. The burden of proof shall be upon the District of Columbia and no violation of this chapter may be established except upon proof by a preponderance of the evidence.

(i) All fines, collateral, and fees collected under this section shall be paid into the General Fund of the District government.

(j) A fine or collateral is due and payable pursuant to § 41-135(a) upon default or a finding at trial in favor of the District government or upon the failure of a person to answer a notice of violation within 15 days as provided in subsection (f) of this section.

(k) Failure of a person to pay a fine or collateral when due shall cause such fine or collateral to be due and payable in twice the original amount, not to exceed \$20,000.

(l)(1) The District of Columbia shall have a lien upon any amount due and payable as a fine or collateral pursuant to subsections (a), (b), and (c) of § 41-135 and any amount due as the cost of conducting an examination pursuant to § 41-130(c).

(2) Such lien shall not be effective unless: (A) the District government has filed in the Office of the Recorder of Deeds of the District of Columbia, in a docket provided for such liens, a written statement containing the name and address of the violator and the date and approximate place of the violation; and (B) the District government has given notice of the filing of such lien to the violator. Thereafter, the District government is authorized to file suit in the amount of its lien.

§ 41-137. Agreement to locate property.

(a) No agreement or contract with a person for a fee or compensation to locate, deliver, recover, or assist in the recovery of property reported under § 41-117, entered into within 7 months after the date payment or delivery is required under § 41-119, is valid.

(b) No agreement entered into after 7 months from the date of delivery of the property by the holder to the Mayor is valid if a person thereby undertakes to locate property included in a report for a fee or other compensation exceeding 10 percent of the value of the recoverable property unless the agreement is in writing and signed by the owner and discloses the nature and value of the property and the name and address of the holder of the property as such facts have been reported. 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.

§ 41-138. Rules and regulations.

The Mayor is authorized to issue such rules, regulations, and orders as may be necessary in order to effectuate the purposes of this chapter.

§ 41-139. Appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

§ 41-140. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§ 41-141. Uniformity of application and construction.

This chapter shall be applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states enacting it.

§ 41-142. Retroactivity of chapter.

This chapter shall apply retroactively to all items of property which would have been presumed abandoned if this chapter had been in effect as of January 1, 1980.

END OF DOCUMENT