

HOUSE BILL 165

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Greg Nibert

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO UNCLAIMED PROPERTY; ENACTING THE REVISED UNIFORM UNCLAIMED PROPERTY ACT; REPEALING THE UNIFORM UNCLAIMED PROPERTY ACT; MAKING CONFORMING AMENDMENTS TO OTHER SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 1-19A-10 NMSA 1978 (being Laws 2003, Chapter 14, Section 10, as amended) is amended to read:

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"1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

A. There is created in the state treasury the "public election fund" solely for the purposes of:

(1) financing the election campaigns of certified candidates for covered offices;

(2) paying administrative and enforcement costs of the Voter Action Act; and

(3) carrying out all other specified provisions of the Voter Action Act.

B. The state treasurer shall invest the funds as other state funds are invested, and all income derived from the fund shall be credited directly to the fund. Remaining balances at the end of a fiscal year shall remain in the fund and not revert to the general fund.

C. Money received from the following sources shall be deposited directly into the fund:

(1) qualifying contributions that have been submitted to the secretary;

(2) any recurring balance of unspent fund money distributed to a certified candidate who does not remain a candidate through the primary or general election period for which the money was distributed;

(3) money that remains unspent or unencumbered by a certified candidate following the date of the primary election;

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(4) money that remains unspent or unencumbered by a certified candidate following the date of the general election;

(5) unspent contributions to a candidate;

(6) money distributed to the fund from funds received pursuant to the Revised Uniform Unclaimed Property Act [~~(1995)~~]; and

(7) money appropriated by the legislature or as otherwise provided by law."

SECTION 2. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

(1) Income Tax Act;

(2) Withholding Tax Act;

(3) Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act;

(4) Gross Receipts and Compensating Tax Act, Interstate Telecommunications Gross Receipts Tax Act and Leased Vehicle Gross Receipts Tax Act;

(5) Liquor Excise Tax Act;

(6) Local Liquor Excise Tax Act;

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(7) any municipal local option gross receipts tax or municipal compensating tax;

(8) any county local option gross receipts tax or county compensating tax;

(9) Special Fuels Supplier Tax Act;

(10) Gasoline Tax Act;

(11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;

(12) Alternative Fuel Tax Act;

(13) Cigarette Tax Act;

(14) Estate Tax Act;

(15) Railroad Car Company Tax Act;

(16) Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act and high-wage jobs tax credit;

(17) Corporate Income and Franchise Tax Act;

(18) Uniform Division of Income for Tax Purposes Act;

(19) Multistate Tax Compact;

(20) Tobacco Products Tax Act;

(21) the telecommunications relay service surcharge imposed by Section 63-9F-11 NMSA 1978, which

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surcharge shall be considered a tax for the purposes of the Tax Administration Act;

(22) the Insurance Premium Tax Act;

(23) the Health Care Quality Surcharge Act;

and

(24) the Cannabis Tax Act;

B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

(7) Oil and Gas Ad Valorem Production Tax Act;

(8) Natural Gas Processors Tax Act;

(9) Oil and Gas Production Equipment Ad

Valorem Tax Act;

(10) Copper Production Ad Valorem Tax Act;

(11) any advance payment required to be made

by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

(12) Enhanced Oil Recovery Act;

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(13) Natural Gas and Crude Oil Production Incentive Act; and

(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

(1) Weight Distance Tax Act;

(2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;

(3) Revised Uniform Unclaimed Property Act [~~(1995)~~];

(4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

(5) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act;

(6) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and

(7) the gaming tax imposed pursuant to the Gaming Control Act; and

D. the administration and enforcement of all other

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laws, with respect to which the department is charged with responsibilities pursuant to the Tax Administration Act, but only to the extent that the other laws do not conflict with the Tax Administration Act."

SECTION 3. Section 7-1-6.58 NMSA 1978 (being Laws 2007 (1st S.S.), Chapter 2, Section 8) is amended to read:

"7-1-6.58. DISTRIBUTION--PUBLIC ELECTION FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the public election fund from the amount deposited pursuant to the provisions of [~~Section 7-8A-13 NMSA 1978~~] Section 7-8B-801 NMSA 1978 in the amount of one hundred thousand dollars (\$100,000) per month during fiscal year 2008 and subsequent fiscal years."

SECTION 4. A new Section 7-8B-101 NMSA 1978 is enacted to read:

"7-8B-101. [NEW MATERIAL] SHORT TITLE.--Chapter 7, Article 8B NMSA 1978 may be cited as the "Revised Uniform Unclaimed Property Act"."

SECTION 5. A new Section 7-8B-102 NMSA 1978 is enacted to read:

"7-8B-102. [NEW MATERIAL] DEFINITIONS.--As used in the Revised Uniform Unclaimed Property Act:

(1) "administrator" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department who exercises authority lawfully

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delegated to that employee by the secretary;

(2) "apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued or owing by the holder;

(3) "business association" means a corporation, joint stock company, investment company other than an investment company registered pursuant to the federal Investment Company Act of 1940, as amended, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship or other business entity, whether or not for profit;

(4) "confidential information" means records, reports and information that are confidential pursuant to Section 7-8B-1402 NMSA 1978;

(5) "domicile" means:

(A) for a corporation, the state of its incorporation;

(B) for a business association whose formation requires a filing with a state, other than a corporation, the state of its filing;

(C) for a federally chartered entity or an investment company registered pursuant to the federal

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Investment Company Act of 1940, as amended, the state of its
HJC→~~home office~~←HJC HJC→~~charter~~←HJC ; and

(D) for any other holder, the state of its
principal place of business;

(6) "electronic" means relating to technology
having electrical, digital, magnetic, wireless, optical,
electromagnetic or similar capabilities;

(7) "electronic mail" means a communication by
electronic means that is automatically retained and stored and
may be readily accessed or retrieved;

(8) "financial organization" means a savings and
loan association, building and loan association, savings bank,
industrial bank, bank, banking organization or credit union;

(9) "game-related digital content" means digital
content that exists only in an electronic game or electronic
gaming platform. The term:

(A) includes:

(i) game-play currency such as a virtual
wallet, even if denominated in United States currency; and

(ii) the following if for use or
redemption only within the game or platform or another
electronic game or electronic gaming platform:

(I) points sometimes referred to as
gems, tokens, gold and similar names; and

(II) digital codes; and

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(B) does not include an item that the issuer:
(i) permits to be redeemed for use
outside a game or platform for:

(I) money; or
(II) goods or services that have
more than minimal value; or
(ii) otherwise monetizes for use outside
a game or platform;

(10) "gift card":

(A) means a stored-value card:
(i) the value of which does not expire;
(ii) that may be decreased in value only
by redemption for merchandise, goods or services; and
(iii) that, unless required by law, may
not be redeemed for or converted into money or otherwise
monetized by the issuer; and

(B) includes a prepaid commercial mobile radio
service, as defined in 47 C.F.R. 20.3, as amended;

(11) "holder" means a person obligated to hold for
the account of, or to deliver or pay to, the owner property
subject to the Revised Uniform Unclaimed Property Act;

(12) "insurance company" means an association,
corporation or fraternal or mutual-benefit organization,
whether or not for profit, engaged in the business of providing
life endowments, annuities or insurance, including accident,

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burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection and workers' compensation insurance;

(13) "loyalty card" means a record given without direct monetary consideration pursuant to an award, reward, benefit, loyalty, incentive, rebate or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services. The term does not include a record that may be redeemed for money or otherwise monetized by the issuer;

(14) "mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources and any other substance defined as a mineral by law of New Mexico other than the Revised Uniform Unclaimed Property Act;

(15) "mineral proceeds" means an amount payable for extraction, production or sale of minerals or, on the abandonment of the amount, an amount that becomes payable after abandonment. The term includes an amount payable:

(A) for the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty and delay rental;

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(B) for the extraction, production or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment and production payment; and

(C) pursuant to an agreement or option, including a joint-operating agreement, unit agreement, pooling agreement and farm-out agreement;

(16) "money order" means a payment order for a specified amount of money. The term includes an express money order and a personal money order on which the remitter is the purchaser;

(17) "municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state;

(18) "net card value" means the original purchase price or original issued value of a stored-value card, plus amounts added to the original price or value, minus amounts used and any service charge, fee or dormancy charge permitted by law;

(19) "non-freely transferable security" means a security that cannot be delivered to the administrator by the depository trust and clearing corporation or similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. The term includes a worthless security;

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(20) "owner" means a person that has a legal, beneficial or equitable interest in property subject to the Revised Uniform Unclaimed Property Act or the person's legal representative when acting on behalf of the owner. The term includes:

(A) a depositor, for a deposit;

(B) a beneficiary, for a trust other than a deposit in trust;

(C) a creditor, claimant or payee, for other property; and

(D) the lawful bearer of a record that may be used to obtain money, a reward or a thing of value;

(21) "payroll card" means a record that evidences a payroll-card account as defined in Regulation E, 12 C.F.R. Part 1005, as amended;

(22) "person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency or instrumentality or other legal entity;

(23) "property" means tangible property described in Section 7-8B-205 NMSA 1978 or a fixed and certain interest in intangible property held, issued or owed in the course of a holder's business or by a government, governmental subdivision, agency or instrumentality. The term:

(A) includes all income from or increments to the property;

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(B) includes property referred to as or evidenced by:

(i) money, virtual currency, interest or a dividend, check, draft, deposit or payroll card;

(ii) a credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds or unidentified remittance;

(iii) a security except for:

(I) a worthless security; or

(II) a security that is subject to a lien, legal hold or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold or restriction restricts the holder's or owner's ability to receive, transfer, sell or otherwise negotiate the security;

(iv) a bond, debenture, note or other evidence of indebtedness;

(v) money deposited to redeem a security, make a distribution or pay a dividend;

(vi) an amount due and payable pursuant to an annuity contract or insurance policy; and

(vii) an amount distributable from a trust or custodial fund established pursuant to a plan to provide health, welfare, pension, vacation, severance,

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retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance or a similar benefit; and

(C) does not include:

(i) property held in a plan described in Section 529A of the federal Internal Revenue Code of 1986, as amended;

(ii) game-related digital content; or

(iii) a loyalty card;

(24) "putative holder" means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to the Revised Uniform Unclaimed Property Act or the administrator or a court makes a final determination that the person is or is not a holder;

(25) "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;

(26) "security" means:

(A) a security as defined in Section 55-8-102 NMSA 1978;

(B) a security entitlement as defined in Section 55-8-102 NMSA 1978, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:

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(i) registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;

(ii) payable to the order of the person;
or

(iii) specifically indorsed to the person; or

(C) an equity interest in a business association not included in Paragraph (A) or (B) of this subsection;

(27) "sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound or process;

(28) "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States;

(29) "stored-value card" means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services or money will be provided to the owner of the record to the value or amount shown in the record.
The term:

(A) includes:

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(i) a record that contains or consists of a microprocessor chip, magnetic strip or other means for the storage of information that is prefunded and whose value or amount is decreased upon each use and increased by payment of additional consideration; and

(ii) a gift card and payroll card; and
(B) does not include a loyalty card or game-related digital content;

(30) "utility" means a person that owns or operates for public use a plant, equipment, real property, franchise or license for the following public services:

(A) transmission of communications or information;

(B) production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas; or

(C) provision of sewage or septic services or trash, garbage or recycling disposal;

(31) "virtual currency" means a digital representation of value used as a medium of exchange, unit of account or store of value that does not have legal tender status recognized by the United States. The term does not include:

(A) the software or protocols governing the transfer of the digital representation of value;

(B) game-related digital content; or

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(C) a loyalty card or gift card; and

(32) "worthless security" means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due pursuant to the Revised Uniform Unclaimed Property Act."

SECTION 6. A new Section 7-8B-103 NMSA 1978 is enacted to read:

"7-8B-103. [NEW MATERIAL] FOREIGN TRANSACTIONS.--The Revised Uniform Unclaimed Property Act does not apply to:

- (1) property held, due and owing in a foreign country and arising out of a foreign transaction;
- (2) funds in a member's share account in a credit union if the bylaws of the credit union provide for unclaimed funds to be used for educational or charitable uses; and
- (3) patronage capital or other tangible ownership interest in a rural electric cooperative, a telephone cooperative, a water cooperative or an agricultural cooperative, if the bylaws of the cooperative provide for unclaimed patronage capital to be used for educational scholarships or other charitable uses."

SECTION 7. A new Section 7-8B-104 NMSA 1978 is enacted to read:

"7-8B-104. [NEW MATERIAL] RULEMAKING.--The administrator may adopt, pursuant to the State Rules Act, rules to implement and administer the Revised Uniform Unclaimed Property Act."

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SECTION 8. A new Section 7-8B-201 NMSA 1978 is enacted to read:

"7-8B-201. [NEW MATERIAL] WHEN PROPERTY ASSUMED ABANDONED.--Subject to Section 7-8B-210 NMSA 1978, the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified below:

- (1) a traveler's check, fifteen years after issuance;
- (2) a money order, seven years after issuance;
- (3) a state or municipal bond, bearer bond or original-issue-discount bond, three years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;
- (4) a debt of a business association, three years after the obligation to pay arises;
- (5) a payroll card or demand, savings or time deposit, including a deposit that is automatically renewable, three years after the later of maturity, if applicable, of the card or deposit or the owner's last indication of interest in the card or deposit, except a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;
- (6) money or a credit owed to a customer as a result of a retail business transaction, three years after the

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obligation arose;

(7) an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three years after the obligation to pay arose pursuant to the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant, as follows:

(A) with respect to an amount owed on a life or endowment insurance policy, three years after the earlier of the date:

(i) the insurance company has knowledge of the death of the insured; or

(ii) the insured has attained, or would have attained if living, the limiting age pursuant to the mortality table on which the reserve for the policy is based; and

(B) with respect to an amount owed on an annuity contract, three years after the date the insurance company has knowledge of the death of the annuitant;

(8) property distributable by a business association in the course of dissolution, one year after the property becomes distributable;

(9) property held by a court, including property received as proceeds of a class action, one year after the

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property becomes distributable;

(10) property held by a government or governmental subdivision, agency or instrumentality, including municipal bond interest and unredeemed principal pursuant to the administration of a paying agent or indenture trustee, one year after the property becomes distributable;

(11) wages, commissions, bonuses or reimbursements to which an employee is entitled or other compensation for personal services, other than amounts held in a payroll card, one year after the amount becomes payable;

(12) a deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable; and

(13) property not specified in this section or Sections 7-8B-202 through 7-8B-207 NMSA 1978, the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises."

SECTION 9. A new Section 7-8B-202 NMSA 1978 is enacted to read:

"7-8B-202. [NEW MATERIAL] WHEN TAX-DEFERRED RETIREMENT ACCOUNT PRESUMED ABANDONED.--

(a) Subject to Section 7-8B-210 NMSA 1978, property held in a pension account or retirement account that qualifies for tax deferral pursuant to the income tax laws of the United

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States is presumed abandoned if it is unclaimed by the apparent owner three years after:

(1) the later of the following dates:

(A) except as in Subparagraph (B) of this paragraph, the date a second consecutive communication sent by the holder by first class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service; or

(B) if the second communication is sent later than thirty days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States postal service; or

(2) the earlier of the following dates:

(A) the date the apparent owner reaches the age when the federal Internal Revenue Code of 1986, as amended, requires a minimum distribution from the account, if determinable by the holder; or

(B) if the federal Internal Revenue Code of 1986, as amended, requires distribution to avoid a tax penalty, two years after the date the holder:

(i) receives confirmation of the death of the apparent owner in the ordinary course of its business; or

(ii) confirms the death of the apparent owner pursuant to Subsection (b) of this section.

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(b) If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner and Paragraph (2) of Subsection (a) of this section applies, the holder shall attempt not later than ninety days after receipt of the notice or indication to confirm whether the apparent owner is deceased.

(c) If the holder does not send communications to the apparent owner of an account described in Subsection (a) of this section by first class United States mail, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic mail communication not later than two years after the apparent owner's last indication of interest in the property. However, the holder shall promptly attempt to contact the apparent owner by first class United States mail if:

(1) the holder does not have information needed to send the apparent owner an electronic mail communication or the holder believes that the apparent owner's electronic mail address in the holder's records is not valid;

(2) the holder receives notification that the electronic mail communication was not received; or

(3) the apparent owner does not respond to the electronic mail communication not later than thirty days after the communication was sent.

(d) If first class United States mail sent pursuant

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to Subsection (c) of this section is returned to the holder undelivered by the United States postal service, the property is presumed abandoned three years after the later of:

(1) except as in Paragraph (2) of this subsection, the date a second consecutive communication to contact the apparent owner sent by first class United States mail is returned to the holder undelivered;

(2) if the second communication is sent later than thirty days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or

(3) the date established by Paragraph (2) of Subsection (a) of this section."

SECTION 10. A new Section 7-8B-203 NMSA 1978 is enacted to read:

"7-8B-203. [NEW MATERIAL] WHEN OTHER TAX-DEFERRED ACCOUNT PRESUMED ABANDONED.--Subject to Section 7-8B-210 NMSA 1978, and except for property described in Section 7-8B-202 NMSA 1978 and property held in a plan described in Section 529A of the federal Internal Revenue Code of 1986, as amended, property held in an account or plan, including a health savings account, that qualifies for tax deferral pursuant to the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner three years after the earlier of:

(1) the date, if determinable by the holder,

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specified in the income tax laws and regulations of the United States by which distribution of the property shall begin to avoid a tax penalty, with no distribution having been made; or

(2) thirty years after the date the account was opened."

SECTION 11. A new Section 7-8B-204 NMSA 1978 is enacted to read:

"7-8B-204. [NEW MATERIAL] WHEN CUSTODIAL ACCOUNT FOR MINOR PRESUMED ABANDONED.--

(a) Subject to Section 7-8B-210 NMSA 1978, property held in an account established pursuant to the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act is presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account was opened three years after the later of:

(1) except as in Paragraph (2) of this subsection, the date a second consecutive communication sent by the holder by first class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States postal service;

(2) if the second communication is sent later than thirty days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or

(3) the date on which the custodian is

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required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act of the state in which the account was opened.

(b) If the holder does not send communications to the custodian of the minor on whose behalf an account described in Subsection (a) of this section was opened by first class United States mail, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic mail communication within two years after the custodian's last indication of interest in the property. However, the holder shall promptly attempt to contact the custodian by first class United States mail if:

(1) the holder does not have information needed to send the custodian an electronic mail communication or the holder believes that the custodian's electronic mail address in the holder's records is not valid;

(2) the holder receives notification that the electronic mail communication was not received; or

(3) the custodian does not respond to the electronic mail communication within thirty days after the communication was sent.

(c) If first class United States mail sent pursuant to Subsection (b) of this section is returned undelivered to the holder by the United States postal service, the property is

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presumed abandoned three years after the later of:

(1) the date a second consecutive communication to contact the custodian by first class United States mail is returned to the holder undelivered by the United states postal Service; or

(2) the date established by Paragraph (3) of Subsection (a) of this section.

(d) When the property in the account described in Subsection (a) of this section is transferred to the minor on whose behalf an account was opened or to the minor's estate, the property in the account is no longer subject to this section."

SECTION 12. A new Section 7-8B-205 NMSA 1978 is enacted to read:

"7-8B-205. [NEW MATERIAL] WHEN CONTENTS OF SAFE-DEPOSIT BOX PRESUMED ABANDONED.--Tangible property held in a safe-deposit box and proceeds from a sale of the property by the holder permitted by law of New Mexico other than the Revised Uniform Unclaimed Property Act are presumed abandoned if the property remains unclaimed by the apparent owner five years after the earlier of the:

(1) expiration of the lease or rental period for the box; or

(2) earliest date when the lessor of the box is authorized by law of New Mexico other than the Revised Uniform

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Unclaimed Property Act to enter the box and remove or dispose of the contents without consent or authorization of the lessee."

SECTION 13. A new Section 7-8B-206 NMSA 1978 is enacted to read:

"7-8B-206. [NEW MATERIAL] WHEN STORED-VALUE CARD PRESUMED ABANDONED.--

(a) Subject to Section 7-8B-210 NMSA 1978, the net card value of a stored-value card, other than a payroll card or a gift card, is presumed abandoned on the latest of three years after:

(1) December 31 of the year in which the card is issued or additional funds are deposited into the card;

(2) the most recent indication of interest in the card by the apparent owner; or

(3) a verification or review of the balance by or on behalf of the apparent owner.

(b) The amount presumed abandoned in a stored-value card is the net card value at the time it is presumed abandoned."

SECTION 14. A new Section 7-8B-207 NMSA 1978 is enacted to read:

"7-8B-207. [NEW MATERIAL] WHEN GIFT CARD PRESUMED ABANDONED.--Subject to Section 7-8B-210 NMSA 1978, a gift card is presumed abandoned if it is unclaimed by the apparent owner

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five years after the later of the date of purchase or its most recent use, but if redeemable in merchandise only, the amount abandoned is deemed to be sixty percent of the card's current face value."

SECTION 15. A new Section 7-8B-208 NMSA 1978 is enacted to read:

"7-8B-208. [NEW MATERIAL] WHEN SECURITY PRESUMED ABANDONED.--

(a) Subject to Section 7-8B-210 NMSA 1978, a security is presumed abandoned three years after:

(1) the date a second consecutive communication sent by the holder by first class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service; or

(2) if the second communication is made later than thirty days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States postal service.

(b) If the holder does not send communications to the apparent owner of a security by first class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an electronic mail communication not later than two years after the apparent owner's last indication of interest in the security. However, the holder shall promptly attempt to

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contact the apparent owner by first class United States mail if:

(1) the holder does not have information needed to send the apparent owner an electronic mail communication or the holder believes that the apparent owner's electronic mail address in the holder's records is not valid;

(2) the holder receives notification that the electronic mail communication was not received; or

(3) the apparent owner does not respond to the electronic mail communication within thirty days after the communication was sent.

(c) If first class United States mail sent pursuant to Subsection (b) of this section is returned to the holder undelivered by the United States postal service, the security is presumed abandoned three years after the date the mail is returned."

SECTION 16. A new Section 7-8B-209 NMSA 1978 is enacted to read:

"7-8B-209. [NEW MATERIAL] WHEN RELATED PROPERTY PRESUMED ABANDONED.--At and after the time property is presumed abandoned pursuant to the Revised Uniform Unclaimed Property Act, any other property right or interest accrued or accruing from the property and not previously presumed abandoned is also presumed abandoned."

SECTION 17. A new Section 7-8B-210 NMSA 1978 is enacted

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to read:

"7-8B-210. [NEW MATERIAL] INDICATION OF APPARENT OWNER INTEREST IN PROPERTY.--

(a) The period after which property is presumed abandoned is measured from the later of:

(1) the date the property is presumed abandoned pursuant to Sections 7-8B-201 through 7-8B-211 NMSA 1978; or

(2) the latest indication of interest by the apparent owner in the property.

(b) Pursuant to the Revised Uniform Unclaimed Property Act, an indication of an apparent owner's interest in property includes:

(1) a record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

(2) an oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

(3) presentment of a check or other instrument of payment of a dividend, interest payment or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account,

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underlying security or interest in a business association;

(4) activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease or otherwise change the amount or type of property held in the account;

(5) a deposit into or withdrawal from an account at a financial organization, including an automatic deposit or withdrawal previously authorized by the apparent owner other than an automatic reinvestment of dividends or interest;

(6) subject to Subsection (e) of this section, payment of a premium on an insurance policy; and

(7) any other action by the apparent owner that reasonably demonstrates to the holder that the apparent owner knows that the property exists.

(c) An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.

(d) A communication with an apparent owner by a person other than the holder or the holder's representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the

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apparent owner's knowledge of a right to the property.

(e) If the insured dies or the insured or beneficiary of an insurance policy otherwise becomes entitled to the proceeds before depletion of the cash surrender value of the policy by operation of an automatic-premium-loan provision or other nonforfeiture provision contained in the policy, the operation does not prevent the policy from maturing or terminating."

SECTION 18. A new Section 7-8B-211 NMSA 1978 is enacted to read:

"7-8B-211. [NEW MATERIAL] KNOWLEDGE OF DEATH OF INSURED OR ANNUITANT.--

(a) In this section, "death master file" means the United States social security administration death master file or other database or service that is at least as comprehensive as the United States social security administration death master file for determining that an individual reportedly has died.

(b) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant, the company has knowledge of the death of an insured or annuitant when:

(1) the company receives a death certificate or court order determining that the insured or annuitant has

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died;

(2) due diligence, performed as required pursuant to New Mexico law to maintain contact with the insured or annuitant or determine whether the insured or annuitant has died, validates the death of the insured or annuitant;

(3) the company conducts a comparison for any purpose between a death master file and the names of some or all of the company's insureds or annuitants, finds a match that provides notice that the insured or annuitant has died and validates the death;

(4) the administrator or the administrator's agent conducts a comparison for the purpose of finding matches during an examination conducted pursuant to Sections 7-8B-1001 through 7-8B-1012 NMSA 1978 between a death master file and the names of some or all of the company's insureds or annuitants, finds a match that provides notice that the insured or annuitant has died and the company validates the death; or

(5) the company:

(A) receives notice of the death of the insured or annuitant from an administrator, beneficiary, policy owner, relative of the insured or trustee or from a personal representative or other legal representative of the insured's or annuitant's estate; and

(B) validates the death of the insured or annuitant.

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(c) The following rules apply pursuant to this section:

(1) a death-master-file match pursuant to Paragraph (3) or (4) of Subsection (b) of this section occurs if the criteria for an exact or partial match are satisfied as provided by:

(A) law of New Mexico other than the Revised Uniform Unclaimed Property Act;

(B) a rule or policy adopted by the superintendent of insurance; or

(C) absent a law, rule or policy pursuant to Subparagraph (A) or (B) of this paragraph, standards in the national conference of insurance legislators' "Model Unclaimed Life Insurance Benefits Act", as published in 2014;

(2) the death-master-file match does not constitute proof of death for the purpose of submission to an insurance company of a claim by a beneficiary, annuitant or owner of the policy or contract for an amount due pursuant to an insurance policy or annuity contract;

(3) the death-master-file match or validation of the insured's or annuitant's death does not alter the requirements for a beneficiary, annuitant or owner of the policy or contract to make a claim to receive proceeds pursuant to the terms of the policy or contract; and

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(4) if no provision in New Mexico law establishes a time for validation of a death of an insured or annuitant, the insurance company shall make a good faith effort using other available records and information to validate the death and document the effort taken not later than ninety days after the insurance company has notice of the death.

(d) The Revised Uniform Unclaimed Property Act does not affect the determination of the extent to which an insurance company before the effective date of that act had knowledge of the death of an insured or annuitant or was required to conduct a death-master-file comparison to determine whether amounts owed by the company on a life or endowment insurance policy or annuity contract were presumed abandoned or unclaimed."

SECTION 19. A new Section 7-8B-212 NMSA 1978 is enacted to read:

"7-8B-212. [NEW MATERIAL] DEPOSIT ACCOUNT FOR PROCEEDS OF INSURANCE POLICY OR ANNUITY CONTRACT.--If proceeds payable pursuant to a life or endowment insurance policy or annuity contract are deposited into an account with check or draft-writing privileges for the beneficiary of the policy or contract and, pursuant to a supplementary contract not involving annuity benefits other than death benefits, the proceeds are retained by the insurance company or the financial organization where the account is held, the policy or contract

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includes the assets in the account."

SECTION 20. A new Section 7-8B-301 NMSA 1978 is enacted to read:

"7-8B-301. [NEW MATERIAL] ADDRESS OF APPARENT OWNER TO ESTABLISH PRIORITY.--In Sections 7-8B-301 through 7-8B-307 NMSA 1978, the following rules apply:

(1) The last known address of an apparent owner is any description, code or other indication of the location of the apparent owner that identifies the state, even if the description, code or indication of location is not sufficient to direct the delivery of first class United States mail to the apparent owner.

(2) If the United States postal code associated with the apparent owner is for a post office located in New Mexico, New Mexico is deemed to be the state of the last known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in another state.

(3) If the address pursuant to Subsection (2) of this section is in another state, the other state is deemed to be the state of the last known address of the apparent owner.

(4) The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the

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amount owed pursuant to the policy or contract and the address of the other person is not known by the insurance company and cannot be determined pursuant to Section 7-8B-302 NMSA 1978."

SECTION 21. A new Section 7-8B-302 NMSA 1978 is enacted to read:

"7-8B-302. [NEW MATERIAL] ADDRESS OF APPARENT OWNER IN NEW MEXICO.--The administrator may take custody of property that is presumed abandoned, whether located in New Mexico, another state or a foreign country if:

(1) the last known address of the apparent owner in the records of the holder is in New Mexico; or

(2) the records of the holder do not reflect the identity or last known address of the apparent owner, but the administrator has determined that the last known address of the apparent owner is in New Mexico."

SECTION 22. A new Section 7-8B-303 NMSA 1978 is enacted to read:

"7-8B-303. [NEW MATERIAL] IF RECORDS SHOW MULTIPLE ADDRESSES OF APPARENT OWNER.--

(a) Except as provided in Subsection (b) of this section, if records of a holder reflect multiple addresses for an apparent owner and New Mexico is the state of the most recently recorded address, the administrator may take custody of property presumed abandoned, whether located in New Mexico or another state.

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(b) If it appears from records of the holder that the most recently recorded address of the apparent owner pursuant to Subsection (a) of this section is a temporary address and New Mexico is the state of the next most recently recorded address that is not a temporary address, the administrator may take custody of the property presumed abandoned."

SECTION 23. A new Section 7-8B-304 NMSA 1978 is enacted to read:

"7-8B-304. [NEW MATERIAL] HOLDER DOMICILED IN NEW MEXICO.--

(a) Except as provided in Subsection (b) of this section or Section 7-8B-302 or 7-8B-303 NMSA 1978, the administrator may take custody of property presumed abandoned, whether located in New Mexico, another state or a foreign country, if the holder is domiciled in New Mexico, is New Mexico or a governmental subdivision, agency or instrumentality of New Mexico and:

(1) another state or foreign country is not entitled to the property because there is no last known address of the apparent owner or other person entitled to the property in the records of the holder; or

(2) the state or foreign country of the last known address of the apparent owner or other person entitled to the property does not provide for custodial taking of the

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property.

(b) Property is not subject to custody of the administrator pursuant to Subsection (a) of this section if the property is specifically exempt from custodial taking pursuant to the law of New Mexico or the state or foreign country of the last known address of the apparent owner.

(c) If a holder's state of domicile has changed since the time property was presumed abandoned, the holder's state of domicile in this section is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned."

SECTION 24. A new Section 7-8B-305 NMSA 1978 is enacted to read:

"7-8B-305. [NEW MATERIAL] CUSTODY IF TRANSACTION TOOK PLACE IN NEW MEXICO.--Except as provided in Section 7-8B-302, 7-8B-303 or 7-8B-304 NMSA 1978, the administrator may take custody of property presumed abandoned whether located in New Mexico or another state if:

(1) the transaction out of which the property arose took place in New Mexico;

(2) the holder is domiciled in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking pursuant to the law of the state of the holder's domicile, the property is not subject to the custody of the

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administrator; and

(3) the last known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking pursuant to the law of the state of the last known address, the property is not subject to the custody of the administrator."

SECTION 25. A new Section 7-8B-306 NMSA 1978 is enacted to read:

"7-8B-306. [NEW MATERIAL] TRAVELER'S CHECK, MONEY ORDER OR SIMILAR INSTRUMENT.--The administrator may take custody of sums payable on a traveler's check, money order or similar instrument presumed abandoned to the extent permissible pursuant to 12 U.S.C. Sections 2501 through 2503, as amended."

SECTION 26. A new Section 7-8B-307 NMSA 1978 is enacted to read:

"7-8B-307. [NEW MATERIAL] BURDEN OF PROOF TO ESTABLISH ADMINISTRATOR'S RIGHT TO CUSTODY.--If the administrator asserts a right to custody of unclaimed property, the administrator has the burden to prove:

- (1) the existence and amount of the property;
- (2) that the property is presumed abandoned; and
- (3) that the property is subject to the custody of the administrator."

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SECTION 27. A new Section 7-8B-401 NMSA 1978 is enacted

to read:

"7-8B-401. [NEW MATERIAL] REPORT REQUIRED BY HOLDER.--

(a) A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property. A holder of more than twenty-five properties presumed abandoned shall report the properties in an electronic medium and in a format determined by the administrator to be compatible with computer programming and equipment used by the administrator for processing.

(b) A holder may contract with a third party to make the report required pursuant to Subsection (a) of this section.

(c) Whether or not a holder contracts with a third party pursuant to Subsection (b) of this section, the holder is responsible:

(1) to the administrator for the complete, accurate and timely reporting of property presumed abandoned; and

(2) for paying or delivering to the administrator property described in the report.

(d) Before the date for filing the report, the holder of property presumed abandoned may request the administrator to extend the time for filing the report. The

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administrator may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

(e) The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with Section 7-8B-501 NMSA 1978."

SECTION 28. A new Section 7-8B-402 NMSA 1978 is enacted to read:

"7-8B-402. [NEW MATERIAL] CONTENT OF REPORT.--

(a) The report required pursuant to Section 7-8B-401 NMSA 1978 shall:

(1) be signed by or on behalf of the holder and verified as to its completeness and accuracy;

(2) if filed electronically, be in a secure format approved by the administrator that protects confidential information of the apparent owner in the same manner as required of the administrator and the administrator's agent pursuant to Sections 7-8B-1401 through 7-8B-1408 NMSA 1978;

(3) describe the property;

(4) except for a traveler's check, money order or similar instrument, contain the name, if known, last known address, if known, and social security number or taxpayer identification number, if known or readily ascertainable, of

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the apparent owner of property with a value of fifty dollars (\$50.00) or more;

(5) for an amount held or owing pursuant to a life or endowment insurance policy or annuity contract, contain the name and last known address of the insured, annuitant or other apparent owner of the policy or contract and of the beneficiary;

(6) for property held in or removed from a safe-deposit box, indicate the location of the property, where it may be inspected by the administrator and any amounts owed to the holder pursuant to Section 7-8B-606 NMSA 1978;

(7) contain the commencement date for determining abandonment pursuant to Sections 7-8B-201 through 7-8B-212 NMSA 1978;

(8) state that the holder has complied with the notice requirements of Section 7-8B-501 NMSA 1978;

(9) identify property that is a non-freely transferable security and explain why it is a non-freely transferable security; and

(10) contain other information the administrator prescribes by rule.

(b) A report pursuant to Section 7-8B-401 NMSA 1978 may include in the aggregate items valued under fifty dollars (\$50.00) each. If the report includes items in the aggregate valued under fifty dollars (\$50.00) each, the administrator may

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not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.

(c) A report pursuant to Section 7-8B-401 NMSA 1978 may include personal information as defined in Subsection (a) of Section 7-8B-1401 NMSA 1978 about the apparent owner or the apparent owner's property to the extent not otherwise prohibited by federal law.

(d) If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder shall include in the report pursuant to Section 7-8B-401 NMSA 1978 its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property."

SECTION 29. A new Section 7-8B-403 NMSA 1978 is enacted to read:

"7-8B-403. [NEW MATERIAL] WHEN REPORT TO BE FILED.--

(a) Except as otherwise provided in Subsection (b) of this section and subject to Subsection (c) of this section, the report pursuant to Section 7-8B-401 NMSA 1978 shall be filed before November 1 of each year and cover the twelve months preceding July 1 of that year.

(b) Subject to Subsection (c) of this section, the report pursuant to Section 7-8B-401 NMSA 1978 to be filed by an

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insurance company shall be filed before May 1 of each year for the immediately preceding calendar year.

(c) Before the date for filing the report pursuant to Section 7-8B-401 NMSA 1978, the holder of property presumed abandoned may request the administrator to extend the time for filing. The administrator may grant an extension. If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid."

SECTION 30. A new Section 7-8B-404 NMSA 1978 is enacted to read:

"7-8B-404. [NEW MATERIAL] RETENTION OF RECORDS BY HOLDER.--A holder required to file a report pursuant to Section 7-8B-401 NMSA 1978 shall retain records for ten years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the administrator. The holder may satisfy the requirement to retain records pursuant to this section through an agent. The records shall contain:

- (1) the information required to be included in the report;
- (2) the date, place and nature of the circumstances that gave rise to the property right;
- (3) the amount or value of the property;

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(4) the last address of the apparent owner, if known to the holder; and

(5) if the holder sells, issues or provides to others for sale or issue in New Mexico traveler's checks, money orders or similar instruments, other than third-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue."

SECTION 31. A new Section 7-8B-405 NMSA 1978 is enacted to read:

"7-8B-405. [NEW MATERIAL] PROPERTY REPORTABLE AND PAYABLE OR DELIVERABLE ABSENT OWNER DEMAND.--Property is reportable and payable or deliverable pursuant to the Revised Uniform Unclaimed Property Act even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment."

SECTION 32. A new Section 7-8B-406 NMSA 1978 is enacted to read:

"7-8B-406. [NEW MATERIAL] EXERCISE OF DUE DILIGENCE--LIABILITY--NOTICE.--

(a) Notwithstanding any other provisions of the Revised Uniform Unclaimed Property Act, the holder of unclaimed intangible property in the form of checks in payment of royalty interests, working interests or other interests payable out of oil and gas production with a value of fifty dollars (\$50.00)

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or more who fails to exercise due diligence in attempting to locate the apparent owner of such property during the running of the period specified under Section 7-8B-201 NMSA 1978 constituting a presumption of abandonment of such intangible property is subject to payment to the owner if such property is successfully claimed within the time specified by the Revised Uniform Unclaimed Property Act or to the state of New Mexico upon payment or delivery of the property to the administrator, interest at the annual rate of interest computed as provided in Subsection B of Section 7-1-67 NMSA 1978 on the value of the intangible property, such interest running from the date commencing after the first year in which the property remained unclaimed to the date of payment or delivery.

(b) Proof of the exercise of due diligence to locate the apparent owner shall be:

(1) evidence of written notice mailed to the last known address of the apparent owner; and

(2) proof of publication of notice to the apparent owner made between the end of the first year in which the property remained unclaimed and the end of the third year in which the property remained unclaimed. The publication of the notice required by this subsection for property presumed to be abandoned under the provisions of Section 7-8B-201 NMSA 1978 shall be made at least thirty days, but not more than ninety days, prior to the due date on which the report of abandoned

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property is required to be filed.

(c) Publication as required in Subsection (b) of this section consists of publication in a newspaper of general circulation in the county of this state in which is located the last known address of the apparent owner, or if no address is listed or the address is outside the state, in a newspaper published in the county in which the holder of the property has the holder's principal place of business within the state. The notice shall be published at least once a week for two consecutive weeks and shall be entitled:
"NOTICE OF THE NAME OF A PERSON APPEARING TO BE THE OWNER OF ABANDONED PROPERTY".

(d) The published notice shall contain:

(1) the name and last known HJC→address, if any,←HJC HJC→municipality←HJC of the person entitled to notice as specified in this section;

(2) a statement that information concerning the unclaimed property may be obtained from the holder of the property;

(3) the name and address of the holder of the property; and

(4) a statement that if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before the expiration of the period specified by

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the Revised Uniform Unclaimed Property Act for the presumption of abandonment, the intangible property will be placed in the custody of the state of New Mexico and subject to escheat to the general fund of the state.

(e) The provisions of this section shall not apply to the United States or any agency or instrumentality of the United States or to the state of New Mexico or any agency or political subdivision of the state.

(f) Any holder of property that has been presumed to be abandoned for more than three years as of January 1, 1990 shall not be presumed to be negligent by the failure to publish a notice in a newspaper of general circulation as required by this section."

SECTION 33. A new Section 7-8B-501 NMSA 1978 is enacted to read:

"7-8B-501. [NEW MATERIAL] NOTICE TO APPARENT OWNER BY HOLDER.--

(a) Subject to Subsection (b) of this section, the holder of property presumed abandoned shall send to the apparent owner notice by first class United States mail that complies with Section 7-8B-502 NMSA 1978 in a format acceptable to the administrator not more than one hundred eighty days nor less than sixty days before filing the report pursuant to Section 7-8B-401 NMSA 1978 if:

(1) the holder has in its records an address

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for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first class United States mail to the apparent owner; and

(2) the value of the property is fifty dollars (\$50.00) or more.

(b) If an apparent owner has consented to receive electronic mail delivery from the holder, the holder shall send the notice described in Subsection (a) of this section both by first class United States mail to the apparent owner's last known mailing address and by electronic mail, unless the holder believes that the apparent owner's electronic mail address is invalid."

SECTION 34. A new Section 7-8B-502 NMSA 1978 is enacted to read:

"7-8B-502. [NEW MATERIAL] CONTENTS OF NOTICE BY HOLDER.--

(a) Notice pursuant to Section 7-8B-501 NMSA 1978 shall contain a heading that reads substantially as follows: "Notice. The state of New Mexico requires us to notify you that your property may be transferred to the custody of the New Mexico unclaimed property administrator if you do not contact us before (insert date that is thirty days after the date of this notice).".

(b) The notice pursuant to Section 7-8B-501 NMSA 1978 shall:

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(1) identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;

(2) state that the property will be turned over to the administrator;

(3) state that after the property is turned over to the administrator, an apparent owner that seeks return of the property shall file a claim with the administrator;

(4) state that property that is not legal tender of the United States may be sold by the administrator; and

(5) provide instructions that the apparent owner shall follow to prevent the holder from reporting and paying or delivering the property to the administrator."

SECTION 35. A new Section 7-8B-503 NMSA 1978 is enacted to read:

"7-8B-503. [NEW MATERIAL] NOTICE BY ADMINISTRATOR.--

(a) The administrator shall give notice to an apparent owner that property presumed abandoned and that appears to be owned by the apparent owner is held by the administrator pursuant to the Revised Uniform Unclaimed Property Act.

(b) In providing notice pursuant to Subsection (a) of this section, the administrator shall:

(1) except as otherwise provided in Paragraph

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(2) of this subsection, send written notice by first class United States mail to each apparent owner of property valued at fifty dollars (\$50.00) or more held by the administrator, unless the administrator determines that a mailing by first class United States mail would not be received by the apparent owner, and in the case of a security held in an account for which the apparent owner had consented to receiving electronic mail from the holder, send notice by electronic mail if the electronic mail address of the apparent owner is known to the administrator instead of by first class United States mail; or

(2) send the notice to the apparent owner's electronic mail address if the administrator does not have a valid United States mail address for an apparent owner but has an electronic mail address that the administrator does not know to be invalid.

(c) In addition to the notice pursuant to Subsection (b) of this section, the administrator shall publish a notice not later than November 30 of each year in which abandoned property has been paid or delivered to the administrator. The notice shall be published in a newspaper of general circulation in each county of this state. The advertisement must be in a form that, in the judgment of the administrator, is likely to attract the attention of the general public. The advertisement shall contain:

(1) the website on which to search for

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information about abandoned properties;

(2) the email address of the administrator;

(3) the telephone number and physical mailing address of the administrator;

(4) a statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the administrator; and

(5) a statement providing information about the property and that the return to the property's owner is available to a person having a legal or beneficial interest in the property, upon request to the administrator.

(d) In addition to giving notice pursuant to Subsection (b) of this section, the administrator may use other printed publication, telecommunication, the internet or other media to inform the public of the existence of unclaimed property held by the administrator."

SECTION 36. A new Section 7-8B-504 NMSA 1978 is enacted to read:

"7-8B-504. [NEW MATERIAL] COOPERATION AMONG STATE OFFICERS AND AGENCIES TO LOCATE APPARENT OWNER.--Unless prohibited by law of New Mexico other than the Revised Uniform Unclaimed Property Act, on request of the administrator, each officer, agency, board, commission, division and department of New Mexico, any body politic and corporate created by this state for a public purpose and each political subdivision of

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this state shall make its books and records available to the administrator and cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator pursuant to the Revised Uniform Unclaimed Property Act."

SECTION 37. A new Section 7-8B-601 NMSA 1978 is enacted to read:

"7-8B-601. [NEW MATERIAL] DEFINITION OF GOOD FAITH.--In Sections 7-8B-601 through 7-8B-610 NMSA 1978, payment or delivery of property is made in good faith if a holder:

(1) had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator pursuant to the Revised Uniform Unclaimed Property Act; or

(2) made payment or delivery:

(A) in response to a demand by the administrator or administrator's agent; or

(B) pursuant to a guidance or ruling issued by the administrator that the holder reasonably believed required or permitted the property to be paid or delivered."

SECTION 38. A new Section 7-8B-602 NMSA 1978 is enacted to read:

"7-8B-602. [NEW MATERIAL] DORMANCY CHARGE.--

(a) A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator

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if:

(1) a valid contract in a record between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and

(2) the holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge.

(b) The amount of the deduction pursuant to Subsection (a) of this section is limited to an amount that is not unconscionable considering all relevant factors, including the marginal transactional costs incurred by the holder in maintaining the apparent owner's property and any services received by the apparent owner."

SECTION 39. A new Section 7-8B-603 NMSA 1978 is enacted to read:

"7-8B-603. [NEW MATERIAL] PAYMENT OR DELIVERY OF PROPERTY TO ADMINISTRATOR.--

(a) Except as otherwise provided in this section, on filing a report pursuant to Section 7-8B-401 NMSA 1978, the holder shall pay or deliver to the administrator the property described in the report.

(b) If property in a report pursuant to Section 7-8B-401 NMSA 1978 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the

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report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.

(c) Tangible property in a safe-deposit box may not be delivered to the administrator until one hundred twenty days after filing the report pursuant to Section 7-8B-401 NMSA 1978.

(d) If property reported to the administrator pursuant to Section 7-8B-401 NMSA 1978 is a security, the administrator may:

(1) make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, its transfer agent or the securities intermediary to transfer the security; or

(2) dispose of the security pursuant to Section 7-8B-702 NMSA 1978.

(e) If the holder of property reported to the administrator pursuant to Section 7-8B-401 NMSA 1978 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form pursuant to Section 55-8-405 NMSA 1978. An indemnity bond is not required.

(f) The administrator shall establish procedures for the registration, issuance, method of delivery, transfer and maintenance of securities delivered to the administrator by

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a holder.

(g) An issuer, holder and transfer agent or other person acting pursuant to this section pursuant to instructions of and on behalf of the issuer or holder is not liable to the apparent owner for, and shall be indemnified by the state against, a claim arising with respect to property after the property has been delivered to the administrator.

(h) A holder is not required to deliver to the administrator a security identified by the holder as a non-freely transferable security. If the administrator or holder determines that a security is no longer a non-freely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities pursuant to the Revised Uniform Unclaimed Property Act. The holder shall make a determination annually whether a security identified in a report filed pursuant to Section 7-8B-401 NMSA 1978 as a non-freely transferable security is no longer a non-freely transferable security."

SECTION 40. A new Section 7-8B-604 NMSA 1978 is enacted to read:

"7-8B-604. [NEW MATERIAL] EFFECT OF PAYMENT OR DELIVERY OF PROPERTY TO ADMINISTRATOR.--

(a) On payment or delivery of property to the administrator pursuant to the Revised Uniform Unclaimed Property Act, the administrator as agent for the state assumes

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custody and responsibility for safekeeping the property. A holder that pays or delivers property to the administrator in good faith and substantially complies with Sections 7-8B-501 and 7-8B-502 NMSA 1978 is relieved of liability arising thereafter with respect to payment or delivery of the property to the administrator.

(b) New Mexico shall defend and indemnify a holder against liability on a claim against the holder resulting from the payment or delivery of property to the administrator made in good faith and after the holder substantially complied with Sections 7-8B-501 and 7-8B-502 NMSA 1978."

SECTION 41. A new Section 7-8B-605 NMSA 1978 is enacted to read:

"7-8B-605. [NEW MATERIAL] RECOVERY OF PROPERTY BY HOLDER FROM ADMINISTRATOR.--

(a) In this section, payment or delivery is made in "good faith" if:

(1) payment or delivery was made in a reasonable attempt to comply with the Revised Uniform Unclaimed Property Act;

(2) the holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and

(3) there is no showing that the records under

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which the payment or delivery was made did not meet reasonable commercial standards of practice.

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

(c) A holder that has paid money to the administrator pursuant to the Revised Uniform Unclaimed Property Act may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the administrator shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that the instrument was duly presented and that payment was made to a person that reasonably appeared to be entitled to payment. The holder must be reimbursed for payment made even if the payment was made to a person whose claim was barred under Subsection (a) of Section 7-8B-610 NMSA 1978.

(d) A holder that has delivered property other than money to the administrator pursuant to the Revised Uniform

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Unclaimed Property Act may reclaim the property if it is still in the possession of the administrator, without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder.

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

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

(g) Property removed from a safe deposit box or other safekeeping depository is received by the administrator subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The administrator shall reimburse the holder out of the proceeds remaining after deducting the expense incurred by the administrator in selling the property."

SECTION 42. A new Section 7-8B-606 NMSA 1978 is enacted

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to read:

"7-8B-606. [NEW MATERIAL] PROPERTY REMOVED FROM SAFE-DEPOSIT BOX.--Property removed from a safe-deposit box and delivered to the administrator pursuant to the Revised Uniform Unclaimed Property Act is subject to the holder's right to reimbursement for the cost of opening the box and a lien or contract providing reimbursement to the holder for unpaid rent charges for the box. The administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the administrator in selling the property."

SECTION 43. A new Section 7-8B-607 NMSA 1978 is enacted to read:

"7-8B-607. [NEW MATERIAL] CREDITING INCOME OR GAIN TO OWNER'S ACCOUNT.--

(a) If property other than money is delivered to the administrator, the owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold. If the property was an interest-bearing demand, savings or time deposit, the administrator shall pay interest at the lesser of the rate of five percent or the rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the administrator and ends on the earlier of the expiration of ten years after its delivery or the date on which payment is made to the owner.

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(b) Interest on interest-bearing property is not payable pursuant to this section for any period before the effective date of the Revised Uniform Unclaimed Property Act, unless authorized by the Uniform Unclaimed Property Act (1995)."

SECTION 44. A new Section 7-8B-608 NMSA 1978 is enacted to read:

"7-8B-608. [NEW MATERIAL] ADMINISTRATOR'S OPTIONS AS TO CUSTODY.--

(a) The administrator may decline to take custody of property reported pursuant to Section 7-8B-401 NMSA 1978 if the administrator determines that:

(1) the property has a value less than the estimated expenses of notice and sale of the property; or

(2) taking custody of the property would be unlawful.

(b) A holder may pay or deliver property to the administrator before the property is presumed abandoned pursuant to the Revised Uniform Unclaimed Property Act if the holder:

(1) sends the apparent owner of the property notice required by Section 7-8B-501 NMSA 1978 and provides the administrator evidence of the holder's compliance with this paragraph;

(2) includes with the payment or delivery a

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report regarding the property conforming to Section 7-8B-402 NMSA 1978; and

(3) first obtains the administrator's consent in a record to accept payment or delivery.

(c) A holder's request for the administrator's consent pursuant to Paragraph (3) of Subsection (b) of this section shall be in a record. If the administrator fails to respond to the request not later than thirty days after receipt of the request, the administrator is deemed to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.

(d) On payment or delivery of property pursuant to Subsection (b) of this section, the property is presumed abandoned."

SECTION 45. A new Section 7-8B-609 NMSA 1978 is enacted to read:

"7-8B-609. [NEW MATERIAL] DISPOSITION OF PROPERTY HAVING NO SUBSTANTIAL VALUE--IMMUNITY FROM LIABILITY.--

(a) If the administrator takes custody of property delivered pursuant to the Revised Uniform Unclaimed Property Act and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the administrator may return the property to the holder or destroy or otherwise dispose of the property.

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(b) An action or proceeding may not be commenced against the state; an agency of the state; the administrator; another officer, employee or agent of the state; or a holder for or because of an act of the administrator pursuant to this section, except for intentional misconduct or malfeasance."

SECTION 46. A new Section 7-8B-610 NMSA 1978 is enacted to read:

"7-8B-610. [NEW MATERIAL] PERIODS OF LIMITATION AND REPOSE.--

(a) Expiration, before, on or after the effective date of the Revised Uniform Unclaimed Property Act, of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder pursuant to that act to file a report or pay or deliver property to the administrator.

(b) The administrator may not commence an action or proceeding to enforce the Revised Uniform Unclaimed Property Act with respect to the reporting, payment or delivery of property more than ten years after the holder filed a non-fraudulent report pursuant to Section 7-8B-401 NMSA with the administrator. The parties may agree in a record to extend the limitation in this subsection.

(c) The administrator may not commence an action,

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proceeding or examination with respect to a duty of a holder pursuant to the Revised Uniform Unclaimed Property Act more than ten years after the duty arose."

SECTION 47. A new Section 7-8B-701 NMSA 1978 is enacted to read:

"7-8B-701. [NEW MATERIAL] PUBLIC SALE OF PROPERTY.--

(a) Subject to Section 7-8B-702 NMSA 1978, not earlier than three years after receipt of property presumed abandoned, the administrator may sell the property.

(b) Before selling property pursuant to Subsection (a) of this section, the administrator shall give notice to the public of:

(1) the date of the sale; and

(2) a reasonable description of the property.

(c) A sale pursuant to Subsection (a) of this section shall be to the highest bidder:

(1) at public sale at a location in this state that the administrator determines to be the most favorable market for the property;

(2) on the internet; or

(3) on another forum the administrator determines is likely to yield the highest net proceeds of sale.

(d) The administrator may decline the highest bid at a sale pursuant to this section and reoffer the property for sale if the administrator determines the highest bid is

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insufficient.

(e) If a sale held pursuant to this section is to be conducted other than on the internet, the administrator shall publish at least one notice of the sale, at least three weeks but not more than five weeks before the sale, in a newspaper of general circulation in the county in which the property is sold."

SECTION 48. A new Section 7-8B-702 NMSA 1978 is enacted to read:

"7-8B-702. [NEW MATERIAL] DISPOSAL OF SECURITIES.--

(a) The administrator may not sell or otherwise liquidate a security until three years after the administrator receives the security and gives the apparent owner notice pursuant to Section 7-8B-503 NMSA 1978 that the administrator holds the security.

(b) The administrator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any commercially reasonable method."

SECTION 49. A new Section 7-8B-703 NMSA 1978 is enacted to read:

"7-8B-703. [NEW MATERIAL] RECOVERY OF SECURITIES OR VALUE BY OWNER.--

(a) If the administrator sells a security before

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the expiration of six years after delivery of the security to the administrator, an apparent owner that files a valid claim pursuant to the Revised Uniform Unclaimed Property Act of ownership of the security before the six-year period expires is entitled, at the option of the administrator, to receive:

(1) replacement of the security; or

(2) the market value of the security at the time the claim is filed, plus dividends, interest and other increments on the security up to the time the claim is paid.

(b) Replacement of the security or calculation of market value pursuant to Subsection (a) of this section shall take into account a stock split, reverse stock split, stock dividend or similar corporate action.

(c) A person that makes a valid claim pursuant to the Revised Uniform Unclaimed Property Act of ownership of a security after expiration of six years after delivery of the security to the administrator is entitled to receive:

(1) the security the holder delivered to the administrator, if it is in the custody of the administrator, plus dividends, interest and other increments on the security up to the time the administrator delivers the security to the person; or

(2) the net proceeds of the sale of the security, plus dividends, interest and other increments on the security up to the time the security was sold."

SECTION 50. A new Section 7-8B-704 NMSA 1978 is enacted to read:

"7-8B-704. [NEW MATERIAL] PURCHASER OWNS PROPERTY AFTER SALE.--A purchaser of property at a sale conducted by the administrator pursuant to the Revised Uniform Unclaimed Property Act takes the property free of all claims of the owner, a previous holder or a person claiming through the owner or holder. The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser."

SECTION 51. A new Section 7-8B-705 NMSA 1978 is enacted to read:

"7-8B-705. [NEW MATERIAL] MILITARY MEDAL OR DECORATION.--

(a) The administrator may not sell a medal or decoration awarded for military service in the armed forces of the United States.

(b) The administrator, with the consent of the respective organization pursuant to Paragraph (1) of this subsection, agency under Paragraph (2) of this subsection or entity under Paragraph (3) of this subsection, may deliver a medal or decoration described in Subsection (a) of this section to be held in custody for the owner, to:

(1) a military veterans organization qualified under Paragraph (19) of Subsection (c) of Section 501 of the federal Internal Revenue Code of 1986, as amended;

(2) the agency that awarded the medal or

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decoration; or

(3) a governmental entity.

(c) On delivery pursuant to Subsection (b) of this section, the administrator is not responsible for safekeeping the medal or decoration."

SECTION 52. A new Section 7-8B-801 NMSA 1978 is enacted to read:

"7-8B-801. [NEW MATERIAL] DEPOSIT OF FUNDS BY ADMINISTRATOR.--Except as otherwise provided by this section, the administrator shall promptly deposit in the tax administration suspense fund for distribution pursuant to the provisions of the Tax Administration Act all money received under the Revised Uniform Unclaimed Property Act, including the proceeds from the sale of abandoned property under Section 7-8B-701 NMSA 1978. The administrator shall retain in the unclaimed property fund at least one hundred thousand dollars (\$100,000) for the purposes of the Revised Uniform Unclaimed Property Act, from which the administrator shall pay claims duly allowed. The administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or annuity listed in the report of an insurance company, its number, the name of the company and the amount due."

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SECTION 53. A new Section 7-8B-802 NMSA 1978 is enacted to read:

"7-8B-802. [NEW MATERIAL] ADMINISTRATOR TO RETAIN RECORDS OF PROPERTY.--The administrator shall:

(1) record and retain the name and last known address of each person shown on a report filed pursuant to Section 7-8B-401 NMSA 1978 to be the apparent owner of property delivered to the administrator;

(2) record and retain the name and last known address of each insured or annuitant and beneficiary shown on the report;

(3) for each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company and the amount due or paid; and

(4) for each apparent owner listed in the report, record and retain the name of the holder that filed the report and the amount due or paid."

SECTION 54. A new Section 7-8B-803 NMSA 1978 is enacted to read:

"7-8B-803. [NEW MATERIAL] EXPENSES AND SERVICE CHARGES OF ADMINISTRATOR.--Before making a deposit of funds received pursuant to the Revised Uniform Unclaimed Property Act to the general fund, the administrator may deduct:

(1) expenses of disposition of property delivered

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to the administrator pursuant to the Revised Uniform Unclaimed Property Act;

(2) costs of mailing and publication in connection with property delivered to the administrator pursuant to the Revised Uniform Unclaimed Property Act;

(3) reasonable service charges; and

(4) expenses incurred in examining records of or collecting property from a putative holder or holder."

SECTION 55. A new Section 7-8B-804 NMSA 1978 is enacted to read:

"7-8B-804. [NEW MATERIAL] ADMINISTRATOR HOLDS PROPERTY AS CUSTODIAN FOR OWNER.--Property received by the administrator pursuant to the Revised Uniform Unclaimed Property Act is held in custody for the benefit of the owner and is not owned by New Mexico."

SECTION 56. A new Section 7-8B-901 NMSA 1978 is enacted to read:

"7-8B-901. [NEW MATERIAL] CLAIM OF ANOTHER STATE TO RECOVER PROPERTY.--

(a) If the administrator knows that property held by the administrator pursuant to the Revised Uniform Unclaimed Property Act is subject to a superior claim of another state, the administrator shall:

(1) report and pay or deliver the property to the other state; or

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(2) return the property to the holder so that the holder may pay or deliver the property to the other state.

(b) The administrator is not required to enter into an agreement to transfer property to the other state pursuant to Subsection (a) of this section."

SECTION 57. A new Section 7-8B-902 NMSA 1978 is enacted to read:

"7-8B-902. [NEW MATERIAL] WHEN PROPERTY SUBJECT TO RECOVERY BY ANOTHER STATE.--

(a) Property held pursuant to the Revised Uniform Unclaimed Property Act by the administrator is subject to the right of another state to take custody of the property if:

(1) the property was paid or delivered to the administrator because the records of the holder did not reflect a last known address in the other state of the apparent owner and:

(A) the other state establishes that the last known address of the apparent owner or other person entitled to the property was in the other state; or

(B) pursuant to the law of the other state, the property has become subject to a claim by the other state of abandonment;

(2) the records of the holder did not accurately identify the owner of the property, the last known address of the owner was in another state and, pursuant to the

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law of the other state, the property has become subject to a claim by the other state of abandonment;

(3) the property was subject to the custody of the administrator of this state pursuant to Section 7-8B-305 NMSA 1978 and, pursuant to the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or

(4) the property:

(A) is a sum payable on a traveler's check, money order or similar instrument that was purchased in the other state and delivered to the administrator pursuant to Section 7-8B-306 NMSA 1978; and

(B) pursuant to the law of the other state, has become subject to a claim by the other state of abandonment.

(b) A claim by another state to recover property pursuant to this section shall be presented in a form prescribed by the administrator, unless the administrator waives presentation of the form.

(c) The administrator shall decide a claim pursuant to this section not later than ninety days after it is presented. If the administrator determines that the other state is entitled pursuant to Subsection (a) of this section to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.

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(d) The administrator may require another state, before recovering property pursuant to this section, to agree to indemnify New Mexico and its agents, officers and employees against any liability on a claim to the property."

SECTION 58. A new Section 7-8B-903 NMSA 1978 is enacted to read:

"7-8B-903. [NEW MATERIAL] CLAIM FOR PROPERTY BY PERSON CLAIMING TO BE OWNER.--

(a) A person claiming to be the owner of property held pursuant to the Revised Uniform Unclaimed Property Act by the administrator may file a claim for the property on a form prescribed by the administrator. The claimant shall verify the claim as to its completeness and accuracy.

(b) The administrator may waive the requirement in Subsection (a) of this section and may pay or deliver property directly to a person if:

(1) the person receiving the property or payment is shown to be the apparent owner included on a report filed pursuant to Section 7-8B-401 NMSA 1978;

(2) the administrator reasonably believes the person is entitled to receive the property or payment; and

(3) the property has a value of less than two hundred fifty dollars (\$250)."

SECTION 59. A new Section 7-8B-904 NMSA 1978 is enacted to read:

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"7-8B-904. [NEW MATERIAL] WHEN ADMINISTRATOR MUST HONOR CLAIM FOR PROPERTY.--

(a) The administrator shall pay or deliver property to a claimant pursuant to Subsection (a) of Section 7-8B-903 NMSA 1978 if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property.

(b) Not later than ninety days after a claim is filed pursuant to Subsection (a) of Section 7-8B-903 NMSA 1978, the administrator shall allow or deny the claim and give the claimant notice in a record of the decision.

(c) If the claim is denied pursuant to Subsection (b) of this section:

(1) the administrator shall inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be allowed;

(2) the claimant may file an amended claim with the administrator or commence an action pursuant to Section 7-8B-906 NMSA 1978; and

(3) the administrator shall consider an amended claim filed pursuant to Paragraph (2) of this subsection as an initial claim.

(d) If the administrator does not take action on a claim during the ninety-day period following the filing of a

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claim pursuant to Subsection (a) of Section 7-8B-903 NMSA 1978, the claim is deemed denied."

SECTION 60. A new Section 7-8B-905 NMSA 1978 is enacted to read:

"7-8B-905. [NEW MATERIAL] ALLOWANCE OF CLAIM FOR PROPERTY.--

(a) Not later than thirty days after a claim is allowed pursuant to Subsection (b) of Section 7-8B-904 NMSA 1978, the administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property, together with income or gain to which the owner is entitled pursuant to Section 7-8B-607 NMSA 1978. On request of the owner, the administrator may sell or liquidate a security and pay the net proceeds to the owner, even if the security had been held by the administrator for less than three years or the administrator has not complied with the notice requirements pursuant to Section 7-8B-702 NMSA 1978.

(b) Property held pursuant to the Revised Uniform Unclaimed Property Act by the administrator is subject to a claim for the payment of an enforceable debt the owner owes in this state for:

(1) child support arrearages, including child support collection costs and child support arrearages that are combined with maintenance;

(2) a civil or criminal fine or penalty, court

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costs, a surcharge or restitution imposed by a final court judgment; or

(3) state taxes, penalties and interest that have been determined to be delinquent.

(c) Before delivery or payment to an owner pursuant to Subsection (a) of this section of property or payment to the owner of net proceeds of a sale of the property, the administrator first shall apply the property or net proceeds to a debt pursuant to Subsection (b) of this section that the administrator determines is owed by the owner. The administrator shall pay the amount to the appropriate state agency and notify the owner of the payment.

(d) The administrator may make periodic inquiries of state agencies in the absence of a claim filed pursuant to Section 7-8B-903 NMSA 1978 to determine whether an apparent owner included in the unclaimed property records of this state have enforceable debts described in Subsection (b) of this section. The administrator first shall apply the property or net proceeds of a sale of property held by the administrator to a debt pursuant to Subsection (b) of this section of an apparent owner that appears in the records of the administrator and deliver the amount to the appropriate state agency. The administrator shall notify the apparent owner of the payment."

SECTION 61. A new Section 7-8B-906 NMSA 1978 is enacted to read:

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"7-8B-906. [NEW MATERIAL] APPEAL--ACTION TO ESTABLISH CLAIM.--

(a) A person aggrieved by a decision of the administrator may file an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

(b) A person whose claim has not been acted upon within ninety days after its filing may maintain an original action to establish the claim in the district court for the first judicial district, naming the administrator as a defendant.

(c) If the aggrieved person establishes the claim in an action against the administrator, the court may award the claimant reasonable attorney fees."

SECTION 62. A new Section 7-8B-1001 NMSA 1978 is enacted to read:

"7-8B-1001. [NEW MATERIAL] VERIFIED REPORT OF PROPERTY.--If a person does not file a report required by Section 7-8B-401 NMSA 1978 or the administrator believes that a person may have filed an inaccurate, incomplete or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator. The verified report shall:

(1) state whether the person is holding property reportable pursuant to the Revised Uniform Unclaimed Property Act;

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(2) describe property not previously reported or about which the administrator has inquired;

(3) specifically identify property described pursuant to Paragraph (2) of this subsection about which there is a dispute whether it is reportable pursuant to the Revised Uniform Unclaimed Property Act; and

(4) state the amount or value of the property."

SECTION 63. A new Section 7-8B-1002 NMSA 1978 is enacted to read:

"7-8B-1002. [NEW MATERIAL] EXAMINATION OF RECORDS TO DETERMINE COMPLIANCE.--The administrator, at reasonable times and on reasonable notice, may:

(1) examine the records of a person, including examination of appropriate records in the possession of an agent of the person under examination, if the records are reasonably necessary to determine whether the person has complied with the Revised Uniform Unclaimed Property Act;

(2) issue an administrative subpoena requiring the person or agent of the person to make records available for examination; and

(3) bring an action seeking judicial enforcement of the subpoena."

HJC→**SECTION 64. A new Section 7-8B-1002.1 NMSA 1978 is enacted to read:**

"7-8B-1002.1 [NEW MATERIAL] EXAMINATION OF FEDERALLY

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INSURED, STATE-REGULATED FINANCIAL ORGANIZATIONS.--

A. Notwithstanding the provisions of Section 7-8B-1002 NMSA 1978, for any financial organization whose deposits are federally insured and for which the financial institutions division of the regulation and licensing department is the primary regulator, the administrator shall not examine that financial organization unless the administrator has consulted with the director of the financial institutions division and the division has not conducted an examination of the financial organization for compliance with the Revised Uniform Unclaimed Property Act within the past five years. The director of the financial institutions division shall furnish to the administrator, for each such examination relating to the financial organization's compliance with the Revised Uniform Unclaimed Property Act within the past five years, the records obtained and records, including work papers, compiled, relating to compliance with that act. The records are confidential and are not public records. The director of the financial institutions division may waive in a record the provisions of this subsection in order to permit the administrator to examine one or more of these federally insured, state-regulated financial organizations for compliance with the Revised Uniform Unclaimed Property Act.

B. Notwithstanding Subsection A of this section,

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the administrator may, at reasonable times and upon reasonable notice:

(1) examine the records of a financial organization whose deposits are federally insured and for which the financial institutions division of the regulation and licensing department is the primary regulator, if the administrator has reasonable grounds to believe that the financial organization has failed to comply with the Revised Uniform Unclaimed Property Act; and

(2) adopt rules that describe conditions under which the administrator may have reason to believe that a financial institution is not in compliance with the Revised Uniform Unclaimed Property Act.

C. An examination by the administrator pursuant to Subsection A or B of this section shall be governed by Sections 7-8B-1001 through 7-8B-1104 NMSA 1978.

D. Nothing in this section shall be construed to limit the administrator's authority under the Revised Uniform Unclaimed Property Act to examine financial organizations that do not have deposits, whose deposits are not federally insured or for which the financial institutions division of the regulation and licensing department is not the primary regulator. Further, nothing in this section shall be construed to limit the authority of the financial institutions division

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to examine financial organizations."←HJC

SECTION HJC→64.←HJC HJC→65.←HJC A new Section 7-8B-1003
NMSA 1978 is enacted to read:

"7-8B-1003. [NEW MATERIAL] RULES FOR CONDUCTING
EXAMINATION.--

(a) The administrator shall adopt rules governing
procedures and standards for an examination pursuant to Section
7-8B-1002 HJC→or 7-8B-1002.1←HJC NMSA 1978, including rules
HJC→for use of an estimation, extrapolation and statistical
sampling in conducting an examination.←HJC HJC→based on
national standards, which may reference any standards
promulgated by the national association of unclaimed property
administrators.←HJC

(b) An examination pursuant to Section 7-8B-1002
NMSA 1978 shall be performed pursuant to rules adopted pursuant
to Subsection (a) of this section and with generally accepted
examination practices and standards applicable to an unclaimed
property examination.

(c) If a person subject to examination pursuant to
Section 7-8B-1002 NMSA 1978 has filed the reports required
pursuant to Section 7-8B-401 NMSA 1978 and Section 7-8B-1001
NMSA 1978 and has retained the records required by Section
7-8B-404 NMSA 1978, the following rules apply:

(1) the examination shall include a review of
the person's records;

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(2) the examination may not be based on an estimate unless the person expressly consents in a record to the use of an estimate; and

(3) the person conducting the examination shall consider the evidence presented in good faith by the person subject to the examination in preparing the findings of the examination pursuant to Section 7-8B-1007 NMSA 1978."

SECTION HJC→65.←HJC HJC→66.←HJC A new Section 7-8B-1004 NMSA 1978 is enacted to read:

"7-8B-1004. [NEW MATERIAL] RECORDS OBTAINED IN EXAMINATION.--Records obtained and records, including work papers, compiled by the administrator in the course of conducting an examination pursuant to Section 7-8B-1002 HJC→NMSA 1978←HJC HJC→or 7-8B-1002.1 NMSA 1978 or received from the financial institutions division of the regulation and licensing department pursuant to Subsection A of Section 7-8B-1002.1 NMSA 1978←HJC :

(1) are subject to the confidentiality and security provisions of Sections 7-8B-1401 through 7-8B-1408 NMSA 1978 and are HJC→not public records;←HJC HJC→exempt from disclosure pursuant to the Inspection of Public Records Act;←HJC

(2) may be used by the administrator in an action to collect property or otherwise enforce the Revised Uniform Unclaimed Property Act;

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(3) may be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country or any other governmental entity if the governmental entity conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to Sections 7-8B-1401 through 7-8B-1408 NMSA 1978;

(4) shall be disclosed, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in Sections 7-8B-1001 through 7-8B-1012 NMSA 1978, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to Sections 7-8B-1401 through 7-8B-1408 NMSA 1978;

(5) shall be produced by the administrator pursuant to an administrative or judicial subpoena or administrative or court order; and

(6) shall be produced by the administrator on request of the person subject to the examination in an administrative or judicial proceeding relating to the property."

SECTION HJC→66.←HJC HJC→67.←HJC A new Section 7-8B-1005 NMSA 1978 is enacted to read:

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"7-8B-1005. [NEW MATERIAL] EVIDENCE OF UNPAID DEBT OR
UNDISCHARGED OBLIGATION.--

(a) A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation.

(b) A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in Subsection (a) of this section or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.

(c) A putative holder may overcome prima facie evidence pursuant to Subsection (a) of this section by establishing by a preponderance of the evidence that a check, draft or similar instrument was:

(1) issued as an unaccepted offer in settlement of an unliquidated amount;

(2) issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;

(3) issued to a party affiliated with the issuer;

(4) paid, satisfied or discharged;

(5) issued in error;

(6) issued without consideration;

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(7) issued but there was a failure of consideration;

(8) voided not later than ninety days after issuance for a valid business reason set forth in a contemporaneous record; or

(9) issued but not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.

(d) In asserting a defense pursuant to this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice."

SECTION HJC→67.←HJC HJC→68.←HJC A new Section 7-8B-1006 NMSA 1978 is enacted to read:

"7-8B-1006. [NEW MATERIAL] FAILURE OF PERSON EXAMINED TO RETAIN RECORDS.--If a person subject to examination pursuant to Section 7-8B-1002 NMSA 1978 does not retain the records required by Section 7-8B-404 NMSA 1978, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted pursuant to Subsection (a) of Section 7-8B-1003 NMSA 1978 and in accordance with Subsection (b) of Section 7-8B-1003 NMSA 1978."

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SECTION HJC→68.←HJC HJC→69.←HJC A new Section 7-8B-1007

NMSA 1978 is enacted to read:

"7-8B-1007. [NEW MATERIAL] REPORT TO PERSON WHOSE RECORDS WERE EXAMINED.--At the conclusion of an examination pursuant to Section 7-8B-1002 NMSA 1978, the administrator shall provide to the person whose records were examined a complete and unredacted examination report that specifies:

- (1) the work performed;
- (2) the property types reviewed;
- (3) the methodology of any estimation technique, extrapolation or statistical sampling used in conducting the examination;
- (4) each calculation showing the value of property determined to be due; and
- (5) the findings of the person conducting the examination."

SECTION HJC→69.←HJC HJC→70.←HJC A new Section 7-8B-1008

NMSA 1978 is enacted to read:

"7-8B-1008. [NEW MATERIAL] COMPLAINT TO ADMINISTRATOR ABOUT CONDUCT OF PERSON CONDUCTING EXAMINATION.--

- (a) If a person subject to examination under Section 7-8B-1002 NMSA 1978 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may request an informal conference with

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the administrator.

(b) If a person in a record requests an informal conference with the administrator, the administrator shall hold the informal conference not later than thirty days after receiving the request. For good cause, and after notice in a record to the person requesting an informal conference, the administrator may extend the time for the holding of an informal conference. The administrator may hold the informal conference in person, by telephone or by electronic means.

(c) If an informal conference is held under Subsection (b) of this section not later than thirty days after the conference ends, the administrator shall provide a response to the person that requested the conference.

(d) The administrator may deny a request for an informal conference under this section if the administrator reasonably believes that the request was made in bad faith or primarily to delay the examination. If the administrator denies a request for an informal conference, the denial shall be in a record provided to the person requesting the informal conference."

SECTION HJC→70.←HJC HJC→71.←HJC A new Section 7-8B-1009 NMSA 1978 is enacted to read:

"7-8B-1009. [NEW MATERIAL] ADMINISTRATOR'S CONTRACT WITH ANOTHER TO CONDUCT EXAMINATION--

(a) In this section:

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(1) "administrator" means the secretary of taxation and revenue or any employee of the taxation and revenue department who exercises authority lawfully delegated to that employee by the secretary; and

(2) "related to the administrator" refers to an individual who is:

A. the administrator's spouse, partner in a civil union, domestic partner or reciprocal beneficiary;

B. the administrator's child, stepchild, grandchild, parent, stepparent, sibling, step-sibling, half-sibling, aunt, uncle, niece or nephew;

C. a spouse, partner in a civil union, domestic partner or reciprocal beneficiary of an individual pursuant to Subparagraph B of this paragraph; or

D. any individual residing in the administrator's household.

(b) The administrator may contract with a person to conduct an examination pursuant to Sections 7-8B-1001 through 7-8B-1012 NMSA 1978.

(c) If the person with which the administrator contracts pursuant to Subsection (b) of this section is:

(1) an individual, the individual may not be related to the administrator; or

(2) a business entity, the entity may not be owned in whole or in part by the administrator or an individual

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related to the administrator.

(d) If the administrator contracts with a person pursuant to Subsection (b) of this section:

(1) the contract may provide for compensation of the person based on a fixed fee, hourly fee or contingent fee;

(2) a contingent fee arrangement may not provide for a payment that exceeds ten percent of the amount or value of property paid or delivered as a result of the examination; and

(3) on request by a person subject to examination by a contractor, the administrator shall deliver to the person a complete and unredacted copy of the contract and any contract between the contractor and a person employed or engaged by the contractor to conduct the examination.

(e) A contract pursuant to Subsection (b) of this section is subject to public disclosure without redaction pursuant to the Inspection of Public Records Act."

SECTION HJC→71.←HJC HJC→72.←HJC A new Section 7-8B-1010 NMSA 1978 is enacted to read:

"7-8B-1010. [NEW MATERIAL] LIMIT ON FUTURE EMPLOYMENT.--
The administrator or an individual employed by the administrator who participates in, recommends or approves the award of a contract pursuant to Subsection (b) of Section 7-8B-1009 NMSA 1978 on or after the effective date of the

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Revised Uniform Unclaimed Property Act may not be employed by, contracted with or compensated in any capacity by the contractor or an affiliate of the contractor for two years after the latest of participation in, recommendation of or approval of the award or conclusion of the contract."

SECTION HJC→72.←HJC HJC→73.←HJC A new Section 7-8B-1011 NMSA 1978 is enacted to read:

"7-8B-1011. [NEW MATERIAL] REPORT BY ADMINISTRATOR TO STATE OFFICIAL.--

(a) Not later than three months after the end of the fiscal year, the administrator shall compile and submit a report to the governor, state treasurer and library at the legislative council service. The report shall contain the following information about property presumed abandoned for the preceding fiscal year for the state:

(1) the total amount and value of all property paid or delivered pursuant to the Revised Uniform Unclaimed Property Act to the administrator, separated into:

(A) the part voluntarily paid or delivered; and

(B) the part paid or delivered as a result of an examination pursuant to Section 7-8B-1002 NMSA 1978, separated into the part recovered as a result of an examination conducted by:

(i) a state employee; and

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(ii) a contractor pursuant to Section 7-8B-1009 NMSA 1978;

(2) the name of and amount paid to each contractor pursuant to Section 7-8B-1009 NMSA 1978 and the percentage the total compensation paid to all contractors pursuant to that section bears to the total amount paid or delivered to the administrator as a result of all examinations performed pursuant to that section;

(3) the total amount and value of all property paid or delivered by the administrator to persons that made claims for property held by the administrator pursuant to the Revised Uniform Unclaimed Property Act and the percentage the total payments made and value of property delivered to claimants bears to the total amounts paid and value delivered to the administrator;

(4) the total amount of claims made by persons claiming to be owners that:

- (A) were denied;
- (B) were allowed; and
- (C) are pending; and

(5) the total amount deposited into the tax administration suspense fund pursuant to Section 7-8B-801 NMSA 1978.

(b) The report pursuant to Subsection (a) of this section is a public record subject to public disclosure without

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redaction pursuant to the Inspection of Public Records Act."

SECTION HJC→73.←HJC HJC→74.←HJC A new Section 7-8B-1012
NMSA 1978 is enacted to read:

"7-8B-1012. [NEW MATERIAL] DETERMINATION OF LIABILITY
FOR UNREPORTED REPORTABLE PROPERTY.--If the administrator
determines from an examination conducted pursuant to Section
7-8B-1002 NMSA 1978 that a putative holder failed or refused to
pay or deliver to the administrator property that is reportable
pursuant to the Revised Uniform Unclaimed Property Act, the
administrator shall issue a determination of the putative
holder's liability to pay or deliver and give notice in a
record to the putative holder of the determination."

SECTION HJC→74.←HJC HJC→75.←HJC A new Section 7-8B-1101
NMSA 1978 is enacted to read:

"7-8B-1101. [NEW MATERIAL] INFORMAL CONFERENCE.--

(a) Not later than thirty days after receipt of a
notice pursuant to Section 7-8B-1012 NMSA 1978, the putative
holder may request an informal conference with the
administrator to review the determination. Except as otherwise
provided in this section, the administrator may designate an
employee to act on behalf of the administrator.

(b) If a putative holder makes a timely request
pursuant to Subsection (a) of this section for an informal
conference:

(1) not later than thirty days after the date

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of the request, the administrator shall set the time and place of the conference;

(2) the administrator shall give the putative holder notice in a record of the time and place of the conference;

(3) the conference may be held in person, by telephone or by electronic means, as determined by the administrator;

(4) the request tolls the ninety day period pursuant to Sections 7-8B-1103 and 7-8B-1104 NMSA 1978 until notice of a decision pursuant to Paragraph (7) of this subsection has been given to the putative holder or the putative holder withdraws the request for the conference;

(5) the conference may be postponed, adjourned and reconvened as the administrator determines appropriate;

(6) the administrator or administrator's designee with the approval of the administrator may modify a determination made pursuant to Section 7-8B-1012 NMSA 1978 or withdraw the determination; and

(7) the administrator shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than thirty days after the conference ends.

(c) A decision pursuant to Paragraph (7) of Subsection (b) of this section is not a final decision subject

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to Section 39-3-1.1 NMSA 1978. A conference pursuant to Subsection (b) of this section is not a hearing on the matter subject to Section 39-3-1.1 NMSA 1978. An oath is not required and rules of evidence do not apply in the conference.

(d) At a conference pursuant to Subsection (b) of this section, the putative holder shall be given an opportunity to confer informally with the administrator and the person that examined the records of the putative holder to:

(1) discuss the determination made pursuant to Section 7-8B-1012 NMSA 1978; and

(2) present any issue concerning the validity of the determination.

(e) If the administrator fails to act within the period prescribed in Paragraph (1) or (7) of Subsection (b) of this section, the failure does not affect a right of the administrator, except that interest does not accrue on the amount for which the putative holder was determined to be liable pursuant to Section 7-8B-1012 NMSA 1978 during the period in which the administrator failed to act until the earlier of:

(1) the date pursuant to Section 7-8B-1103 NMSA 1978 the putative holder initiates administrative review or files an action pursuant to Section 7-8B-1104 NMSA 1978; or

(2) ninety days after the putative holder received notice of the administrator's determination pursuant

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to Section 7-8B-1012 NMSA 1978 if no review was initiated pursuant to Section 7-8B-1103 NMSA 1978 and no action was filed pursuant to Section 7-8B-1104 NMSA 1978.

(f) The administrator may hold an informal conference with a putative holder about a determination pursuant to Section 7-8B-1012 NMSA 1978 without a request at any time before the putative holder initiates administrative review pursuant to Section 7-8B-1103 NMSA 1978 or files an action pursuant to Section 7-8B-1104 NMSA 1978.

(g) Interest and penalties pursuant to Section 7-8B-1204 NMSA 1978 continue to accrue on property not reported, paid or delivered as required by the Revised Uniform Unclaimed Property Act after the initiation, and during the pendency, of an informal conference pursuant to this section."

SECTION HJC→75.←HJC HJC→76.←HJC A new Section 7-8B-1102 NMSA 1978 is enacted to read:

"7-8B-1102. [NEW MATERIAL] REVIEW OF ADMINISTRATOR'S DETERMINATION.--A putative holder may seek relief from a determination pursuant to Section 7-8B-1012 NMSA 1978 by filing a claim with the administrator pursuant to Section 7-8B-1103 NMSA 1978."

SECTION HJC→76.←HJC HJC→77.←HJC A new Section 7-8B-1103 NMSA 1978 is enacted to read:

"7-8B-1103. [NEW MATERIAL] ADMINISTRATIVE REVIEW.--

(a) Not later than ninety days after receiving

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notice of the administrator's determination pursuant to Section 7-8B-1012 NMSA 1978, a putative holder may file a claim on a form prescribed by the administrator and verified by the putative holder for review of the administrator's determination.

(b) Within ninety days after a claim is filed, the administrator shall allow or deny the claim and give written notice of the decision to the putative holder. If the claim is denied, the administrator shall inform the putative holder of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The putative holder may then file a new claim with the administrator or maintain an action under Section 7-8B-906 NMSA 1978."

SECTION HJC→77.←HJC HJC→78.←HJC A new Section 7-8B-1104 NMSA 1978 is enacted to read:

"7-8B-1104. [NEW MATERIAL] APPEAL--ACTION TO ESTABLISH CLAIM.--

(a) A claimant aggrieved by a decision of the administrator may file an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

(b) A claimant whose claim has not been acted upon within ninety days after its filing may maintain an original action to establish the claim in the district court for the first judicial district, naming the administrator as a defendant.

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(c) If the putative holder establishes the claim in an action against the administrator, the court may award the claimant reasonable attorney fees."

SECTION HJC→78.←HJC HJC→79.←HJC A new Section 7-8B-1201 NMSA 1978 is enacted to read:

"7-8B-1201. [NEW MATERIAL] JUDICIAL ACTION TO ENFORCE LIABILITY.--

(a) If a determination pursuant to Section 7-8B-1012 NMSA 1978 becomes final and is not subject to administrative or judicial review, the administrator may commence an action in the district or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid or undelivered property.

(b) In an action pursuant to Subsection (a) of this section, if no court in New Mexico has jurisdiction over the defendant, the administrator may commence an action in any court having jurisdiction over the defendant."

SECTION HJC→79.←HJC HJC→80.←HJC A new Section 7-8B-1202 NMSA 1978 is enacted to read:

"7-8B-1202. [NEW MATERIAL] INTERSTATE AND INTERNATIONAL AGREEMENT--COOPERATION.--

(a) Subject to Subsection (b) of this section, the administrator may:

(1) exchange information with another state or

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foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and

(2) authorize in a record another state or foreign country or a person acting on behalf of the other state or country to examine its records of a putative holder as provided in Sections 7-8B-1401 through 7-8B-1408 NMSA 1978.

(b) An exchange or examination pursuant to Subsection (a) of this section may be done only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in Sections 7-8B-1401 through 7-8B-1408 NMSA 1978 or agrees in a record to be bound by state and federal privacy and data security laws."

SECTION HJC→80.←HJC HJC→81.←HJC A new Section 7-8B-1203 NMSA 1978 is enacted to read:

"7-8B-1203. [NEW MATERIAL] ACTION INVOLVING ANOTHER STATE OR FOREIGN COUNTRY.--

(a) The administrator may join another state or foreign country to examine and seek enforcement of the Revised Uniform Unclaimed Property Act against a putative holder.

(b) On request of another state or foreign country, the attorney general may commence an action on behalf of the other state or country to enforce in New Mexico the law of the other state or country against a putative holder subject to a claim by the other state or country, if the other state or

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country agrees to pay costs, including reasonable attorney fees and expenses, incurred by the attorney general in the action.

(c) The administrator may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or country on behalf of the administrator. New Mexico shall pay the costs, including reasonable attorney fees and expenses, incurred by the other state or foreign country in an action pursuant to this subsection.

(d) The administrator may pursue an action on behalf of this state to recover property subject to the Revised Uniform Unclaimed Property Act but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.

(e) The administrator may retain an attorney in New Mexico, another state or a foreign country to commence an action to recover property on behalf of the administrator and may agree to pay attorney fees based in whole or in part on a fixed fee, hourly fee or a percentage of the amount or value of property recovered in the action.

(f) Expenses incurred by New Mexico in an action pursuant to this section may be paid from property received pursuant to the Revised Uniform Unclaimed Property Act or the net proceeds of the property. Expenses paid to recover

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property may not be deducted from the amount that is subject to a claim pursuant to that act by the owner."

SECTION HJC→81.←HJC HJC→82.←HJC A new Section 7-8B-1204 NMSA 1978 is enacted to read:

"7-8B-1204. [NEW MATERIAL] INTEREST AND PENALTY FOR FAILURE TO ACT IN TIMELY MANNER--.

(a) A holder that fails to report, pay or deliver property within the time prescribed by the Revised Uniform Unclaimed Property Act shall pay to the administrator interest at the annual rate set forth in Section 7-1-67 NMSA 1978 on delinquent taxes on the property or value of the property from the date the property should have been reported, paid or delivered to the administrator until the date reported, paid or delivered.

(b) Except as otherwise provided in Section 7-8B-1205 NMSA 1978 or Section 7-8B-1206 NMSA 1978, the administrator may require a holder that fails to report, pay or deliver property within the time prescribed by the Revised Uniform Unclaimed Property Act, or fails to perform another duty imposed by that act, to pay to the administrator, in addition to interest included pursuant to Subsection (a) of this section, a civil penalty of two hundred dollars (\$200) for each day the report, payment or delivery is withheld, or the duty is not performed, up to a cumulative maximum amount of five thousand dollars (\$5,000)."

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SECTION HJC→82.←HJC HJC→83.←HJC A new Section 7-8B-1205

NMSA 1978 is enacted to read:

"7-8B-1205. [NEW MATERIAL] OTHER CIVIL PENALTIES.--

(a) If a holder enters into a contract or other arrangement for the purpose of evading an obligation pursuant to the Revised Uniform Unclaimed Property Act or otherwise willfully fails to report, pay or deliver property required by that act or to perform another duty imposed on the holder pursuant to that act, the administrator may require the holder to pay the administrator, in addition to interest as provided in Subsection (a) of Section 7-8B-1204 NMSA 1978, a civil penalty of one thousand dollars (\$1,000) for each day the obligation is evaded or the report, payment or delivery is not made or the duty is not performed, up to a cumulative maximum amount of twenty-five thousand dollars (\$25,000), plus twenty-five percent of the amount or value of property that should have been but was not reported, paid or delivered as a result of the evasion or failure to perform.

(b) If a holder makes a fraudulent report pursuant to the Revised Uniform Unclaimed Property Act, the administrator may require the holder to pay to the administrator, in addition to interest pursuant to Subsection (a) of this section, a civil penalty of one thousand dollars (\$1,000) for each day from the date the report was made until corrected, up to a cumulative maximum of twenty-five thousand

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dollars (\$25,000), plus twenty-five percent of the amount or value of any property that should have been reported but was not included in the report or was underreported."

SECTION HJC→83.←HJC HJC→84.←HJC A new Section 7-8B-1206 NMSA 1978 is enacted to read:

"7-8B-1206. [NEW MATERIAL] WAIVER OF INTEREST AND PENALTY.--The administrator:

(1) may waive, in whole or in part, interest pursuant to Subsection (a) of Section 7-8B-1204 NMSA 1978 and penalties pursuant to Subsection (b) of Section 7-8B-1204 NMSA 1978 or Section 7-8B-1205 NMSA 1978; and

(2) shall waive a penalty pursuant to Subsection (b) of Section 7-8B-1204 NMSA 1978 if the administrator determines that the holder acted in good faith and without negligence."

SECTION HJC→84.←HJC HJC→85.←HJC A new Section 7-8B-1301 NMSA 1978 is enacted to read:

"7-8B-1301. [NEW MATERIAL] WHEN AGREEMENT TO LOCATE PROPERTY ENFORCEABLE.--An agreement by an apparent owner and another person, the primary purpose of which is to locate, deliver, recover or assist in the location, delivery or recovery of property held by the administrator, is enforceable only if the agreement:

(1) is in a record that clearly states the nature of the property and the services to be provided;

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(2) is signed by or on behalf of the apparent owner; and

(3) states the amount or value of the property reasonably expected to be recovered, computed before and after a fee or other compensation to be paid to the person has been deducted."

SECTION HJC→85.←HJC HJC→86.←HJC A new Section 7-8B-1302 NMSA 1978 is enacted to read:

"7-8B-1302. [NEW MATERIAL] WHEN AGREEMENT TO LOCATE PROPERTY VOID.--

(a) Subject to Subsection (b) of this section, an agreement pursuant to Section 7-8B-1301 NMSA 1978 is void if it is entered into during the period beginning on the date the property was paid or delivered by a holder to the administrator and ending forty-eight months after the payment or delivery.

(b) If a provision in an agreement described in Subsection (a) of this section applies to mineral proceeds for which compensation is to be paid to the other person based in whole or in part on a part of the underlying minerals or mineral proceeds not then presumed abandoned, the provision is void regardless of when the agreement was entered into.

(c) An agreement pursuant to Subsection (a) of this section that provides for compensation in an amount that is unconscionable is unenforceable except by the apparent owner. An apparent owner that believes the compensation the apparent

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owner has agreed to pay is unconscionable or the administrator, acting on behalf of an apparent owner, or both, may file an action in district court to reduce the compensation to the maximum amount that is not unconscionable. On the final determination of an action filed pursuant to this subsection, the district court may, on application, award the owner its reasonable attorney fees, costs and expenses of litigation.

(d) An apparent owner or the administrator may assert that an agreement described in this section is void on a ground other than it provides for payment of unconscionable compensation.

(e) This section does not apply to an apparent owner's agreement with an attorney to pursue a claim for recovery of specifically identified property held by the administrator or to contest the administrator's denial of a claim for recovery of the property."

SECTION HJC→86.←HJC HJC→87.←HJC A new Section 7-8B-1303 NMSA 1978 is enacted to read:

"7-8B-1303. [NEW MATERIAL] RIGHT OF AGENT OF APPARENT OWNER TO RECOVER PROPERTY HELD BY ADMINISTRATOR.--

(a) An apparent owner that contracts with another person to locate, deliver, recover or assist in the location, delivery or recovery of property of the apparent owner that is held by the administrator may designate the person as the agent of the apparent owner. The designation shall be in a record

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signed by the apparent owner.

(b) The administrator shall give the agent of the apparent owner all information concerning the property that the apparent owner is entitled to receive, including information that otherwise is confidential information pursuant to Section 7-8B-1402 NMSA 1978.

(c) If authorized by the apparent owner, the agent of the apparent owner may bring an action against the administrator on behalf of and in the name of the apparent owner."

SECTION HJC→87.←HJC HJC→88.←HJC A new Section 7-8B-1401 NMSA 1978 is enacted to read:

"7-8B-1401. [NEW MATERIAL] DEFINITIONS--APPLICABILITY.--

(a) In Sections 7-8B-1401 through 7-8B-1408 NMSA 1978, "personal information" means:

(1) information that identifies or reasonably can be used to identify an individual, such as first and last name in combination with the individual's:

(A) social security number or other government-issued number or identifier;

(B) date of birth;

(C) home or physical address;

(D) electronic mail address or other online contact information or internet provider address;

(E) financial account number or credit

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or debit card number;

(F) biometric data, health or medical data or insurance information; or

(G) passwords or other credentials that permit access to an online or other account;

(2) personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and

(3) any combination of data that, if accessed, disclosed, modified or destroyed without authorization of the owner of the data or if lost or misused, would require notice or reporting pursuant to state and federal privacy and data security law, whether or not the administrator or the administrator's agent is subject to the law.

(b) A provision of Sections 7-8B-1401 through 7-8B-1408 NMSA 1978 that applies to the administrator or the administrator's records applies to an administrator's agent."

SECTION HJC→88.←HJC HJC→89.←HJC A new Section 7-8B-1402 NMSA 1978 is enacted to read:

"7-8B-1402. [NEW MATERIAL] CONFIDENTIAL INFORMATION.--

(a) Except as otherwise provided in the Revised Uniform Unclaimed Property Act, the following are confidential and exempt from public inspection or disclosure:

(1) records of the administrator and the administrator's agent related to the administration of the

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Revised Uniform Unclaimed Property Act;

(2) reports and records of a holder in the possession of the administrator or the administrator's agent; and

(3) personal information and other information derived or otherwise obtained by or communicated to the administrator or the administrator's agent from an examination pursuant to the Revised Uniform Unclaimed Property Act of the records of a person.

(b) A record or other information that is confidential pursuant to the laws of New Mexico other than the Revised Uniform Unclaimed Property Act, another state or the United States continues to be confidential when disclosed or delivered pursuant to that act to the administrator or administrator's agent."

SECTION HJC→89.←HJC HJC→90.←HJC A new Section 7-8B-1403 NMSA 1978 is enacted to read:

"7-8B-1403. [NEW MATERIAL] WHEN CONFIDENTIAL INFORMATION MAY BE DISCLOSED.--

(a) When reasonably necessary to enforce or implement the Revised Uniform Unclaimed Property Act, the administrator may disclose confidential information concerning property held by the administrator or the administrator's agent only to:

(1) an apparent owner or the apparent owner's

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personal representative, attorney, other legal representative, relative or agent designated pursuant to Section 7-8B-1303 NMSA 1978 to have the information;

(2) the personal representative, other legal representative, relative of a deceased apparent owner, agent designated pursuant to Section 7-8B-1303 NMSA 1978 by the deceased apparent owner or a person entitled to inherit from the deceased apparent owner;

(3) another department or agency of New Mexico or the United States;

(4) the person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator of New Mexico if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to Sections 7-8B-1401 through 7-8B-1408 NMSA 1978;

(5) a person subject to an examination as required by Subsection (6) of Section 7-8B-1004 NMSA 1978.

(b) Except as otherwise provided in Subsection (a) of Section 7-8B-1402 NMSA 1978, the administrator shall include on the website or in the database required by Paragraph (2) of Subsection (c) of Section 7-8B-503 NMSA 1978 the name of each apparent owner of property held by the administrator. The administrator may include in published notices, printed

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publications, telecommunications, the internet or other media and on the website or in the database additional information concerning the apparent owner's property if the administrator believes that the information will assist in identifying and returning property to the owner and does not disclose personal information except the home or physical address of an apparent owner.

(c) The administrator and the administrator's agent may not use confidential information provided to them or in their possession except as expressly authorized by the Revised Uniform Unclaimed Property Act or required by law other than that act."

SECTION HJC→90.←HJC HJC→91.←HJC A new Section 7-8B-1404 NMSA 1978 is enacted to read:

"7-8B-1404. [NEW MATERIAL] CONFIDENTIALITY AGREEMENT.--A person to be examined pursuant to Section 7-8B-1002 NMSA 1978 may require, as a condition of disclosure of the records of the person to be examined, that each person having access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

(1) is in a form that is reasonably satisfactory to the administrator; and

(2) requires the person having access to the records to comply with the provisions of Sections 7-8B-1401 through 7-8B-1408 NMSA 1978 applicable to the person."

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SECTION HJC→91.←HJC HJC→92.←HJC A new Section 7-8B-1405

NMSA 1978 is enacted to read:

"7-8B-1405. [NEW MATERIAL] NO CONFIDENTIAL INFORMATION IN NOTICE.--Except as otherwise provided in Sections 7-8B-501 and 7-8B-502 NMSA 1978, a holder is not required pursuant to Sections 7-8B-1401 through 7-8B-1408 NMSA 1978 to include confidential information in a notice the holder is required to provide to an apparent owner pursuant to the Revised Uniform Unclaimed Property Act."

SECTION HJC→92.←HJC HJC→93.←HJC A new Section 7-8B-1406

NMSA 1978 is enacted to read:

"7-8B-1406. [NEW MATERIAL] SECURITY OF INFORMATION.--

(a) If a holder is required to include confidential information in a report to the administrator, the information shall be provided by a secure means.

(b) If confidential information in a record is provided to and maintained by the administrator or administrator's agent as required by the Revised Uniform Unclaimed Property Act, the administrator or agent shall:

(1) implement administrative, technical and physical safeguards to protect the security, confidentiality and integrity of the information required by state and federal privacy and data security law, whether or not the administrator or the administrator's agent is subject to the law;

(2) protect against reasonably anticipated

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threats or hazards to the security, confidentiality or integrity of the information; and

(3) protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to a holder or the holder's customers, including insureds, annuitants and policy or contract owners and their beneficiaries.

(c) The administrator:

(1) after notice and comment, shall adopt and implement a security plan that identifies and assesses reasonably foreseeable internal and external risks to confidential information in the administrator's possession and seeks to mitigate the risks; and

(2) shall ensure that an administrator's agent adopts and implements a similar plan with respect to confidential information in the agent's possession.

(d) The administrator and the administrator's agent shall educate and train their employees regarding the plan adopted pursuant to Subsection (c) of this section.

(e) The administrator and the administrator's agent shall in a secure manner return or destroy all confidential information no longer reasonably needed pursuant to the Revised Uniform Unclaimed Property Act."

SECTION HJC→93.←HJC HJC→94.←HJC A new Section 7-8B-1407 NMSA 1978 is enacted to read:

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"7-8B-1407. [NEW MATERIAL] SECURITY BREACH.--

(a) Except to the extent prohibited by law other than the Revised Uniform Unclaimed Property Act, the administrator or administrator's agent shall notify a holder as soon as practicable of:

(1) a suspected loss, misuse or unauthorized access, disclosure, modification or destruction of confidential information obtained from the holder in the possession of the administrator or an administrator's agent; and

(2) any interference with operations in any system hosting or housing confidential information that:

(A) compromises the security, confidentiality or integrity of the information; or

(B) creates a substantial risk of identity fraud or theft.

(b) Except as necessary to inform an insurer, attorney, investigator or others as required by law, the administrator and an administrator's agent may not disclose, without the express consent in a record of the holder, an event described in Subsection (a) of this section to a person whose confidential information was supplied by the holder.

(c) If an event described in Subsection (a) of this section occurs, the administrator and the administrator's agent shall:

(1) take action necessary for the holder to

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understand and minimize the effect of the event and determine its scope; and

(2) cooperate with the holder with respect to:

(A) any notification required by law concerning a data or other security breach; and

(B) a regulatory inquiry, litigation or similar action."

SECTION HJC→94.←HJC HJC→95.←HJC A new Section 7-8B-1408 NMSA 1978 is enacted to read:

"7-8B-1408. [NEW MATERIAL] INDEMNIFICATION FOR BREACH.--

(a) If a claim is made or action commenced arising out of an event described in Subsection (a) of Section 7-8B-1407 NMSA 1978 relating to confidential information possessed by an administrator's agent, the administrator's agent shall indemnify, defend and hold harmless a holder and the holder's affiliates, officers, directors, employees and agents as to:

(1) any claim or action and

(2) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge or other expense, including reasonable attorney fees and costs, established by the claim or action.

(b) The administrator shall require an administrator's agent that will receive confidential

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information required pursuant to the Revised Uniform Unclaimed Property Act to maintain adequate insurance for indemnification obligations of the administrator's agent pursuant to Subsection (a) of this section. The agent required to maintain the insurance shall provide evidence of the insurance to:

(1) the administrator not less frequently than annually; and

(2) the holder on commencement of an examination and annually thereafter until all confidential information is returned or destroyed pursuant to Subsection (e) of Section 7-8B-1406 NMSA 1978."

SECTION HJC→95.←HJC HJC→96.←HJC A new Section 7-8B-1501 NMSA 1978 is enacted to read:

"7-8B-1501. [NEW MATERIAL] UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Revised Uniform Unclaimed Property Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact that act."

SECTION HJC→96.←HJC HJC→97.←HJC A new Section 7-8B-1502 NMSA 1978 is enacted to read:

"7-8B-1502. [NEW MATERIAL] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Revised Uniform Unclaimed Property Act modifies, limits or supersedes the federal Electronic Signatures in Global and National Commerce Act, as amended, but does not modify, limit or

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supersede 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b)."

SECTION HJC→97.←HJC HJC→98.←HJC A new Section 7-8B-1503 NMSA 1978 is enacted to read:

"7-8B-1503. [NEW MATERIAL] TRANSITIONAL PROVISION.--

(a) An initial report filed pursuant to the Revised Uniform Unclaimed Property Act for property that was not required to be reported before the effective date of that act, but that is required to be reported pursuant to that act, shall include all items of property that would have been presumed abandoned during the ten-year period preceding the effective date of the Revised Uniform Unclaimed Property Act as if that act had been in effect during that period.

(b) The Revised Uniform Unclaimed Property Act does not relieve a holder of a duty that arose before the effective date of that act to report, pay or deliver property. Subject to Subsections (a) and (b) of Section 7-8B-610 NMSA 1978, a holder that did not comply with the law governing unclaimed property before the effective date of the Revised Uniform Unclaimed Property Act is subject to applicable provisions for enforcement and penalties in effect before the effective date of that act."

SECTION HJC→98.←HJC HJC→99.←HJC Section 7-38-71 NMSA 1978 (being Laws 1973, Chapter 258, Section 111, as amended) is

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amended to read:

"7-38-71. DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE OF PROPERTY.--

A. Money received by the department from the sale of real or personal property for delinquent property taxes shall be deposited in a suspense fund and distributed as follows:

(1) first, that portion equal to the costs shall be retained by the department for use, subject to appropriation by the legislature, in administration of the Property Tax Code;

(2) second, that portion equal to the penalties and interest due shall be retained by the department for use, subject to appropriation by the legislature, by the department in administration of the Property Tax Code;

(3) third, that portion equal to the delinquent taxes due shall be remitted by the department to the appropriate county treasurer for distribution by the treasurer to the governmental units in accordance with the law and the regulations of the department of finance and administration; and

(4) the balance shall be paid to the former owner of the property sold or to any other person designated by order directed to the department by a court of competent jurisdiction, provided that the department may first apply all

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or any portion of the balance to be paid against the amount of any property tax, including any penalty and interest related thereto, owed by the person to whom the balance would otherwise be paid.

B. As a condition precedent to payment of the balance of the sale amount received to the former owner of the property, the department may require any person claiming to be entitled to that payment to present sufficient evidence of proof of former ownership of the property to the department. The department shall adopt regulations providing for the procedures to be followed by persons claiming sale proceeds as former owners in those instances where conflicting claims exist or the department requires proof of ownership.

C. If no person claims the balance of sale proceeds, whether the property was sold under the provisions of the Property Tax Code or prior law, as the former owner of the property within two years of the date of the sale and after a reasonable search to determine the former owner is made by the department and no former owner is found, the balance of the sale proceeds shall be considered abandoned property and deposited in accordance with the provisions of the Revised Uniform Unclaimed Property Act.

D. If the balance of proceeds from the sale after paying a higher priority claim under Subsection A of this section is insufficient to pay all of the next priority claim,

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then the complete balance shall be applied to that next priority claim as partial payment."

SECTION HJC→99.←HJC HJC→100.←HJC Section 34-6-38 NMSA 1978 (being Laws 1968, Chapter 69, Section 40) is amended to read:

"34-6-38. FINANCE--DISPOSITION OF UNCLAIMED MONEY.--When money is held in the court clerk trust account and the person entitled to it does not make claim within six years from the date when it became payable, the money is presumed abandoned and shall be disposed of in the manner provided in the Revised Uniform [~~Disposition of~~] Unclaimed Property Act."

SECTION HJC→100.←HJC HJC→101.←HJC Section 37-1-3 NMSA 1978 (being Laws 1880, Chapter 5, Section 3, as amended) is amended to read:

"37-1-3. NOTES--WRITTEN INSTRUMENTS--PERIOD OF LIMITATION--COMPUTATION OF PERIOD.--

A. Actions founded upon any bond, promissory note, bill of exchange or other contract in writing shall be brought within six years.

If the payee of any bond, promissory note, bill of exchange or other contract in writing enters into any contract or agreement in writing to defer the payment thereof, or contracts or agrees not to assert any claim against the payor or against the assets of the payor until the happening of some contingency, the time during the period from the execution of

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the contract or agreement and the happening of the contingency shall not be included in computing the six-year period of limitation provided in this subsection.

B. Actions against any banking or financial organization subject to the provisions of the Revised Uniform Unclaimed Property Act [~~(1995)~~] founded upon a bill of exchange shall be brought within ten years.

C. Actions founded upon a traveler's check shall be brought within fifteen years."

SECTION HJC→101.←HJC HJC→102.←HJC Section 45-3-914 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-914, as amended) is amended to read:

"45-3-914. DISPOSITION OF UNCLAIMED ASSETS.--If an heir, devisee or claimant cannot be found, the personal representative shall distribute the share of the missing person to [~~his~~] the missing person's conservator, if any. Otherwise, the personal representative shall sell the share of the missing person and distribute the proceeds to the [~~state treasurer~~] administrator as prescribed by the Revised Uniform Unclaimed Property Act."

SECTION HJC→102.←HJC HJC→103.←HJC Section 58-10-110 NMSA 1978 (being Laws 1971, Chapter 242, Section 10) is amended to read:

"58-10-110. SPECIAL REMEDIES FOR NONPAYMENT OF RENT.--

A. If the rental due on a safe deposit box has not

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been paid for one year, the lessor may send a notice by certified or registered mail to the lessee's last known address stating that the safe deposit box will be opened and its contents stored at the lessee's expense unless payment of rental due is made within thirty days. If the rental is not paid within thirty days from the mailing of the notice, the box may be opened in the presence of an officer of the lessor and of a notary public who is not a director, officer, employee or stockholder of the lessor. The contents shall be sealed in a package by the notary public who shall write on the outside the lessee's name and the date the box was opened. The notary public shall execute a certificate reciting the lessee's name, the date the box was opened and a list of its contents. The certificate shall be included in the package and a copy of it sent by certified or registered mail to the lessee's last known address. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box.

B. If the contents of the box are not claimed within the time prescribed by the Revised Uniform [~~Disposition of~~] Unclaimed Property Act, they shall be disposed of as provided in that act. Upon sale of the contents, the lessor shall be reimbursed for the accrued rental and storage charges from the sale proceeds."

SECTION HJC→103.←HJC HJC→104.←HJC Section 58-11-47 NMSA

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1978 (being Laws 1987, Chapter 311, Section 47) is amended to read:

"58-11-47. DORMANT ACCOUNTS.--

A. If there has been no activity in a share or deposit account for one year, except for the posting of dividends or interest, the credit union may impose a reasonable maintenance fee as provided in the bylaws.

B. Any account presumed abandoned shall be disposed of in accordance with the Revised Uniform [~~Disposition of~~] Unclaimed Property Act."

SECTION HJC→104.←HJC HJC→105.←HJC Section 58-11A-6 NMSA 1978 (being Laws 1991, Chapter 51, Section 26) is amended to read:

"58-11A-6. SPECIAL REMEDIES FOR NONPAYMENT OF RENT.--

A. Unless otherwise provided in a written agreement, if the rental due on a safe deposit box has not been paid for six months, the [~~lessor~~] credit union may send a notice by certified or registered mail to the last known address of the lessee stating that the safe deposit box will be opened and its contents stored at the expense of the lessee unless payment is made within thirty days. If the rental is not paid within thirty days from the mailing of the notice, the safe deposit box may be opened in the presence of an executive officer of the [~~lessor~~] credit union and of a notary public. The contents of the box shall be sealed in a package by the

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notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the safe deposit box and a list of its contents. The certificate shall be included in the package and a copy of the certificate shall be sent by registered mail to the last known address of the lessee. The package shall then be placed in the general vaults of the ~~[lessor]~~ credit union at a rental not exceeding the rental charged for the safe deposit box.

B. If the contents of the safe deposit box are not claimed within the time prescribed by the Revised Uniform Unclaimed Property Act, they shall be disposed of as provided in that act."

SECTION HJC→105.←HJC HJC→106.←HJC Section 58-11A-7 NMSA 1978 (being Laws 1991, Chapter 51, Section 27) is amended to read:

"58-11A-7. DISPOSITION OF CONTENTS OF SAFE DEPOSIT BOX WHEN A CREDIT UNION IS LIQUIDATED--DUTY OF CONSERVATOR.--

A. In the event a credit union is liquidated or placed under conservatorship by the director, as authorized by Subsection [F] L of Section 58-11-3 NMSA 1978 [~~of the Credit Union Regulatory Act~~], the conservator or receiver shall send a notice by certified or registered mail to the last known address of the lessee stating that the safe deposit box will be

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opened and its contents stored at the expense of the lessee unless claimed within thirty days. If the contents are not claimed within thirty days from the mailing of the notice, the safe deposit box may be opened in the presence of an agent of the conservator or receiver and of a notary public. The contents shall be sealed in a package by the notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the safe deposit box and a list of its contents. The certificate shall be included in the package, and a copy of the certificate shall be sent by registered mail to the last known address of the lessee. The conservator or receiver shall then provide for storage of the package at a rental not exceeding the rental previously charged for the safe deposit box.

B. If the package is not claimed, it will be disposed of as provided in the Revised Uniform Unclaimed Property Act."

SECTION HJC→106.←HJC HJC→107.←HJC Section 58-12-7 NMSA 1978 (being Laws 1973, Chapter 114, Section 7, as amended) is amended to read:

"58-12-7. CORPORATION--POWERS AND DUTIES OF THE BOARD.--

A. To the extent authorized by the [~~commissioner~~] director or any supervisory agency, the board may review the financial condition of any member as it relates to share

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insurance and, after the review, submit a report of the review to the [~~commissioner~~] director and the supervisory agency accompanied [~~with~~] by the recommendations of the board.

B. Upon request of the board, the [~~commissioner~~] director or the supervisory agency may furnish to the board such factual information in [~~his or its~~] the director's or supervisory agency's possession as the [~~commissioner~~] director or the supervisory agency may deem to be of assistance to the corporation in determining the financial condition of any member.

C. If the board determines that a special examination and audit, including a current appraisal of the assets, of any member would be in the interests of its shareholders or in the interest of the sound and effective operation of the corporation, the board, by a vote of at least two-thirds of its directors, may request the [~~commissioner~~] director or any supervisory agency to provide for a special examination, audit and appraisal. If the [~~commissioner~~] director or any supervisory agency determines the examination, audit and appraisal advisable, [~~he or it~~] the director or supervisory agency shall provide for an examination, together with a current appraisal of the member's assets by a qualified person, and the board may furnish to the [~~commissioner~~] director or any supervisory agency [~~such~~] evidence of current values of any or all of [~~such~~] the member's assets that it

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considers material to the appraisal.

D. After receiving the reports of the examination and appraisal, the [~~commissioner~~] director or any supervisory agency shall furnish copies of the reports to the board and to the member [~~copies of the reports~~]. The board [~~shall have~~] has authority to make recommendations to any member designed to correct practices or policies of the member in conducting its business, including loan or dividend policies, [~~which~~] that the board considers unsafe or unsound or [~~having a tendency to~~] that would impair the financial condition of the member. If [~~such~~] the member fails to follow [~~such~~] the recommendations, the board shall give notice to the [~~commissioner~~] director and any supervisory agency.

E. If it appears to the board that [~~such~~] practices or policies of a member have impaired or are likely to impair the solvency of the member or are unreasonably increasing the insurance risk of the corporation with respect to the member, [~~they~~] it shall include a statement to this effect, together with a report of the facts and circumstances, in the notice to the [~~commissioner~~] director and the supervisory agency. If the [~~commissioner~~] director or the supervisory agency determines from the report, notice and from other available information that the member is in unsafe or unsound condition to transact the business for which it was created, [~~then~~] the [~~commissioner~~] director or the supervisory agency may so

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certify to the corporation. Nothing ~~[contained]~~ in this section shall be construed to abridge any power conferred upon the ~~[commissioner]~~ director or supervisory agency by any law.

F. Whenever it appears to the ~~[commissioner]~~ director or the supervisory agency that it is inadvisable or inexpedient for any member to continue to transact the business for which it is organized without receiving assistance, ~~[he or it]~~ the director or supervisory agency may, in ~~[his or its]~~ the director's or supervisory agency's discretion, notify the board, and ~~[thereupon]~~ the board may take any action it considers necessary to reduce risk or avert a threatened loss to the corporation ~~[and]~~. Notwithstanding any other provision of law, the board may require a merger or consolidation of ~~[such]~~ the member with other financial institutions or may facilitate the sale of assets of ~~[such]~~ the member to and the assumption of its liabilities by one or more members or other financial institutions. The board may, with the approval of the ~~[commissioner]~~ director or supervisory agency, do any of the following:

(1) purchase from ~~[such]~~ the member any equitable or other interest in its assets at book value or at some other value mutually agreed upon by ~~[such]~~ the member and the board, notwithstanding that either of ~~[such]~~ the values may exceed the market value of the assets so purchased, and upon such terms and conditions as the board may determine;

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(2) make loans to [~~such~~] the member [~~and~~] upon such terms and conditions as the board may determine;

(3) pay to the member, in accordance with an agreement entered into between the member and the corporation, an amount not in excess of the difference between the book value of some or all of its assets and the fair value as determined by the agreement, in consideration for which [~~such~~] the member shall agree to write down the assets to the fair value and to pay over to the corporation so much of any net proceeds realized from the sale or other disposition of the assets as are in excess of the fair value, the payment to be made in such amounts, at such times and upon such terms and conditions as the board may determine. Any amount paid by the corporation to [~~such~~] the member and the agreement of the member to repay the excess shall constitute liabilities of the member only to the extent of any such excess from time to time actually realized; or

(4) deposit a sum of money into the reserve accounts of the member in accordance with an agreement entered into between the member and the corporation. [~~such~~] The member [~~being hereby~~] is authorized and empowered, notwithstanding any other provision of law, to repay the amount to the corporation at such time [~~or times~~] and in such manner as the agreement may prescribe, provided that any such payment made by the corporation to the member and any agreement of the member to

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repay [~~the same~~] it shall constitute liabilities of the member only to the extent provided by the agreement. The member, by vote of at least two-thirds of its directors, may take any action necessary or advisable to enable it to carry out any or all provisions of this section.

G. At any time after ten years from the date financial assistance has been granted to a member under any provision of this section, any unpaid balance may be compromised or settled for cash payment or other consideration as the board and the member, with the approval of the [~~commissioner~~] director and supervisory agency, may agree upon. Upon [~~such~~] compromise or settlement, the member shall be released and discharged from any further obligation to repay the unpaid balance of [~~such~~] financial assistance except to the extent provided by [~~such~~] the agreement.

H. If a member authorized by a vote of at least two-thirds of the member's directors chooses to be liquidated, the corporation shall be fully authorized to proceed with the liquidation, merger or consolidation of the member.

I. Whenever it appears to the [~~commissioner~~] director or the supervisory agency that any member is in unsound or unsafe condition to transact the business for which it is organized, the [~~commissioner~~] director or the supervisory agency may so certify to the board [~~and~~]. Upon receipt of the certificate, the board shall, by notice in writing to the

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[~~commissioner~~] director, supervisory agency and to the member, take possession and control of the property and the business of the member and operate the business of the member subject to such rules and regulations as the [~~commissioner~~] director or supervisory agency may prescribe until the member resumes business or until its affairs are finally liquidated. While operating [~~such~~] the business, the corporation may pay to the member out of the [~~share insurance~~] fund such sums as the board considers necessary for the protection of the member's shareholders and depositors and may order these sums to be repaid when no longer required for that purpose or may purchase assets from the member to effect the purposes of the Credit Union Share Insurance Corporation Act on such terms and conditions and at such valuations as the board may determine.

J. At any time after the board has taken over the control, possession and operation of any member, [~~they~~] it may, with the approval of the [~~commissioner~~] director or supervisory agency, turn back the control, possession and operation to the member. The member may resume business free from any control by the corporation subject to such conditions as the [~~commissioner~~] director or supervisory agency may approve. The board shall not turn back the control, possession and operation of any member until there has been repaid into the [~~share insurance~~] fund all sums paid out from the fund to the member or its shareholders or depositors or until security for

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repayment is received [~~which~~] that is satisfactory to the board.

K. The board may, and at the request of the [~~commissioner~~] director or supervisory agency shall, at any time after [~~they have~~] it has taken over the control, possession and operation of any member, discontinue the business of the member and proceed to liquidate its affairs. The corporation shall in [~~such~~] that event pay to the shareholders and depositors of [~~such~~] the member the full amount of their shares or deposits permitted by law at the date of the discontinuance of the business of the member with interest from the last dividend date to the date of discontinuance at such rate, not exceeding three percent, as the board [~~shall determine~~] determines. The payments shall be made as soon as possible after the date of discontinuance. For [~~such~~] this purpose, the board shall use, in addition to the assets of the member, such sums as may be required from the [~~share insurance~~] fund. In case of liquidation, the corporation shall be subject to such rules and regulations as may be prescribed by the [~~commissioner~~] director or the supervisory agency. Rules and regulations prescribed by the [~~commissioner shall~~] director apply only to the liquidation of New Mexico-chartered credit unions. In the event of the liquidation of a member chartered in a state other than New Mexico, the corporation shall be subject only to [~~such~~] rules

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and regulations prescribed by the applicable supervisory agency. The corporation shall take steps to collect all debts due and claims belonging to [~~such~~] those members, [~~and~~] may sell or compound all bad or doubtful debts and may sell all or any part of the real or personal property or other assets of the member on such terms and conditions and at such valuation as the board [~~shall determine, and~~] determines. The corporation may itself be the purchaser at any or all [~~such~~] of the sales. To execute and perform the powers and duties conferred upon the corporation, it may, in the name of any such member, prosecute and defend all suits and other legal proceedings and may, in the name of the member, execute, acknowledge and deliver all deeds, assignments, leases and other instruments necessary and proper to effectuate any sale of real or personal property or other assets. Any deed or other instrument executed pursuant to the authority [~~hereby~~] given in this section shall be valid and effectual for all purposes to the same extent as though executed by the officers of the member by authority of its board of directors. The compensation of employees, counsel and other assistants employed by the board to liquidate the affairs of any member under this section and all expenses incurred in connection with the liquidation of any such member shall be fixed by the directors of the corporation. The officers of the corporation and any other persons employed by its directors to liquidate

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the affairs of any member under this section shall give bond to the directors of the corporation for the faithful performance of their duties in relation to ~~[such]~~ the liquidation in such amount and with such surety ~~[or sureties]~~ as the ~~[commissioner]~~ director or supervisory agency may approve. The persons appointed for the purpose of liquidating the affairs of any such member shall be subject to all the penalties to which agents appointed by the ~~[commissioner]~~ director or supervisory agency for the purpose of liquidating the affairs of a member are ~~[now or may hereafter be]~~ subject. All accounts for which no claimant can be found after six years following the discontinuance of the business of any such member shall be disposed of in accordance with the Revised Uniform ~~[Disposition of]~~ Unclaimed Property Act.

L. With the approval of the ~~[commissioner]~~ director or supervisory agency and subject to such rules and regulations as ~~[he or it]~~ the director or supervisory agency may prescribe, the board may appoint conservators or agents to assist it in the operation, management and liquidation of assets purchased or otherwise acquired from members by the corporation. The original location of the assets purchased or otherwise acquired shall determine whether ~~[such]~~ rules and regulations may be prescribed by the ~~[commissioner]~~ director or supervisory agency. Certificates of appointment of ~~[such]~~ conservators and agents shall be filed with the ~~[commissioner]~~ director or

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supervisory agency. Notwithstanding any other provisions of law, all members are ~~hereby~~ authorized to act as ~~such~~ conservators and agents and to exercise the powers and perform the duties contemplated by this section.

M. The corporation may exercise all the powers, rights and franchises of any member, the control, possession and operation of which has been taken over by the corporation. Notwithstanding any other provisions of law:

(1) with the approval of the ~~commissioner~~ director or supervisory agency, any member may advance or loan upon, or purchase, the whole or any part of the assets of any other member ~~which~~ that is in possession of the corporation or ~~which~~ that has been the subject of a notice from the ~~commissioner~~ director or supervisory agency to the corporation as provided ~~herein~~ in this section, at such valuations and upon such terms and conditions as ~~such member or~~ the members, by authorization of their boards of directors, may agree upon. The member making such an advance, loan or purchase, for the purpose of effecting ~~the same~~ it, may assume and agree to pay the whole or any part of the share, deposit and other liabilities of ~~such~~ the other member, subject to such terms and conditions and subject to such adjustments as may be approved by the ~~commissioner~~ director or supervisory agency; and

(2) with the approval of the ~~commissioner~~

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director or the supervisory agency, any member may advance or loan upon, or purchase, the whole or any part of the assets acquired or held by the corporation and may participate in such an advance, loan or purchase with one or more other members, at such valuation and upon such terms and conditions as the corporation and [~~such member or~~] the members, with authorization of their boards of directors, may agree upon. With like approval, the corporation may do any and all things and may take any and all action [~~which~~] that the board considers necessary or advisable to give effect to this paragraph; provided that the approval of the [~~commissioner~~] director or supervisory agency [~~shall~~] is not [~~be~~] required in the case of the purchase [~~hereunder~~] under this section by a member from the corporation of any mortgage for a sum equal to the unpaid balance thereof."

SECTION HJC→107.←HJC HJC→108.←HJC Section 59A-16-7.1 NMSA 1978 (being Laws 2013, Chapter 100, Section 1) is amended to read:

"59A-16-7.1. UNCLAIMED LIFE INSURANCE BENEFITS.--

A. As used in this section:

(1) "contract" means an annuity contract but excludes annuity contracts used to fund employment-based retirement plans or programs in which the insurer is not committed by the terms of the annuity contract to pay a death benefit to the beneficiaries of specific plan participants;

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(2) "death master file" means the federal social security administration's death master file or another database or service for determining that a person has died and that is at least as comprehensive as the federal social security administration's death master file;

(3) "match" means a search of a death master file that results in a match of the social security number or the name and date of birth of an insured, annuity owner or retained asset account holder; and

(4) "policy" means a policy or certificate of life insurance that provides a death benefit, but excludes policies or certificates of credit life or accidental death insurance, policies or certificates of life insurance used to fund a preneed funeral contract or funeral prearrangement and policies or certificates of life insurance that provide a death benefit pursuant to an employee benefit plan that are:

(a) subject to the federal Employee Retirement Income Security Act of 1974, as amended; or

(b) under a federal employee benefit program.

B. At least twice a year, an insurer shall crosscheck its insureds' in-force life insurance policies and retained-asset accounts against a death master file to identify potential matches. For each potential match, within ninety days, the insurer shall:

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(1) make and document a good faith effort to confirm the death of the insured or retained-asset account holder by using other available records and information;

(2) determine whether the applicable policy or contract provides for the payment of a death benefit. If the payment of a death benefit is required, the insurer shall:

(a) make and document a good faith effort to locate the beneficiary or beneficiaries; and

(b) provide to the beneficiary or beneficiaries the appropriate claim forms or instructions for making a claim, including the need to provide an official death certificate if required by the policy or contract; and

(3) in the case of group life insurance, confirm the possible death of an insured; provided that the insurer maintains at least the following information about those covered under a policy or certificate:

(a) social security number, or name and date of birth;

(b) beneficiary designation information;

(c) coverage eligibility;

(d) benefit amount; and

(e) premium payment status.

C. To the extent permitted by law, an insurer may disclose the minimum information about the insured or the beneficiary that is necessary to locate a beneficiary or

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another person entitled to receive a payment of the claims proceeds to a person whom the insurer reasonably believes could assist the insurer in locating the beneficiary or another person entitled to receive a payment of the claims proceeds. An insurer or its service provider shall not charge an insured, an account holder or a beneficiary for a search or confirmation conducted pursuant to this subsection.

D. The benefits from a life insurance policy or a retained asset account, plus any applicable accrued interest, shall be payable pursuant to the terms of the contract or, if applicable, in accordance with probate law. If the proper recipients of a life insurance policy or a retained asset account cannot be found, the benefits shall escheat to New Mexico as unclaimed property pursuant to the Revised Uniform Unclaimed Property Act [~~(1995)~~]. Upon the expiration of the statutory time period for escheat, an insurer shall notify the taxation and revenue department that a life insurance policy beneficiary or retained asset account holder has not submitted a claim with the insurer and the insurer has complied with the provisions of Subsection B of this section and has been unable to contact the retained asset account holder, beneficiary or beneficiaries. Upon notifying the taxation and revenue department, the insurer shall submit the unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the taxation and revenue

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Amendments: new = bold, blue, highlight
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department pursuant to the Revised Uniform Unclaimed Property Act [~~(1995)~~].

E. To assist the superintendent in identifying lost policies, by July 1, 2016, an insurer that has never conducted a crosscheck of its insureds' policies and contracts issued prior to July 1, 2013 against a death master file for the purpose of identifying deceased insureds shall provide to the superintendent a list of all policies and contracts in force and issued in New Mexico.

F. For an insurer that has never conducted a crosscheck of its insureds' policies and contracts against a death master file for the purpose of identifying deceased insureds, the provisions of this section shall apply only to policies and contracts issued and delivered in New Mexico on or after July 1, 2013."

SECTION HJC→108.←HJC HJC→109.←HJC REPEAL.--Sections 7-8A-1 through 7-8A-31 NMSA 1978 (being Laws 1997, Chapter 25, Sections 1 through 10; Laws 1990, Chapter 98, Section 1; and Laws 1997, Chapter 25, Sections 11 through 31, as amended) are repealed.

SECTION HJC→109.←HJC HJC→110.←HJC EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2024.