

TITLE 74: PUBLIC FINANCE

CHAPTER V: TREASURER

PART 760

REVISED UNIFORM UNCLAIMED PROPERTY ACT

SUBPART A: DEFINITIONS

Section

760.100 Definitions

SUBPART B: PRESUMPTION OF ABANDONMENT

Section

760.200 Tax-Deferred and Tax-Exempt Accounts

760.210 Safe Deposit Boxes

760.215 Financial Organizations

760.220 Stored Value Cards

760.230 Gift Cards

760.240 Payroll Cards

760.250 Merchandise Credits

760.260 Loyalty Cards

760.270 Property Related to Pre-need Death Care Contracts

760.280 Reporting Securities

760.290 Deceased Owner

760.300 Apparent Owner Interest

760.310 Anti-Limitations Provision

760.320 Online Sports Wagering

760.330 Virtual Currency

SUBPART C: REPORTING

Section

760.400 Holder Reporting Required

760.405 Reporting and Remitting by Pension Systems Subject to Section 15-1506 of the Act

760.406 Reporting and Remitting by Pension Systems Subject to Section 15-1505 of the Act

760.407 Reporting Virtual Currency

760.410 Report Contents

760.420 Filing Dates

760.430 Early Reporting and Remittance of Property

760.440 Extensions

44 760.450 Incomplete and Rejected Reports
45 760.460 Due Diligence Notice by Holder
46 760.470 Retention of Records by Holder
47

48 SUBPART D: NOTICE TO APPARENT OWNERS BY THE ADMINISTRATOR
49

50 Section
51 760.500 Notices by United States Mail
52 760.510 E-Mail Notices
53 760.520 Newspaper Notices
54 760.530 Website
55 760.540 Tax Return Identification of Apparent Owners
56 760.550 Updating Apparent Owner Data
57 760.560 Other Discretionary Means of Providing Notice
58 760.570 Confidentiality
59 760.580 Notice to State Agencies and Units of Local Government
60

61 SUBPART E: CLAIMS
62

63 Section
64 760.600 Claims
65 760.610 Burden of Proof
66 760.620 Filing of Claims
67 760.630 Tax Return Identification of Apparent Owners
68 760.631 Identification of Apparent Owners of Abandoned Property Using Other State
69 Databases
70 760.640 Crediting Income or Gain to Owner's Account
71 760.650 [Agreements to Locate Property Finders](#)
72 [760.651 Finder Licensing](#)
73 [760.653 CPA Firm Registration and Claims](#)
74 760.660 Property Subject to Recovery by Another State
75 760.670 Debt Collection Agencies
76 760.680 Holder Reimbursement
77 760.690 Securities Sale and Claims
78

79 SUBPART F: EXAMINATIONS
80

81 Section
82 760.700 Authority
83 760.710 Purpose
84 760.720 Contract Auditors
85 760.730 Holder Advocates
86 760.740 Notice of Examination

87	760.750	Entrance Conference
88	760.760	Examination Guidelines
89	760.770	Confidentiality Agreement
90	760.780	Evidence of Unpaid Debt or Undischarged Obligation
91	760.790	Estimation
92	760.800	Multistate Examinations
93	760.810	Bankruptcy
94	760.820	Audit Resolution Agreements
95	760.830	Report to Holder
96	760.840	Voluntary Disclosure Agreement Program
97	760.850	Examination of Regulated Financial Organizations
98	760.860	Holder Self-Examination

99

100 SUBPART G: ENFORCEMENT

101

102 Section

103	760.900	Purpose of Enforcement
104	760.910	Verified Report of Property
105	760.920	Administrative Subpoenas
106	760.930	Determination of Liability
107	760.940	Interest and Penalties
108	760.950	Waiver of Interest and Penalties
109	760.960	Judicial Enforcement
110	760.970	Action Involving Another State or Foreign Country
111	760.980	Periods of Limitation and Repose

112

113 SUBPART H: CONFIDENTIALITY

114

115 Section

116	760.1000	Confidentiality
117	760.1010	Confidentiality of Records Obtained During Examination

118

119 SUBPART I: MISCELLANEOUS

120

121 Section

122	760.1100	Transition Provisions
-----	----------	-----------------------

123

124	760.APPENDIX A	Background Information
-----	----------------	------------------------

125

126 AUTHORITY: Implementing and authorized by the Revised Uniform Unclaimed Property Act
127 [765 ILCS 1026].

128

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SUBPART A: DEFINITIONS

Section 760.100 Definitions

"Act" or "Revised Act" means the Revised Uniform Unclaimed Property Act [765 ILCS 1026].

"Administrator" means the State Treasurer.

"Administrator's Agent" or "Auditor" means a person with whom the administrator contracts to conduct an examination under Article 10 of the Act on behalf of the administrator. The term includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor. [765 ILCS 1026/15-102]

"Affiliated Group of Merchants" means 2 or more affiliated merchants or other persons that are related by common ownership or common corporate control and that share the same name, mark, or logo. The term also applies to 2 or more merchants or other persons that agree among themselves, by contract or otherwise, to redeem cards, codes, or other devices bearing the same name, mark, or logo (other than the mark, logo, or brand of a payment network), for the purchase of goods or services solely at such merchants or persons. However, merchants or other persons are not considered to be affiliated merely because they agree to accept a card that bears the mark, logo, or brand of a payment network.

"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.

"Business Association" means a corporation, joint stock company, investment company, 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.

"Confidential Information" means information that is "personal information" under the Personal Information Protection Act [815 ILCS 530/5], "private information" under the Freedom of Information Act [5 ILCS 140/2(c-5)], or personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information as provided in the Freedom of Information Act [5 ILCS 140/7(1)(c)].

"Debt Collection Agency" means any person who uses any instrumentality of interstate commerce or mail in any business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due, or asserted to be owed or due, to another. The term debt collection agency excludes any officer or employee of a creditor while the officer or employee is collecting debts for the creditor in the creditor's name.

"Domicile" means:

for a corporation, the state of its incorporation;

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

for a federally chartered entity or an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-63), the state of its home office; and

for any other holder, the state of its principal place of business. [765 ILCS 1026/15-102]

"DOR" means the Illinois Department of Revenue.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

"Electronic Mail" or "E-mail" means a communication by electronic means that is automatically retained and stored and may be readily accessed or retrieved.

"Escheat Fee" means any charge imposed solely by virtue of property being reported as presumed abandoned.

"Financial Organization" means a bank, savings bank, foreign bank, corporate fiduciary, currency exchange, money transmitter, or credit union. [765 ILCS 1026/15-102]

"Finder" means:

a person engaged in the location, recovery, purchase, or assignment of property held by the administrator for a fee, compensation, commission, or other remuneration paid by the owner of the property; or

a person engaged in assisting in the location, recovery, purchase, or assignment of property held by the administrator for a fee, compensation, commission, or other remuneration paid by the owner of the property. [765 ILCS 1026/15-102(9.5)] "Finder" does not include:

an attorney retained by an owner or an apparent owner 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 where the attorney has an attorney-client relationship with the owner [765 ILCS 1026/15-1302(f)]; or

a CPA firm licensed under the Illinois Public Accounting Act, or an affiliate of such firm, that has registered with the administrator, is in good standing with the Illinois Department of Financial and Professional Regulation, which is providing services to an apparent owner that is not a natural person including assisting with the apparent owner's compliance with the reporting requirements of the Act. [765 ILCS 1026/15-1302(g)]

"Former Act" means the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025], repealed effective January 1, 2018.

"Game-Related Digital Content" means digital content that exists only in an electronic game or electronic game platform. The term includes:

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

the following, if for use or redemption only within the game or platform or another electronic game or electronic game platform:

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

digital codes; and

does not include an item that the issuer:

permits to be redeemed for use outside a game or platform for money or goods/services that have more than minimal value; or

otherwise monetizes for use outside a game or platform.

"Gift 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 that is either:

a record:

issued on a prepaid basis primarily for personal, family or household purposes to a consumer in a specified amount;

the value of which does not expire;

that is not subject to a dormancy, inactivity or post-sale service fee;

that is redeemable upon presentation for goods or services; and

that, unless required by law, may not be redeemed for or converted into money or otherwise monetized by the issuer; or

a prepaid commercial mobile radio service, as defined in 47 CFR 20.3.

"Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner, property subject to the Act.

"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, burial,

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

"Loyalty Card" means a record given without direct monetary consideration under 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. [765 ILCS 1026/15-102]

"Merchandise Credit" means in-store credit for returned merchandise redeemable for merchandise, goods or services upon presentation at a single merchant or an affiliated group of merchants.

"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 other law of this State.

"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:

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

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

under an agreement or option, including a joint-operating agreement, unit agreement, pooling agreement, and farm-out agreement.

"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.

"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.

"Non-Freely Transferable Security" means a security that cannot be delivered to the administrator by the Depository Trust 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. [765 ILCS 1026/15-102] A non-freely transferable security includes a security that cannot be delivered to or liquidated by the administrator because of sanctions and imposed by the federal government, including sanctions administered by the U.S. Department of the Treasury's Office of Foreign Assets Control.

"Online sports wagering" means internet sports gaming and sports betting that is subject to the applicable laws administered by the Illinois Gaming Board under the Sports Wagering Act [230 ILCS 45] and the Illinois Racing Board under the Illinois Horse Racing Act of 1975 [230 ILCS 5].

"Owner", unless the context otherwise requires, means a person that has a legal, beneficial, or equitable interest in property subject to the Act or the person's legal representative when acting on behalf of the owner. The term includes:

a depositor, for a deposit;

a beneficiary, for a trust other than a deposit in trust;

a creditor, claimant or payee, for other property; and

the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

"Payroll Card" means a record that evidences a payroll-card account as defined in 12 CFR 1005 (Regulation E). [765 ILCS 1026/15-102]

"Payroll-Card Account" is an account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer's wages, salary or other employee compensation (such as commissions) are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution, or any other person. See 12 CFR 1005.2(b)(3)(i)(A).

"Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity, whether or not for profit.

"Property" means tangible property described in Section 15-205~~15-201~~ of the Act 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:

includes all income from or increments to the property;

includes property referred to as or evidenced by:

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

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;

a security except for:

a worthless security; or

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;

a bond, debenture, note, or other evidence of indebtedness;

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

an amount due and payable under an annuity contract or insurance policy;

an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profitsharing, employee savings, supplemental unemployment insurance, or a similar benefit; and

any instrument on which a financial organization or business association is directly liable; and

does not include:

game related digital content;

a loyalty card;

a gift card; or

funds on deposit or held in trust pursuant to Section 16 of the Illinois Pre-Need Cemetery Sales Act. [815 ILCS 390]

"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 Act, or the administrator or a court makes a final determination that the person is or is not a holder.

"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.

"Records of the Holder" includes records maintained by a third party that has contracted with the holder.

"Security" means:

a security as defined in Article 8 of the Uniform Commercial Code [810 ILCS 5/8-102];

a security entitlement as defined in Article 8 of the Uniform Commercial Code, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:

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

payable to the order of the person; or

specifically indorsed to the person; or

an equity interest in a business association not included in the above paragraph.

"Sign" means, with present intent to authenticate or adopt a record:

to execute or adopt a tangible symbol; or

to attach to or logically associate with the record an electronic symbol, sound or process.

"State", when not limited to the State of Illinois, 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. When capitalized, the term "State" means the State of Illinois. [765 ILCS 1026/15-102]

"State Treasurer" means the duly elected Treasurer of the State of Illinois.

"Stored-Value Card" means a card, code, or other device that is:

issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded in exchange for payment; and

redeemable upon presentation at multiple unaffiliated merchants for goods or services or usable at automated teller machines;

Stored value card does not include a gift card, payroll card, loyalty card, or game related digital content.

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

transmission of communications or information;

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

provision of sewage or septic services, or trash, garbage or recycling disposal.

"Virtual Currency" means any type of digital unit, including cryptocurrency used as a medium of exchange, unit of account, or a form of digitally stored value that does not have legal tender status recognized by the United States. The term does not include:

the software or protocols governing the transfer of the digital representation of value;

game related digital content; or

a loyalty card or gift card.

"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 under the Act. [765 ILCS 1026/15-102]

(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART B: PRESUMPTION OF ABANDONMENT

Section 760.200 Tax-Deferred and Tax-Exempt Accounts

- a) Sections 15-202 and 15-203 of the Act indicate when "tax deferred" and "tax exempt" accounts are presumptively abandoned. Section 15-202 prescribes the rules for tax deferred and tax exempt retirement accounts and Section 15-203 prescribes the rules for other tax deferred accounts. These rules for tax deferred and tax exempt accounts generally have longer periods of abandonment than accounts covered by Section 15-201 of the Act.
- b) A Roth IRA is covered under Section 15-202.
- c) In some cases, federal law, specifically ERISA (29 U.S.C. 1001 et seq.), may preempt the Act and prevent reporting and remitting retirement accounts or other property representing a retirement plan asset that would otherwise be reportable under the Act. Concerning ERISA preemption and unclaimed property statutes, see *Commonwealth Edison Co. v. Vega*, 174 F.3d 870 (7th Cir. 1999). Nonqualified, government and church plans are not subject to an ERISA preemption, nor are uncashed plan distribution checks issued by a qualified plan that lacks, or has failed to exercise, a forfeiture or other reversionary interest.
- d) If a holder is uncertain whether an account qualifies as tax deferred or tax exempt under the Act (i.e., whether the account is covered by Section 15-201 or by Sections 15-202 and 15-203), whether ERISA preempts the Act for a retirement account, or whether an account is covered by Section 15-202 or Section 15-203, the holder may specifically identify the property in a report filed with the administrator or give express notice to the administrator of a potential dispute regarding the property. Specifically identifying the property in a report or providing express notice to the administrator both ensures that the property will

be covered by the limitations period of Section 15-610 of the Act and demonstrates that the holder is attempting to comply with the Act in good faith and without negligence. Specifically identifying the property in a report filed with the administrator indicating that the property is not being remitted because ERISA preemption allows a holder to satisfy both its fiduciary obligation under ERISA, which would generally prohibit remitting the property to the administrator, and any obligation under the Act.

- e) Pursuant to Section 15-405 of the Act (property reportable and payable or deliverable absent owner demand provision) and Section 15-610(a) of the Act (anti-limitations provision) a nonqualified plan or plan not otherwise subject to preemption under ERISA is prohibited from forfeiting an account or other property.
- f) The administrator will accept missing participants' account balances reported and remitted by an ERISA plan fiduciary for a terminated defined contribution plan. See United States Department of Labor Field Assistance Bulletin No. 2014-01 (available at www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins), which indicates that, despite the ERISA preemption for ongoing plans, a plan fiduciary may report and remit "missing participants' account balances under a state's unclaimed property statute to complete the plan termination process".
- g) Additional outreach for non-retirement, long-term, tax-deferred and tax-exempt accounts:
 - 1) In the tenth year after the opening of an account holding property covered by Section 15-203 of the Act in which the apparent owner has not, within the previous three years, indicated an interest under Section 15-210 of the Act and the account is not otherwise presumed abandoned, the holder shall attempt to contact the apparent owner of the account in a manner substantially similar to the manner in which notice is provided under Section 15-501 of the Act.
 - 2) This additional outreach is not a replacement for the due diligence notice requirement under Section 15-501 of the Act and Section 460 of this Part.
 - 3) The purpose of this additional holder outreach is to ensure that the apparent owner is both alive and aware of the account. If the owner of the account is deceased, then the provisions of Section 15-203(b) apply.

- 4) If the apparent owner of the account indicates interest in the account as defined in Section 300 of this Part, the holder does not need to make any additional outreach to the apparent owner.
- 5) For accounts valued at \$50 or more, the holder should attempt to contact the apparent owner.
 - A) The holder may initially attempt to contact the apparent owner using the U.S. Mail, e-mail, telephone, or an in-person visit.
 - B) If the initial attempt to contact the apparent owner does not result in apparent owner interest, as defined in Section 300 of this Part, the holder should attempt a different method of contacting the apparent owner.
 - C) To the extent not otherwise prohibited by other laws, the holder may:
 - i) use electronic search tools to find more up-to-date contact information for the apparent owner, and
 - ii) attempt to contact individuals that the apparent owner designated as a beneficiary or contingent beneficiary (e.g., spouse, children, etc.) to find updated contact information for the apparent owner.
 - D) The holder shall send notice by certified U.S. Mail to the apparent owner if:
 - i) the value of the account is more than \$1,000,
 - ii) other attempts at contact have not resulted in apparent owner interest, as defined in Section 300 of this Part, and
 - iii) the holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of U.S. Mail to the apparent owner.
- 6) After at least two attempts to contact the apparent owner which do not result in apparent owner interest, as defined in Section 300 of this Part, the holder may report and pay or deliver the property in the account to the administrator pursuant to Section 15-608(b) of the Act and Section 430 of

this Part. No additional consent from the administrator is required to report and pay or deliver the property under this provision. The payment or delivery of the property to the administrator pursuant to this provision is considered to have been made in good faith. On payment or delivery of the property to the administrator, the property is presumed abandoned.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART D: NOTICE TO APPARENT OWNERS BY THE ADMINISTRATOR

Section 760.520 Newspaper Notices

- a) ~~*Twice every year*~~*At least once every 6 months*, the administrator shall cause to be published in at least one English language newspaper of general circulation in each county in this State a notice concerning the unclaimed property program.
- b) *The newspaper notice shall include the following information:*
 - 1) *an estimate of the total value of property available to be claimed from ~~received statewide by the administrator during the preceding 6-month period~~*;
 - 2) *the approximate total value of claims paid by the administrator statewide during the preceding ~~fiscal year~~ 6-month period*;
 - 3) *the internet web address of the unclaimed property website maintained by the administrator*;
 - 4) *an e-mail address to contact the administrator to inquire about or claim property; and*
 - 5) *a statement that computers may be available at a local public library to search for unclaimed property. [765 ILCS 1026/15-503(c)(1)]*
- c) The administrator may contract with a vendor to cause to be published the required newspaper notices. A contract concerning newspaper notices may, but is not required to, be part of a more comprehensive marketing services contract or specific contract.
- d) Newspaper notices may include other information at the discretion of the administrator.

- e) The administrator may cause additional notices or advertisements to be published in newspapers and print publications other than the required notices. The additional notices do not need to contain the mandatory information listed in subsection (b).

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 760.580 Notice to State Agencies and Units of Local Government

- a) *If the administrator reasonably believes that the apparent owner of property presumed abandoned held by the administrator under this Act is a unit of local government in this State which files an audit report or annual financial report with the Comptroller, the administrator may give written notice to the person or persons identified in the most recent annual financial report as the contact person, the chief executive officer, and the chief financial officer. [765 ILCS 1026/15-504(b)]*
- 1) Various state laws mandate that specified units of local government file an annual financial report with the Comptroller. The Governmental Account Audit Act mandates each governmental unit file an annual financial report with the Comptroller. [50 ILCS 310] The Illinois Municipal Auditing Law in the Illinois Municipal Code mandates each municipality file an annual financial report with the Comptroller. [65 ILCS 5/8-8-1] The County Auditing Law of the Counties Code mandates that counties file an annual financial report with the Comptroller. [55 ILCS 5/6-31001]
 - 2) The Comptroller requires as part of the annual financial report that the unit of local government provide contact information for a Contact Person, the Chief Executive Official, and the Chief Financial Officer. Depending upon the unit of local government these may all be separate individuals or the same individual. The Comptroller requires the unit of local government to validate an email address for each listed government official.
 - 3) The administrator may provide notice to a unit of local government by sending a written notice to the Contact Person, the Chief Executive Official, and the Chief Financial Officer indicated in the most recent annual financial report filed with the Comptroller. A holder may report unclaimed property to the administrator with the name of a previous official or employee of a unit of local government, but the administrator should provide notice to the current officials or employees designated by the unit of local government. The written notice from the administrator may be by e-mail or U.S. Mail or both.

- b) *If the administrator reasonably believes that the apparent owner of property presumed abandoned held by the administrator under this Act is a State agency as defined in the Illinois State Auditing Act [30 ILCS 5/1-7], the administrator may give written notice to ~~the person whom the records of the Comptroller indicate are the chief executive officer and chief fiscal officer~~ of such State agency and the Governor's Office of Management and Budget. [765 ILCS 1026/15-504(c)]*

(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART E: CLAIMS

Section 760.620 Filing of Claims

- a) Claimants may file claims with the administrator either in writing on forms prescribed by the administrator or through completion of a form on the administrator's website.
- b) Claims shall be verified or signed by the claimant under penalty of perjury.
- c) If the subject property, including contents of a safe deposit box, is valued at more than \$5,000, the claimant may either provide a claim form ~~supported by a notarized signature~~ or verify the claim under penalty of perjury via the administrator's website. The administrator may require a notarized signature for claims submitted on the website when requesting a notarized signature would aid in the determination of whether the claimant has met their burden of proof.
- d) If the value of the subject property is \$5,000 or less:
- 1) a fully completed owner claim and owner indemnification form, submitted to the administrator either in writing or through completion of a form on the administrator's website, will be accepted as prima facie evidence of validity of the claim, unless the administrator has facts within his or her knowledge that would tend to rebut the claim; and
 - 2) the administrator may waive the requirement to complete a claim form and may pay or deliver property directly to a claimant if the person receiving the property is shown to be the apparent owner of the property included on a report filed pursuant to the Act, and the administrator reasonably believes the claimant is entitled to receive the property or payment. [765 ILCS 1026/15-903]
- e) *An heir or agent who files an unclaimed property claim in which the decedent's property does not exceed \$250 may submit an affidavit attesting to the heir's or*

agent's capacity to claim in lieu of submitting a certified copy of the will to verify a claim. [765 ILCS 1026/15-904(b-5)]

- f) If the property being claimed is a two-party check, in addition to submitting a fully completed claim form, the claimant must:
 - 1) submit the original check;
 - 2) submit verification in the form of an affidavit from the issuing agent of the check that the claimant is the true owner of the check and the issuing agent would then pay the value of the check to the claimant if the issuing agent had not remitted the funds to the administrator;
 - 3) post a surety bond, issued by an insurance company with an A+ or A rating by A.M. Best and Company, in the amount of the check;
 - 4) submit a release of interest executed by all persons not claiming the property who were listed as apparent owners by the holder;
 - 5) submit an order from a court of competent jurisdiction indicating the claimant is the owner of the unclaimed property; or
 - 6) submit an indemnification form if the administrator does not have facts within its knowledge that would tend to rebut the claim and all the following apply:
 - A) the original check is missing or has been destroyed;
 - B) the original check is older than seven+4 years;
 - C) incomplete information was reported by the holder; and
 - D) the amount of the two-party check is \$5,000 or less.
- g) A claim will be considered complete when a claimant has provided all the information and documentation requested by the administrator as necessary to establish legal ownership and that information or documentation is entered into the unclaimed property system. Unless extended for reasonable cause, the administrator shall issue a decision no later than 90 days after a claim is complete.
- h) If a claimant is unable to provide documentation sufficient to establish ownership by a preponderance of the evidence, the claimant may request that the administrator formally deny the claim in order to allow the claimant to commence

a contested case, pursuant to Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100], for review of the administrator's decision.

i) Closing Claims

1) If a claimant fails to provide information and documentation necessary to establish legal ownership of the property by a preponderance of the evidence and the claim is inactive for at least 90 days, the administrator may close the claim without issuing a final decision.

2) If the claimant makes a request in writing for a final decision prior to the administrator's closing of the claim, the administrator shall issue a final decision.

3) If, after a claim is closed, a claimant subsequently provides additional information or documentation concerning the same property, the administrator shall open a new claim and shall incorporate by reference all information and documentation provided for the closed claim.

j) *Not later than one year after filing a claim, a claimant may commence a contested case pursuant to the Illinois Administrative Procedure Act to establish a claim by the preponderance of the evidence after either receiving notice of the denial from the administrator or the claim is deemed denied. [765 ILCS 1026/15-906]*

k) This Section is the sole administrative and legal procedure for claiming property under the Act. Compliance with this Section is required prior to exercising the exclusive judicial remedy found in Section 15-906 of the Act.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 760.650 Agreements to Locate PropertyFinders

a) Required elements of valid finder contract. An agreement by an owner or an apparent owner and a finder, the primary purpose of which is to locate, recover, or assist in the location or recovery of property held by the administrator for a fee, compensation, commission, or other remuneration, 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;

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

- 3) states the amount or value of the property reasonably expected to be recovered, computed before and after a fee, compensation, commission, or other remuneration to be paid to the finder has been deducted;
 - 4) clearly states that the property is in the possession of the administrator and may be recovered from the administrator without paying a fee; and
 - 5) provides the contact information for recovering the property from the administrator. [765 ILCS 1026/15-1301(a)]
- b) A finder may only receive compensation directly from the administrator if the agreement explicitly provides for direct payment to the finder. [765 ILCS 1026/15-1301(c)]
- c) Copy of contract required. For claims involving a finder, the administrator shall receive from the claimant a full and unredacted copy of the agreement signed by the owner or apparent owner and the finder. [765 ILCS 1026/15-1301(b)]
- d) Time period when finder contract void. An agreement between a finder and an owner or apparent owner pursuant to Section 15-1301 of the Act and subsection (a) of this Section is void if it is entered into during the period beginning on the date the property was presumed abandoned under this Act and ending 24 months after the payment or delivery of the property to the administrator. [765 ILCS 1026/15-1302(a)]
- e) Prohibition on future assignments. If a provision in an agreement between a finder and an owner or apparent owner pursuant to Section 15-1301 of the Act and subsection (a) of this Section applies to an obligation that did not exist or was not owed to the assignor at the time of the execution of the agreement, then that provision is void regardless of when the agreement was entered into. [765 ILCS 1026/15-1302(b)]
- f) Limit on fees.
- 1) An agreement between a finder and an owner or apparent owner pursuant to Section 15-1301 of the Act and subsection (a) of this Section that provides for a fee, compensation, commission, or other remuneration in an amount that is more than 10% of the amount collected is unenforceable except by the apparent owner. The purchase, assignment, or other conveyance of unclaimed property to a finder, resulting in a net fee, compensation, commission, remuneration, or other profit to the finder in excess of 10% of the amount collected is prohibited. [765 ILCS 1026/15-1302(c)]

2) This 10% limit on fees is a longstanding provision of Illinois unclaimed property law; a similar California provision was upheld as a proper exercise of the state's police power ("...the statute was enacted to protect the public from overcharging for recovery of unclaimed property by unscrupulous probate searchers. Thus, we conclude that the statute furthers a legitimate goal by rational means." Goodman v. Cory (1983) 142 Cal. App. 3d 737, 742; 191 Cal. Rptr. 272, 275).

g) Other grounds for being void. An apparent owner or the administrator may assert that an agreement between a finder and an owner or apparent owner pursuant to Section 15-1301 of the Act and subsection (a) of this Section is void on a ground other than it provides for payment of compensation in excess of the amount authorized by paragraph (c) of Section 15-1302 of the Act. [765 ILCS 1026/15-1302(d)]

a) ~~No person or company shall be entitled to a fee for discovering presumptively abandoned property until it has been in the custody of the administrator for at least 24 months. Fees for discovering property that has been in the custody of the administrator for more than 24 months shall be limited to not more than 10% of the amount collected. (See 765 ILCS 1026/15-1302.)~~

b) ~~Notwithstanding anything in this Section to the contrary, a licensed attorney may 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 provided the attorney has an attorney-client relationship with the apparent owner. [765 ILCS 1026/15-1302(f)] Section 15-903 of the Act is the sole administrative and legal procedure for claiming property under the Act. Compliance with Section 15-903 of the Act and this Subpart is required prior to exercising the exclusive judicial remedy in Section 15-906 of the Act.~~

1) ~~This exemption from the normal restrictions on finders is limited to attorneys who have an attorney-client relationship with the claimant. Being an attorney licensed in Illinois is a necessary, but not sufficient, precondition for this exemption to be applicable. The attorney must be in an attorney-client relationship with the claimant. An attorney representing a person or entity other than the claimant is not covered by this exemption.~~

2) ~~The rationale for the exemption is that the Illinois Rules of Professional Conduct apply to the attorney and to the attorney's actions.~~

3) ~~The exemption does not authorize an attorney to bypass the claims process established by Section 15-903 of the Act.~~

- e) ~~For claims in which a finder is assisting an apparent owner, the following shall be submitted to the administrator:~~
- 1) ~~a signed, dated and notarized copy of the contract between the finder and the apparent owner that satisfies the requirements of the Act, specifies the obligations of the parties, and establishes the fee arrangement between the finder and claimant; and~~
 - 2) ~~if the finder charges a contingent fee, a copy of the active private detective license issued by the Illinois Department of Financial and Professional Regulation to the finder.~~

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 760.651 Finder Licensing

- a) License required and limited exemptions.
- 1) A person attempting or seeking to act as a finder must be licensed as a finder by the administrator pursuant to Section 15-1503 of the Act. [765 ILCS 1026/15-1302(e)] No person shall, without a valid license issued by the administrator, represent or present to the public in any manner to be a finder in the State of Illinois or act as a finder. [765 ILCS 1026/15-1303(a)]
 - 2) Attorneys acting 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 are not required to be licensed as finders.
 - A) This exemption from the requirement that finders be licensed is limited to attorneys who have an attorney-client relationship with the claimant.
 - B) Being an attorney licensed in Illinois is a necessary, but not sufficient, precondition for this exemption to be applicable. The attorney must be in an attorney-client relationship with the claimant.
 - C) An attorney representing a person or entity other than the claimant is not covered by this exemption.

D) Attorneys are required to comply with the Illinois Supreme Court's Rules of Professional Conduct.

E) This exemption does not authorize an attorney to bypass the claims process established by Section 15-903 of the Act. [765 ILCS 1026/15-1302(f)]

3) A CPA firm licensed under the Illinois Public Accounting Act, or an affiliate of such firm, is not required to be licensed under the Act, if all of the following apply:

A) the CPA firm has registered with the administrator and is in good standing with the Illinois Department of Financial and Professional Regulation;

B) the apparent owner is not a natural person; and

C) the CPA firm, or an affiliate of such firm, also provides the apparent owner professional services to assist with the apparent owner's compliance with the reporting requirements of the Act. [765 ILCS 1026/ 15-1302(g)]

b) Qualifications for licensure. An applicant is qualified for licensure as a finder if the applicant meets all the following qualifications:

1) If the applicant is a natural person, the person is at least 21 years of age.

2) The applicant is of good moral character. When determining the moral character of an applicant, the administrator shall take into consideration the following:

A) Whether the applicant has engaged in any unethical or dishonest business practices.

B) Whether the applicant has been adjudicated, civilly or criminally, to have committed fraud or to have violated any law of any state involving unfair trade or business practices, has been convicted of a misdemeanor of which fraud is an essential element or which involves any aspect of the finder business or claiming or reporting of unclaimed property, or has been convicted of any felony.

C) Whether the applicant has intentionally violated any provision of the Act or a predecessor law or any regulations relating thereto.

- 1029
- 1030 D) Whether the applicant has been permanently or temporarily
- 1031 suspended, enjoined, or barred by any government agency or court
- 1032 of competent jurisdiction in any state from engaging in or
- 1033 continuing any conduct or practice involving any aspect of the
- 1034 finder business, the claiming or reporting of unclaimed property, or
- 1035 any other regulated business or occupation.
- 1036
- 1037 E) Whether any charges or complaints lodged against the applicant
- 1038 for which fraud, deceptive business practices, or similar offenses
- 1039 involving moral turpitude were an essential element that resulted in
- 1040 civil or criminal litigation or administrative proceedings.
- 1041
- 1042 F) Whether the applicant has made any misrepresentations or false
- 1043 statements or concealed any material fact.
- 1044
- 1045 3) If the applicant is a corporation, limited liability company, partnership, or
- 1046 other entity permitted by law, then for any person holding 25% or more of
- 1047 corporate stock who is a principal, owner, member, officer, or shareholder,
- 1048 the administrator shall take into consideration for compliance with
- 1049 subsection (b) of this Section.
- 1050
- 1051 4) The applicant demonstrates knowledge and understanding of the Act,
- 1052 including, but not limited to, the provisions of Article 13 of the Act.
- 1053
- 1054 c) Application for license. Every person seeking to be licensed as a finder shall
- 1055 apply to the administrator in writing on forms or electronically as prescribed by
- 1056 the administrator.
- 1057
- 1058 1) Every application shall be accompanied by a \$500 fee payable to "Illinois
- 1059 State Treasurer". The \$500 application fee shall be deposited into the State
- 1060 Treasurer's Administrative Fund. The application fee is not refundable.
- 1061
- 1062 2) All applicants shall provide a valid mailing address and email address to
- 1063 the administrator, which shall serve as the address of record and email
- 1064 address of record, respectively, at the time of application for licensure or
- 1065 renewal of a license. Applicants and licensees shall inform the
- 1066 administrator in writing of any change in address of record or email
- 1067 address of record within 14 days after the change.
- 1068
- 1069 3) The applicant shall authorize the administrator to conduct a criminal
- 1070 background check to determine if the applicant has ever been charged with
- 1071 a crime and, if so, the disposition of those charges. If the applicant is a

corporation, limited liability company, partnership, or other entity permitted by law, then the authorization shall include each person who holds 10% or more of corporate stock and is a principal, owner, member, officer, or shareholder, as applicable.

4) The administrator shall pay for criminal background checks from the State Treasurer's Administrative Fund. If the actual cost of the criminal background check does not exceed \$500, then the administrator shall not charge an additional fee for the criminal background check. If the actual cost of the criminal background check exceeds \$500, then the administrator shall charge the applicant a fee equal to the amount that the actual costs exceeds \$500.

5) The applicant shall provide the applicant's Social Security Number, Individual Taxpayer Identification Number, or Federal Employer Identification Number. If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then the applicant shall provide the Social Security Number or Individual Taxpayer Identification Number for each person holding 10% or more of corporate stock who is an owner, member, officer, or shareholder, as applicable.

6) The applicant shall provide a color digital copy of a valid government issued ID of the applicant. If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then the applicant shall provide a color digital copy of a valid government issued ID for each person holding 10% or more of corporate stock who is an owner, member, officer, or shareholder, as applicable.

7) Applications for licensure shall also be accompanied by a fidelity bond issued by a bonding company or insurance company authorized to do business in this State in the amount of \$100,000. This bond shall run to the benefit of the administrator and the administrator's successor for the benefit of the Unclaimed Property Trust Fund.

8) The applicant shall submit a written statement under penalty of perjury that the applicant has read and understands the Act, including Article 13 of the Act, and has read and understands this Part of the Administrative Code. If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then such written statement under penalty of perjury shall be submitted by the chief executive or other principal of the entity authorized to legally bind the entity. The statement required by this provision may be submitted electronically. The

administrator may prepare and provide a written statement that satisfies the requirements of this provision.

- d) Issuing license. Upon approval of the application by the administrator, the administrator shall issue a license to the applicant. The license shall be valid for a period of three years.
- e) License renewal. The holder of a finder license issued by the administrator may apply to renew the license within 90 days preceding the expiration date by:
 - 1) completing and submitting to the administrator a renewal application in writing on forms or electronically as prescribed by the administrator; and
 - 2) paying a license renewal fee of \$250 payable to "Illinois State Treasurer". The \$250 renewal fee shall be deposited into the State Treasurer's Administrative Fund. The renewal fee is not refundable.
- f) When license deemed denied. Any fully completed application for licensure or for renewal not acted upon by the administrator within 90 calendar days may be deemed denied.
- g) Grounds for denial, suspension, or revocation of license. The administrator may refuse to issue or may suspend or revoke a license on any of the following grounds:
 - 1) The applicant or licensee has made any misrepresentations or false statements or concealed any material fact.
 - 2) The applicant or licensee is insolvent.
 - 3) The applicant or licensee has conducted or is about to engage in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
 - 4) The applicant or licensee has failed to satisfy any enforceable judgment or decree rendered by any court of competent jurisdiction against the applicant or licensee.
 - 5) The applicant or licensee fails to make a substantive response to a request for information by the administrator within 30 days of the request.
 - 6) The applicant or licensee, including any member, officer, or director thereof if the applicant or licensee is a firm, partnership, association, or

corporation or any shareholder holding more than 10% of the corporate stock, has violated any provision of the Act or any rule adopted under the Act or a valid order entered by the administrator under the Act.

7) The applicant or licensee aided or assisted another person in violating any provision of this Act or rules adopted under the Act.

8) The applicant or licensee engaged in solicitation of professional services by using false or misleading advertising.

9) The administrator finds any fact or condition existing which, if it had existed at the time of the original application for the license, would have warranted the administrator in refusing the issuance of the license.

h) Process for denial, suspension, or revocation of license.

1) If the administrator determines that an application for licensure or for renewal of a license should be denied, then the applicant shall be sent a notice of intent to deny and the applicant shall be given the opportunity to request, within 20 days of the notice, a hearing on the denial.

2) If the administrator determines that a license should be suspended or revoked, then the licensee shall be sent a notice of intent to suspend or revoke the license and the licensee shall be given the opportunity to request, within 20 days of the notice, a hearing on the suspension or revocation.

3) Any hearing on the denial, suspension, or revocation shall be conducted in accordance with the State Treasurer's administrative rules concerning rules of practice in administrative hearings found at Part 730 of this Title.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 760.653 CPA Firm Registration and Claims

a) A CPA firm licensed under the Illinois Public Accounting Act may register with the administrator pursuant to Section 15-1302(g) of the Act by completing an electronic form on the administrator's website and shall provide the administrator with a digital copy of its current CPA Firm license. The administrator may not charge any fee in connection with the registration of a CPA firm under this Section.

- b) As part of the registration process, a natural person with authorization to legally bind the CPA firm shall attest under penalty of perjury that he or she has read and understands all relevant provisions of the Act and this Part of the Administrative Code and the CPA firm will adhere to all such relevant provisions.
- c) The administrator may refuse to register or may suspend or revoke a registration for a CPA firm on any of the following grounds:
- 1) The CPA firm has made any misrepresentations or false statements or concealed any material fact relevant to their representation of a client pursuant to the Act.
 - 2) The CPA firm is insolvent.
 - 3) The CPA firm has conducted or is about to engage in dishonorable, unethical, or unprofessional conduct related to their services pursuant to the Act of a character likely to deceive, defraud, or harm the public.
 - 4) The CPA firm fails to make a substantive response to a request for information by the administrator within 30 days of the request.
 - 5) The CPA firm, including any partner, member, officer, or director thereof, has intentionally violated any provision of the Act or any rule adopted under the Act or a valid order entered by the administrator under the Act.
 - 6) The CPA firm engaged in solicitation of professional services related to the Act by using false or misleading advertising.
 - 7) The Illinois Department of Financial and Professional Regulation has suspended or revoked the CPA Firm license.
- d) Process for denial, suspension, or revocation of registration.
- 1) If the administrator determines that registration should be denied, suspended, or revoked, then the CPA firm shall be sent a notice of intent to deny, suspend, or revoke the registration and the CPA firm shall be given the opportunity to request, within 20 days of the notice, a hearing on the suspension or revocation.
 - 2) Any hearing on the denial, suspension, or revocation shall be conducted in accordance with the State Treasurer's administrative rules concerning rules of practice in administrative hearings.

(Source: Added at 50 Ill. Reg. _____, effective _____)

SUBPART G: ENFORCEMENT

Section 760.940 Interest and Penalties

- a) Interest on Unreported Property. *A holder that fails to report, pay or deliver property within the time prescribed by the Act shall pay to the administrator interest at a rate of 1% per month 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. [765 ILCS 1026/15-1204(a)]* Thus, unless waived by the administrator pursuant to Section 15-1206, payment of interest on unreported reportable property is mandatory under the Act.
- b) Civil Penalty for Failure to Act in Timely Manner. *The administrator may require a holder that fails to report, pay, or deliver property within the time prescribed by the Act to pay to the administrator, in addition to interest, a civil penalty of \$200 for each day the duty is not performed, up to a cumulative maximum amount of \$5,000. [765 ILCS 1026/15-1204(b)]* Thus, unless the administrator determines that the holder acted in good faith and without negligence pursuant to Section 15-1206(b) of the Act, payment of a penalty for failure to act in a timely manner is a discretionary enforcement action by the administrator.
- c) Civil Penalty for Willful Failure to Perform a Duty Under the Act. *If a holder willfully fails to perform a duty imposed on the holder under the Act, the administrator may require the holder to pay the administrator, in addition to interest, a civil penalty of \$1,000 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$25,000, plus 25% 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. [765 ILCS 1026/15-1205(a)]*
- d) Civil Penalty for Filing a Fraudulent Report. *If a holder makes a fraudulent report under the Act, the administrator may require the holder to pay to the administrator, in addition to interest, a civil penalty of \$1,000 for each day from the date the report was made until corrected, up to a cumulative maximum of \$25,000, plus 25% of the amount or value of any property that should have been reported but was not included in the report or was underreported. [765 ILCS 1026/15-1205(b)]*
- e) In addition to any other penalty provided by law, any person that violates any provision of Section 651 of this Part shall forfeit and pay a civil penalty in an amount determined by the administrator not to exceed \$10,000 for each violation.

1285 *The penalty shall be assessed in proceedings as provided in the State Treasurer's*
1286 *administrative rules concerning rules of practice in administrative hearings (see*
1287 *74 Ill. Adm. Code 730). [765 ILCS 1026/15-1303(i)(4)]*
1288

1289 (Source: Amended at 50 Ill. Reg. _____, effective _____)