**Section 760.APPENDIX A Background Information**

1. Section 15-1501 of the Act provides that, *when applying and construing the* *Act*, *consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.* [765 ILCS 15-1501]. Given the provisions of Section 15-1501, this Appendix is intended to provide background that will be useful to persons attempting to interpret the Act.
2. Every state has enacted legislation requiring that holders of presumptively abandoned or unclaimed property report and deliver that property to the state. A majority of states have adopted some form of one of the uniform acts promulgated by the Uniform Law Commission (ULC). The problem of "lucrative silence" by holders motivated the ULC to draft and promulgate the original Uniform Disposition of Unclaimed Property Act (UDUPA) in 1954. Illinois passed its version of UDUPA in 1961. Illinois' current law is based on the ULC's Revised Uniform Unclaimed Property Act (RUUPA) that was approved and recommended for enactment in all states in 2016.
3. Various courts have attempted to lay out the purposes of state unclaimed property laws. The Minnesota Supreme Court summarized the four main purposes as:

1) to protect the interests of the owners of unclaimed property;

2) to relieve holders of the annoyance, expense and liability of keeping unclaimed property;

3) to preclude multiple liability; and

4) to give the adopting state use of considerable sums of money that otherwise is a windfall to holders. (State by Lord v. First National Bank, 313 N.W.2d 390, 393 (Minn. 1981))

d) Illinois' Appellate Court noted that Illinois' unclaimed property Act "protects the rights of unknown owners and gives the benefit of the use of the unclaimed property, most of which experience shows will never be claimed, to the State rather than the holders." (People ex rel. Fahner v. Chicago Transit Authority, 127 Ill. App. 3d 405, 408, 468 N.E.2d 1316, 1318 (1st Dist. 1984) citing People ex rel. Callahan v. Marshall Field & Co. (1980), 83 Ill. App. 3d 811, 404 N.E.2d 368; and Douglas Aircraft Co. v. Cranston (1962), 58 Cal. 2d 462, 374 P.2d 819)

e) State unclaimed property Acts prevent the unjust enrichment by holders of property to which they are not legally entitled and establish a process through which unclaimed property may be reunited with its rightful owner. These statutes essentially abolish the common law on abandoned property and remove the escheatment by the state of intangible personal property. The state no longer becomes the legal owner of unclaimed intangible personal property. Instead, it is transferred to a state unclaimed property administrator, typically the State Treasurer, who serves as a perpetual custodian of the unclaimed property.

f) The Uniform Unclaimed Property System

1) The uniform unclaimed property Acts, including Illinois' Act, set up a system for dealing with unclaimed intangible property as well as tangible unclaimed property recovered from safe deposit boxes. Each state's Act establishes rules to determine when different types of property are presumed abandoned. After property is presumptively abandoned, the holder of the property is almost always required to attempt to contact the owner of unclaimed property in writing. This is called a due diligence notice. If the owner does not claim the property from the holder, then the holder is required to report and remit that property to the state unclaimed property administrator as part of an annual unclaimed property report.

2) The administrator once again attempts to contact owners. Historically, this was done through newspaper advertisements; now, however, in addition to print advertising, states maintain searchable online databases, work with other government agencies to update contact information for owners, send direct mail to apparent owners, and perform other types of in-person outreach and media advertising to attempt to reunite owners, or their heirs, with their unclaimed property.

3) Cash remitted to the administrator is deposited into a state fund. Non-cash property is held for a period of time and then sold if the owner has not been located, with the proceeds being deposited into the same state fund. Owners can claim their property from the administrator using online or paper claim forms and, when necessary, by supplying supporting documentation to prove that they are the rightful owner. There is no deadline for an owner to reclaim his or her property from the administrator.

g) The U.S. Supreme Court has established federal common law rules to determine which state is entitled to unclaimed property. The cases of Texas v. New Jersey, 379 U.S. 674 (1965), Pennsylvania v. New York, 407 U.S. 206 (1972), and Delaware v. New York, 507 U.S. 490 (1993) have established the framework to determine which state has priority in claiming unclaimed property.

h) The Act is not identical to the version of RUUPA promulgated by the ULC. The ULC version, including the official comments, is available at www.uniformlaws.org. While the General Assembly chose to adopt great portions of the version of RUUPA promulgated by the ULC, certain provisions from the Former Act were retained, language from prior versions of the uniform Act were used in places, and sometimes provisions were modified or entirely rewritten. However, the Act, Illinois' version of RUUPA, contains all of the elements of modern unclaimed property law discussed in this Appendix.