**Section 760.1100 Transition Provisions**

a) *An initial report filed under the Revised Act for property that was not required to be reported before the effective date of the Revised Act, but that is required to be reported under the Revised Act, must include all items of property that would have been presumed abandoned during the 5-year period preceding the effective date of the Revised Act as if the Revised Act had been in effect during that period.* [765 ILCS 1026/15-1503(a)]

AGENCY NOTE: A version of the transitional provision described in Section 15-1500(a) of the Act has been included in every uniform unclaimed property Act promulgated by the ULC [765 ILCS 15-1500(a)]. While the Act has a 5-year look back period, the Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws) version of RUUPA has a 10-year look back period. This 5-year period is identical to the requirement in the Former Act that the State Treasurer "issue a Notice of Deficiency to a holder or direct the commencement of an examination of a holder with respect to a report required under the Former Act within 5 years after the report is filed." (See the repealed 765 ILCS 1025/23.5(a).) The Former Act, when it was adopted in 1961, had a transitional provision that applied its provisions to any property for which the presumption of abandonment prescribed by the Former Act occurred on or after August 17, 1946. Thus, the look back period in the Former Act was 15 years. (See the repealed 765 ILCS 1025/17.)

1) Property Covered by the Transition Provision

A) As part of its report filed in calendar year 2018, a holder must report all property that would have been reported in 2013 through 2017 as if the Revised Act had been in effect on January 1, 2013.

B) Property that was excluded in 2013 through 2017 under the Former Act (Uniform Disposition of Unclaimed Property Act [765 ILCS 1025]), but that is not excluded under the Revised Act, must be reported in 2018.

EXAMPLE: Property that was excluded from being reported and remitted pursuant to provisions of Section 2a(b) of the Former Act during 2013 through 2017 should be reported in 2018.

C) Which property should be reported under this transitional provision is determined by looking at the applicable period of abandonment in the Revised Act.

EXAMPLE: Section 15-201(5) provides that the debt of a business association is reportable 3 years after the obligation to pay arises. So, a debt owed to another business association that arose in 2010 would have been reportable in 2013 and, therefore, would be reportable in the initial report filed in 2018.

2) Owner Interest

A) The requirement to report property that was previously excluded from being reported under the Former Act is still subject to the indication of apparent owner interest in property provisions of Section 15-210 of the Revised Act.

B) The period of abandonment for property covered by subsection (a) is measured from the later of:

i) the date the property would have been presumed abandoned if the Revised Act had been in effect; or

ii) the date of the latest indication of interest by the apparent owner in the property.

3) Due Diligence Notice Required. A holder reporting property pursuant to subsection (a) is still required to provide notice to an apparent owner of that property pursuant to the applicable provisions of Section 15-501 of the Revised Act.

4) Interest and Penalties

A) If a holder reports property pursuant to subsection (a) in 2018, that property is considered to have been reported at the time prescribed by the Revised Act. As such, the administrator may not impose any interest or penalties under Section 15-1204 of the Revised Act on property reported in 2018 in compliance with subsection (a).

B) If a holder fails to report property in 2018 that should have been reported under subsection (a), but reports that property in 2019, the administrator shall waive any interest or penalties under Section 15-1204 of the Revised Act if the administrator determines that the holder acted in good faith and without negligence.

5) Insufficient Holder Records. The following provisions apply to a holder that has insufficient records to accurately report property that should be reported in 2018 pursuant to subsection (a).

A) The holder:

i) shall report all property for which it has adequate records to file a report under Section 15-401 of the Revised Act; and

ii) may enter into a written agreement with the administrator to report and remit an estimate of any property that would have been reportable to Illinois for which the holder does not have adequate records to file a report under Section 15-401 of the Revised Act.

B) If the holder is domiciled outside of Illinois, any estimate of property that would have been reportable to Illinois will be an estimate of property for which the last-known address of the apparent owner would have been in Illinois.

C) If the holder is domiciled in Illinois, any estimate of property that would have been reportable to Illinois will be an estimate both of property for which the last-known address of the apparent owner would have been in Illinois and of property that would have been reportable to Illinois under Section 15-304 of the Revised Act.

6) If property exempted under the Former Act but not excluded under the Revised Act has been paid to another state, the holder is not required to pay again. In this case, the holder should provide notice to the administrator, so that the administrator can make a determination whether to attempt to reclaim that property from the state first taking possession. To provide the notice, the holder may, but is not required to, provide the administrator with a copy of the report or relevant portions of the report filed with the other state to which the property was reported and remitted. Providing notice to the administrator under this provision is a form of "express notice" as provided in Section 15-610(b) of the Act.

b) *The Act does not relieve a holder of a duty that arose before the effective date of the Revised Act to report, pay or deliver property. Subject to Section 15-610(b) of the Act, a holder that did not comply with the law governing unclaimed property before the effective date of the Act is subject to applicable provisions for enforcement and penalties in effect before the effective date of the Revised Act*. [765 ILCS 1026/15-1503(b)]

1) Holders are still required to report and remit any property that was reportable under the Former Act prior to January 1, 2018, the effective date of the Revised Act.

A) Property that would not be reportable under the Revised Act, that should have been reported under the Former Act prior to January 1, 2018 will generally still be reportable to the administrator.

B) EXAMPLE: Property that should have been reported under the Former Act on November 1, 2017 because it had been presumed abandoned in the 12 months preceding July 1, 2017, but for whatever reason was not reported and remitted to the administrator by January 1, 2018, would still need to be reported and remitted to the administrator.

C) The statute of limitations in Section 15-610 of the Revised Act, including the tolling provisions in Section 610(b), still applies to the ability of the administrator to bring an enforcement action against a holder.

2) Unclaimed property examinations that were initiated before January 1, 2018, but are still ongoing on or after January 1, 2018, will be based on the presumptions of abandonment from the appropriate Act given the circumstances surrounding the property.

A) Property that would be reportable under the Revised Act will generally be reportable under that Act.

B) Property that would not be reportable under the Revised Act, but should have been reported under the Former Act prior to January 1, 2018 will generally still be reportable to the administrator.

C) When the standard for determining a presumption of abandonment under the Revised Act is materially different from under the Former Act, and it is in the best interests of the owner for the new standard to apply, the Revised Act shall apply.

EXAMPLE: A tax-advantaged nonretirement account that would have been presumed abandoned after 5 years of inactivity under the Former Act, but would not be presumed abandoned until 3 years after the date by which distribution of the property must begin to avoid a tax penalty under the Revised Act, would be a case in which the new standard would be applied.

D) The administrator and the holder may agree in writing how to resolve issues in which both unclaimed property Acts may reasonably be interpreted as applying to property that is the subject of the unclaimed property examination. Under Section 15-608(b) of the Revised Act, the administrator has the authority to accept property early and to waive or reduce interest and penalties.

E) Generally, an examination will toll the statute of limitations in Section 15-610 of the Revised Act unless the holder specifically identified the property in a report filed with the administrator or gave other express notice to the administrator prior to the initiation of the examination, because a person subject to an unclaimed property examination generally does not file reports directly with the administrator during that examination.