

Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

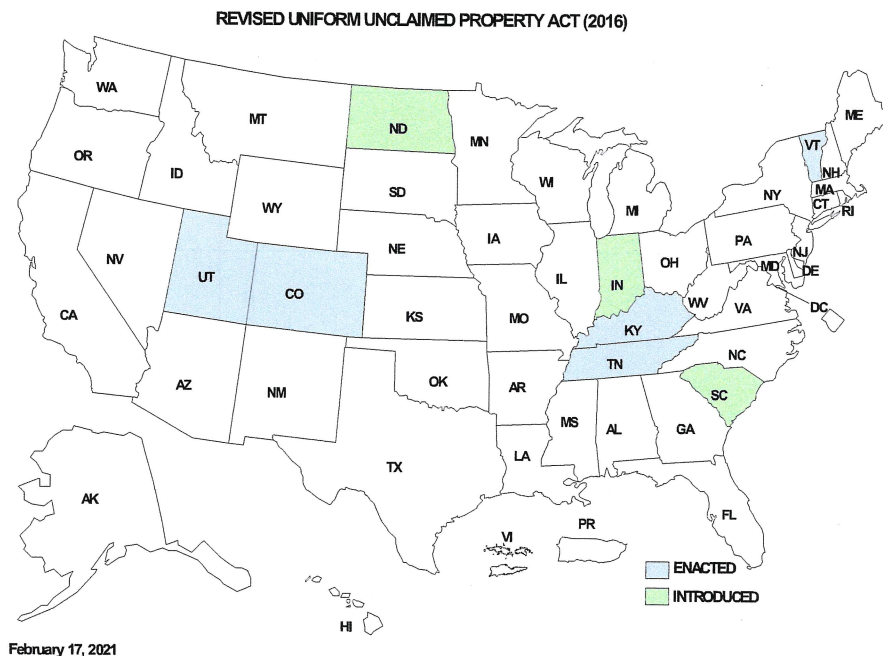
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A Few Facts about THE REVISED UNIFORM UNCLAIMED PROPERTY ACT (2016)

PURPOSE: The Revised Uniform Unclaimed Property Act (RUUPA) is the newest revision of the Uniform Unclaimed Property Act, originally promulgated by the Uniform Law Commission in 1954. Under the Act, property that is presumed abandoned or unclaimed must be reported and remitted to the states. If no valid property owner is identified, the state may sell the property and use the funds for its own purposes, so long as it retains some of the proceeds to honor claims of owners. A few of the changes in RUUPA are: clarifying the tangible and intangible property types included in the Act; establishing new events that trigger presumed abandonment; revising dormancy periods; refining the duties of holders of unclaimed property; and adding security and confidentiality provisions.

ORIGIN: Completed by the Uniform Law Commission in 2016.

ENACTED BY: Colorado, Kentucky, Tennessee, Utah, Vermont



For more information about the Revised Uniform Unclaimed Property Act, please contact ULC Legislative Counsel Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.



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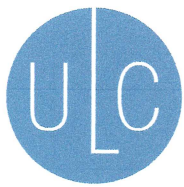
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WHY YOUR STATE SHOULD ADOPT THE REVISED UNIFORM UNCLAIMED PROPERTY ACT (2016)

The Revised Uniform Unclaimed Property Act (RUUPA) is the latest revision to the Uniform Unclaimed Property Act, originally promulgated by the Uniform Law Commission in 1954. RUUPA provides necessary updates to the Act that keep up with technological innovation and recognize new forms of property not included in prior versions of the Act. Some of the benefits of RUUPA are:

- ***The RUUPA clarifies which types of intangible property are covered in the Act.*** The following types of intangible property are now specifically included: virtual currency, payroll cards, stored-value cards, municipal bonds, health savings accounts, commissions, employee reimbursements, and custodial accounts for minors.
- ***The RUUPA provides specific dormancy periods.*** The Act establishes dormancy periods for many types of property for the first time. For example, a three-year dormancy period for health savings accounts, custodial accounts for minors, payroll card accounts, and stored-value cards. There is a one-year dormancy period for a commission or reimbursement owed to an employee.
- ***The RUUPA expands remedies for holders.*** If an administrator conducts an examination and determines that a holder is liable for unreported property, then the holder has several remedies under RUUPA. The Act provides for informal conferences between a holder and the administrator, as well as administrative and judicial review. These provisions do not exist in earlier versions of the uniform act.
- ***The RUUPA prioritizes information security.*** RUUPA establishes clear rules for the protection and use of confidential information, including rules for when confidential information may be disclosed. RUUPA also includes security-breach notification and response requirements.

For further information about the RUUPA, please contact ULC Legislative Counsel Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.



THE REVISED UNIFORM UNCLAIMED PROPERTY ACT (2016)

- A Summary -

The Revised Uniform Unclaimed Property Act (RUUPA) is an update to the Uniform Unclaimed Property Act, which was last amended in 1995. Every state has unclaimed property laws, which apply to all businesses, nonprofit organizations, government entities, and individuals who hold property owned by other persons or have fixed obligations to pay debts due to other persons.

The key parties involved in the distribution and processing of unclaimed property are the apparent owner, holder, and administrator. The apparent owner is the person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder. The holder is the person obligated to hold for the account of, or to deliver or pay to, the owner property that is subject to the RUUPA. If the property is “abandoned” under the Act, then the holder must report the property to the administrator, the state official responsible for administering the RUUPA.

Article 2 of the RUUPA establishes rules to determine if property is abandoned. Under the Act, property is presumed abandoned if it is unclaimed by its apparent owner after a specified period of time (the dormancy period). The length of the dormancy period depends on the type of property. RUUPA establishes dormancy periods for some types of property that were not covered in previous versions of the Act, including health savings accounts, custodial accounts for minors, stored-value cards, and more. Article 2 also includes rules for how and when the holder of the property must communicate with the apparent owner.

The RUUPA clarifies that property is not presumed abandoned if the apparent owner shows an interest in the property during the dormancy period designated in the Act. Some of the ways in which an apparent owner may show interest are by a record communicated by the apparent owner to the holder about the property, payment of a premium on an insurance policy, or deposit or withdrawal from an account at a financial institution.

Article 3 of the RUUPA establishes three priority rules to determine which state may take custody of property that is presumed abandoned. The first-priority rule grants custody to the state of the last-known address of the apparent owner, according to the holder’s records. If there is no record of the address of the apparent owner, or the address is in a state that does not permit the custodial taking of the property, then the property is subject to custodial taking by the state of corporate domicile of the holder. The third-priority rule permits a state administrator to take custody of the property if (1) the transaction involving the property occurred in the state; (2) the holder is domiciled in a state that does not provide for the custodial taking of the property; 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.

Under Articles 4 and 5 of the RUUPA, the holder of property presumed abandoned must send a notice to the apparent owner identifying the property and must file a report with the

administrator identifying the property. Some of the changes the RUUPA makes to the notice requirements include:

- permitting the use of electronic notices;
- requiring the notice to identify the property and its value, state that the property may be sold by the administrator, provide details for how to prevent the property from being delivered to the state, and establishing a deadline for when action must be taken by the owner to prevent the delivery of property to the state; and
- providing that the holder is not required to include confidential information in the notice that can be used to verify the identity of the individual.

The RUUPA alters some of the filing requirements, also. For example, states may not require unclaimed property reports to be submitted in paper form. In addition, holders are authorized to contract with third parties to report unclaimed property to the state administrator, but the holder remains liable for the failure of the third party to submit a complete, accurate, and timely report and to deliver unclaimed property to the state.

Articles 6 and 7 describe how the administrator may take custody of unclaimed property and how it may sell it. Except for securities, the RUUPA allows the administrator to sell the property three years after receipt, but it is not required to do so. Securities may be sold three or more years after the administrator receives the security and gives the apparent owner notice under Section 503. The administrator is prohibited from selling military medals or decorations awarded for military service. Instead, the administrator may deliver them to military veterans' organizations or governmental entities.

Article 8 directs the administrator to deposit all funds received under the Act into the general fund of the state, including proceeds from the sale of property under Article 7. Article 8 also requires the administrator to maintain records of the property.

Article 9 addresses various scenarios in which the administrator of one state would need to pay or deliver unclaimed property to another state, either because there is a superior claim to the property by the other state or the property is subject to the right of another state to take custody. Section 903 discusses claims for the property by a person claiming to be the property owner. If the property has a value less than \$250, then the administrator may waive the requirement to file a claim if the person receiving the property or payment is the same person as the apparent owner, as included in the holder's report, and the administrator reasonably believes the person is entitled to receive the property or payment.

Article 10 explains how an administrator may request property reports and how an administrator may examine records to determine if a person has complied with the Act. The RUUPA requires every administrator to adopt rules governing procedures and standards for an examination. The rules must specify that an examination will be conducted in accordance with the rules and with generally accepted examination practices and standards. The RUUPA also clarifies which records are confidential and exempt from public disclosure under the Act.

The RUUPA's Article 11 gives holders the right to seek review of determinations made by the administrator concerning their liability to deliver property or payment to the state. Three options

are provided for states to choose from consisting of (1) an informal conference with the administrator; (2) an administrative appeals process; and (3) a direct appeal to state court.

If the administrator's determination becomes final and is not subject to administrative or judicial review, the administrator is permitted to commence an action in court to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property. Article 12 imposes a penalty on a holder that fails to report, pay, or deliver property within the time required by the Act. Civil penalties may also apply if the holder enters into a contract to evade an obligation under the Act.

Article 13 of the RUUPA governs the enforceability of an agreement between an apparent owner and a "finder" to locate and recover property. The Act requires a signed record between the parties to designate the finder as an agent of the owner. The agent is then entitled to receive from the administrator all information concerning the property which the apparent owner would be entitled to receive, including information that would otherwise be considered confidential under the Act.

Article 14 explains what information is considered confidential under the Act. The Article describes when confidential information may be disclosed under the Act, and the steps that an administrator must take in the event of a security breach. The Act also permits a person that will be examined for compliance under the RUUPA to require all those who will have access to the person's records to sign a confidentiality agreement.

The Revised Uniform Unclaimed Property Act makes a number of updates to earlier versions of the uniform act in order to keep up with technological changes and new forms of property, as well as to clear up contested issues raised by various unclaimed property constituencies. The RUUPA offers a comprehensive set of rules for unclaimed property and should be enacted in every state.

For more information about the RUUPA, please contact ULC Legislative Counsel Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.