

HOUSE BILL NO. 179
INTRODUCED BY BARDANOUVE

IN THE HOUSE

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| January 12, 1983 | Introduced and referred to Committee on Judiciary. |
| January 21, 1983 | Committee recommend bill do pass as amended. Report adopted. |
| January 22, 1983 | Bill printed and placed on members' desks. |
| January 24, 1983 | Second reading, do pass. |
| January 25, 1983 | Considered correctly engrossed. |
| January 26, 1983 | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

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| January 27, 1983 | Introduced and referred to Committee on Judiciary. |
| March 17, 1983 | Committee recommend bill be concurred in. Report adopted. |
| March 18, 1983 | Second reading, concurred in. |
| March 21, 1983 | Third reading, concurred in. Ayes, 47; Noes, 0. |

IN THE HOUSE

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| March 21, 1983 | Returned to House. |
| March 22, 1983 | Sent to enrolling. Reported correctly enrolled. |

1 House BILL NO. 179
 2 INTRODUCED BY Balderson
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT TO CONFORM
 6 WITH THE UNITED STATES SUPREME COURT DECISION IN TEXAS V.
 7 NEW JERSEY, 379 US 670, AND WITH CURRENT APPLICABLE FEDERAL
 8 STATUTES; AMENDING SECTIONS 70-9-101, 70-9-102, 70-9-301,
 9 70-9-302, 70-9-307, 70-9-314, AND 70-9-316, MCA; REPEALING
 10 SECTION 70-9-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 70-9-101, MCA, is amended to read:
 14 "70-9-101. Short title. Parts 1 through 3 of this
 15 chapter may be cited as the "Uniform ~~Disposition~~ of
 16 Unclaimed Property Act".

17 Section 2. Section 70-9-102, MCA, is amended to read:
 18 "70-9-102. Definitions. As used in parts 1 through 3,
 19 unless the context otherwise requires, the following
 20 definitions apply:

21 (1) "Banking organization" means any bank, national
 22 bank, trust company, savings bank, industrial bank, land
 23 bank, safe deposit company, or a private banker engaged in
 24 business in this state.

25 (2) "Business association" means any corporation,

1 other than a public corporation, joint-stock company,
 2 business trust, partnership, or any association for business
 3 purposes of two or more individuals.

4 ~~(3) "Department" means the department of revenue~~
 5 ~~provided for in 2-15-1301.~~

6 ~~(3)(4) "Financial organization" means any savings and~~
 7 ~~loan association, building and loan association, credit~~
 8 ~~union, cooperative bank, or investment company engaged in~~
 9 ~~business in this state.~~

10 ~~(4)(5) "Holder" means any person in possession of~~
 11 ~~property subject to parts 1 through 3 belonging to another~~
 12 ~~or who is trustee in case of a trust or is indebted to~~
 13 ~~another on an obligation subject to parts 1 through 3.~~

14 ~~(6) "Intangible property" includes:~~
 15 ~~(a) money, checks, drafts, deposits, interest,~~
 16 ~~dividends, and income;~~

17 ~~(b) credit balances, customer overpayments, gift~~
 18 ~~certificates, security deposits, refunds, credit memos,~~
 19 ~~unpaid wages, unused airline tickets, and unidentified~~
 20 ~~remittances;~~

21 ~~(c) stocks and other intangible ownership interests in~~
 22 ~~business associations;~~

23 ~~(d) money deposited to redeem stocks, bonds, coupons,~~
 24 ~~and other securities or to make distributions;~~

25 ~~(e) amounts due and payable under the terms of~~

INTRODUCED BILL

~~insurance policies; and~~

~~(f) amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.~~

~~(7) "Last-known address" means a description in the records of the holder of the location of the apparent owner sufficient for the purpose of the delivery of mail.~~

~~(5)(8) "Life insurance corporation" means any association or corporation transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.~~

~~(6)(9) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of other choses in action or any person having a legal or equitable interest in property subject to parts 1 through 3 or his legal representative.~~

~~(7)(10) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.~~

~~(8)(11) "Utility" means any person who owns or operates~~

within this state for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas."

NEW SECTION. Section 3. General rules for taking custody of intangible unclaimed property. (1) Unless otherwise provided by law, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under part 2 are satisfied and:

(a) the last-known address of the apparent owner, as shown on the records of the holder, is in this state;

(b) the records of the holder do not reflect the identity of the person entitled to the property and it is established that the last-known address of the person entitled to the property is in this state;

(c) the records of the holder do not reflect the last-known address of the apparent owner and it is established that:

(i) the last-known address of the person entitled to the property is in this state; or

(ii) the holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of

1 the last-known address of the apparent owner or other person
2 entitled to the property;

3 (d) the last-known address of the apparent owner, as
4 shown on the records of the holder, is in a state that does
5 not provide by law for the escheat or custodial taking of
6 the property or its escheat or unclaimed property law is not
7 applicable to the property and the holder is a domiciliary
8 or a government or governmental subdivision or agency of
9 this state;

10 (e) the last-known address of the apparent owner, as
11 shown on the records of the holder, is in a foreign nation
12 and the holder is a domiciliary or a government or
13 governmental subdivision or agency of this state; or

14 (f) the transaction out of which the property arose
15 occurred in this state; and

16 (i) (A) the last-known address of the apparent owner
17 or other person entitled to the property is unknown; or

18 (B) the last-known address of the apparent owner or
19 other person entitled to the property is in a state that
20 does not provide by law for the escheat or custodial taking
21 of the property or its escheat or unclaimed property law is
22 not applicable to the property; and

23 (ii) the holder is a domiciliary of a state that does
24 not provide by law for the escheat or custodial taking of
25 the property or its escheat or unclaimed property law is not

1 applicable to the property.

2 (2) No sum payable on a traveler's check, money order,
3 or similar written instrument, other than a third-party bank
4 check, may be subjected to the custody of this state as
5 unclaimed property unless:

6 (a) the records of the issuer show that the traveler's
7 check, money order, or similar written instrument was
8 purchased in this state;

9 (b) the issuer has its principal place of business in
10 this state and the records of the issuer do not show the
11 state in which the traveler's check, money order, or similar
12 written instrument was purchased; or

13 (c) the issuer has its principal place of business in
14 this state, the records of the issuer show the state in
15 which the traveler's check, money order, or similar written
16 instrument was purchased, and the laws of the state of
17 purchase do not provide for the escheat or custodial taking
18 of the property or its escheat or unclaimed property law is
19 not applicable to the property.

20 NEW SECTION. Section 4. Gift certificates and credit
21 memos. (1) A gift certificate or a credit memo issued in the
22 ordinary course of an issuer's business which remains
23 unclaimed by the owner for more than 7 years after becoming
24 payable or distributable is presumed abandoned.

25 (2) In the case of a gift certificate, the amount

presumed abandoned is the price paid by the purchaser for the gift certificate. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

NEW SECTION. Section 5. Service, handling, maintenance, or other charge or fee — deduction. (1) No service, handling, maintenance, or other charge or fee of any kind may be deducted or withheld from any property subject to escheat under this chapter unless specifically permitted by this chapter.

(2) Even when specifically permitted by this chapter, such charges or fees may not be excluded, withheld, or deducted from property subject to this chapter if, under its normal procedure, the holder would not have excluded, withheld, or deducted such charges or fees had the property been claimed by the owner prior to being reported or remitted to the department.

Section 6. Section 70-9-301, MCA, is amended to read:

"70-9-301. Report of abandoned property -- duty to prevent abandonment prior to filing. (1) Every person holding moneys or other property, tangible or intangible, presumed abandoned under parts 1 through 3 shall report the property to the department of—revenue as hereinafter provided.

(2) The report shall be verified and shall include:

(a) except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of \$10 or more presumed abandoned under parts 1 through 3;

(b) in case of unclaimed moneys of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(c) the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due. Items of value under \$10 each may be reported in aggregate.

(d) the date when the property became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the property; and

(e) other information which the department of—revenue prescribes by rule as necessary for the administration of parts 1 through 3.

(3) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

1 (4) The report shall be filed before November 1 every
 2 3 years as of June 30 next preceding, but the reports of
 3 life insurance corporations, banking and financial
 4 organizations, and cooperatives shall be filed before May 1
 5 of each year as of December 31 next preceding. The
 6 department may request that any other reports be filed each
 7 year. The department may postpone the reporting date upon
 8 written request by any person required to file a report. The
 9 department shall furnish forms for this report.

10 (5) ~~If the holder of property presumed abandoned under~~
 11 ~~parts 1 through 3 knows the whereabouts of the owner and if~~
 12 ~~the owner's claim has not been barred by the statute of~~
 13 ~~limitations, the holder shall before filing the annual~~
 14 ~~report communicate with the owner and take necessary steps~~
 15 ~~to prevent abandonment from being presumed. The holder shall~~
 16 ~~exercise due diligence to ascertain the whereabouts of the~~
 17 ~~owner. Not more than 120 days before filing the report~~
 18 ~~required by this section, the holder in possession of~~
 19 ~~property presumed abandoned and subject to custody as~~
 20 ~~unclaimed property under parts 1 through 3 shall send~~
 21 ~~written notice to the apparent owner at his last known~~
 22 ~~address informing him that the holder is in possession of~~
 23 ~~property subject to this chapter if:~~

24 (a) ~~the holder has in his records an address for the~~
 25 ~~apparent owner which the holder's records do not disclose to~~

1 ~~be inaccurate;~~

2 ~~(b) the claim of the apparent owner is not barred by~~
 3 ~~the statute of limitations; and~~

4 ~~(c) the property has a value of \$20 or more.~~

5 (6) Verification if made by a partnership shall be
 6 executed by a partner; if made by an unincorporated
 7 association or private corporation, by an officer; and if
 8 made by a public corporation, by its chief fiscal officer.*

9 Section 7. Section 70-9-302, MCA, is amended to read:

10 "70-9-302. Notice of property presumed abandoned --
 11 publication -- mail. (1) ~~Within 120 days from the filing of~~
 12 ~~the report required by 70-9-301, the department of revenue~~
 13 ~~shall publish notice at least once each week for 2~~
 14 ~~successive weeks in an English language newspaper of general~~
 15 ~~circulation in the county in this state in which is located~~
 16 ~~the last known address of any person to be named in the~~
 17 ~~notice. If no address is listed or if the address is outside~~
 18 ~~this state, the notice shall be published in the county in~~
 19 ~~which the holder of the abandoned property has his principal~~
 20 ~~place of business within this state. The department shall~~
 21 ~~publish notice of property presumed abandoned not later than~~
 22 ~~March 1 after the report required by 70-9-301 is due or, in~~
 23 ~~the case of property reported by life insurance~~
 24 ~~corporations, banking and financial organizations, and~~
 25 ~~cooperatives, August 1 of the year the report is due. The~~

~~notice must be published at least once a week for 2 consecutive weeks in a newspaper of general circulation in the county in this state in which is located the last-known address of any person to be named in the notice. If no address is listed or the address is outside the state, the notice must be published in the county in which the holder of the property has its principal place of business within this state.~~

(2) The published notice shall be entitled "Notice of Names of Persons Appearing to Be Owners of Abandoned Property" and shall contain:

(a) the names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified;

(b) a statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the department; and

(c) a statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within 65 days from the date of the second published notice, the abandoned property will be

placed not later than 85 days after such publication date in the custody of the department to whom all further claims must thereafter be directed.

(3) The department is not required to publish in such notice any item of less than \$50 unless the department considers such publication to be in the public interest.

~~(4) Within 120 days from the receipt of the report required by 76-9-301, the department shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of \$50 or more presumed abandoned under parts 1 through 3.~~

~~(5) The mailed notice shall contain:~~

~~(a) a statement that, according to a report filed with the department, property is being held to which the addressee appears entitled;~~

~~(b) the name and address of the person holding the property and any necessary information regarding changes of name and address of the holder;~~

~~(c) a statement that if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.~~

~~(6)(4)~~ This section is not applicable to sums payable on travelers' checks or money orders presumed abandoned

1 under 70-9-201."

2 Section 8. Section 70-9-307, MCA, is amended to read:

3 "70-9-307. Period of limitations not to prevent
4 presumption or affect duties ~~"Limitation on department~~
5 ~~action.~~ (1) The expiration of any period of time specified
6 by statute or court order during which an action or
7 proceeding may be commenced or enforced to obtain payment of
8 a claim for money or recovery of property shall not prevent
9 the money or property from being presumed abandoned property
10 or affect any duty to file a report required by parts 1
11 through 3 or to pay or deliver abandoned property to the
12 department of revenue.

13 ~~(2) No action or proceeding may be commenced by the~~
14 ~~department with respect to any duty of a holder under parts~~
15 ~~1 through 3 more than 10 years after the duty arises."~~

16 Section 9. Section 70-9-314, MCA, is amended to read:

17 "70-9-314. Examination of records for failure to
18 report ~~Records requirements -- examination.~~ (1) Every holder
19 required to file a report under 70-9-301 concerning any
20 property for which it has obtained the last-known address of
21 the owner shall maintain a record of the name and last-known
22 address of the owner for 10 years after the property becomes
23 reportable, except to the extent that a shorter time is
24 provided in subsection (2).

25 (2) Any business association that sells its travelers'

1 checks, money orders, or similar written instruments, other
2 than third-party bank checks on which the business
3 association is directly liable or that provides such
4 instruments to others for sale in this state shall maintain
5 a record of those instruments while they remain outstanding,
6 indicating the state and date of issue for 3 years after
7 the date the property is reportable.

8 (1) The department of revenue or its designated
9 agent may at reasonable times and upon reasonable notice
10 examine the records of any person if the department has
11 reason to believe that such person has failed to report
12 property that should have been reported pursuant to parts 1
13 through 3 who it has reason to believe may be holding
14 unclaimed property. In addition, the department shall, in
15 the course of conducting an investigation, examination, or
16 audit under Title 15, identify any abandoned property which
17 is subject to parts 1 through 3.

18 (2) The commissioner of insurance shall, in the
19 course of conducting an investigation, examination, or audit
20 under Title 33, identify any abandoned property which is
21 subject to parts 1 through 3 and shall, as soon as
22 practicable, give a detailed report of any such
23 identification to the department of revenue.

24 (3) The department of commerce shall, in the course
25 of conducting an investigation, examination, or audit under

1 Title 32, identify any abandoned property which is subject
2 to parts 1 through 3 and shall, as soon as practicable, give
3 a detailed report of any such identification to the
4 department of revenue."

5 Section 10. Section 70-9-316, MCA, is amended to read:

6 "70-9-316. Penalties. (1) Any person who willfully
7 fails to render any report or perform other duties required
8 under parts 1 through 3 shall be punished by a fine of \$50
9 for each day such report is withheld but not more than
10 \$1,000.

11 (2) Any person who willfully refuses to pay or deliver
12 abandoned property to the department of revenue as required
13 under parts 1 through 3 shall be punished by a fine of not
14 less than \$100 or more than \$1,000 or imprisonment for not
15 more than 6 months, or both, in the discretion of the court.

16 ~~(3) A person who fails to pay or deliver property~~
17 ~~within the time prescribed in parts 1 through 3 may be~~
18 ~~required to pay to the department interest at the rate of 1%~~
19 ~~a month or fraction thereof on the property or value thereof~~
20 ~~from the date the property should have been paid or~~
21 ~~delivered until it is paid or delivered."~~

22 NEW SECTION. Section 11. Interstate agreements and
23 cooperation. (1) The department may enter into agreements
24 with other states to exchange information needed to enable
25 this or another state to audit or otherwise determine

1 unclaimed property that it or another state may be entitled
2 to subject to a claim of custody. The department may require
3 the reporting of information needed to enable compliance
4 with agreements made pursuant to this section.

5 (2) To avoid conflicts between the department's
6 procedures and the procedures of administrators in other
7 jurisdictions that enact substantially the Uniform Unclaimed
8 Property Act, the department, as far as is consistent with
9 the purposes, policies, and provisions of this chapter,
10 shall advise and consult with administrators in other
11 jurisdictions that enact substantially the Uniform Unclaimed
12 Property Act and take into consideration the rules of
13 administrators in such other jurisdictions.

14 NEW SECTION. Section 12. Joint and reciprocal actions
15 with other states. (1) The department may join with other
16 states to seek enforcement of this chapter against any
17 person who is or may be holding property reportable under
18 this chapter.

19 (2) At the request of another state, the attorney
20 general of this state may bring an action in the name of the
21 department of the other state in any court of competent
22 jurisdiction to enforce the unclaimed property laws of the
23 other state against a holder in this state of property
24 subject to escheat or a claim of abandonment by the other
25 state if the other state has agreed to pay expenses incurred

1 by the attorney general in bringing the action.

2 (3) The department may request that the attorney
3 general of another state or any other person bring an action
4 in the name of the administrator in the other state. This
5 state shall pay all expenses, including attorney fees, in
6 any action under this subsection. The department may agree
7 to pay the person bringing the action attorney fees based in
8 whole or in part on a percentage of the value of any
9 property recovered in the action. No expenses paid pursuant
10 to this subsection may be deducted from the amount that is
11 subject to the claim by the owner under this chapter.

12 ~~NEW SECTION.~~ Section 13. Repealer. Section 70-9-103,
13 MCA, is repealed.

14 ~~NEW SECTION.~~ Section 14. Codification instruction.
15 Sections 3 through 5, 11, and 12 are intended to be codified
16 as an integral part of Title 70, chapter 9, and the
17 provisions of Title 70, chapter 9, apply to sections 3
18 through 5, 11, and 12.

19 ~~NEW SECTION.~~ Section 15. Effective date. This act is
20 effective July 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 093-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 13, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 179 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

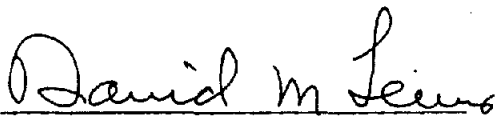
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 179 generally revises the uniform disposition of unclaimed property act to conform with the United States Supreme Court decision in Texas v. New Jersey, 379 US 670, and with current applicable federal statutes; and provides an effective date.

FISCAL IMPACT:

This bill would have no fiscal impact. The bill is a "housekeeping" measure, designed to implement practices imposed by the U.S. Supreme Court decision in Texas v. New Jersey. The proposed law will bring the Montana Code Annotated into conformity with the preeminent requirements of the federal law.

FISCAL NOTE 4:M/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-19-83

Approved by Committee
on Judiciary

HOUSE BILL NO. 179

INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT TO CONFORM
WITH THE UNITED STATES SUPREME COURT DECISION IN TEXAS V.
NEW JERSEY, 379 US 670, AND WITH CURRENT APPLICABLE FEDERAL
STATUTES; AMENDING SECTIONS 70-9-101, 70-9-102, 70-9-301,
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SECTION 70-9-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-9-101, MCA, is amended to read:

"70-9-101. Short title. Parts 1 through 3 of this
chapter may be cited as the "Uniform Disposition--of
Unclaimed Property Act"."

Section 2. Section 70-9-102, MCA, is amended to read:

"70-9-102. Definitions. As used in parts 1 through 3,
unless the context otherwise requires, the following
definitions apply:

(1) "Banking organization" means any bank, national
bank, trust company, savings bank, industrial bank, land
bank, safe deposit company, or a private banker engaged in
business in this state.

(2) "Business association" means any corporation,

other than a public corporation, joint-stock company,
business trust, partnership, or any association for business
purposes of two or more individuals.

~~(3) "Department" means the department of revenue
provided for in 2-15-1301.~~

~~(3)(4)~~ "Financial organization" means any savings and
loan association, building and loan association, credit
union, cooperative bank, or investment company engaged in
business in this state.

~~(4)(5)~~ "Holder" means any person in possession of
property subject to parts 1 through 3 belonging to another
or who is trustee in case of a trust or is indebted to
another on an obligation subject to parts 1 through 3.

~~(6) "Intangible property" includes:~~

~~(a) money, checks, drafts, deposits, interest,
dividends, and income;~~

~~(b) credit balances, customer overpayments, gift
certificates, security deposits, refunds, credit memos,
unpaid wages, unused airline tickets, and unidentified
remittances;~~

~~(c) stocks and other intangible ownership interests in
business associations;~~

~~(d) money deposited to redeem stocks, bonds, coupons,
and other securities or to make distributions;~~

~~(e) amounts due and payable under the terms of~~

insurance policies; and

~~(f) amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pensions, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.~~

~~(7) "Last-known address" means a description in the records of the holder, of the location of the apparent owner sufficient for the purpose of the delivery of mail.~~

~~(5)(8) "Life insurance corporation" means any association or corporation transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.~~

~~(6)(9) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of other choses in action or any person having a legal or equitable interest in property subject to parts 1 through 3 or his legal representative.~~

~~(7)(10) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.~~

~~(8)(11) "Utility" means any person who owns or operates~~

within this state for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas."

NEW SECTION. Section 3. General rules for taking custody of intangible unclaimed property. (1) Unless otherwise provided by law, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under part 2 are satisfied and:

(a) the last-known address of the apparent owner, as shown on the records of the holder, is in this state;

(b) the records of the holder do not reflect the identity of the person entitled to the property and it is established that the last-known address of the person entitled to the property is in this state;

(c) the records of the holder do not reflect the last-known address of the apparent owner and it is established that:

(i) the last-known address of the person entitled to the property is in this state; or

(ii) the holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of

the last-known address of the apparent owner or other person entitled to the property;

(d) the last-known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of this state;

(e) the last-known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state; or

(f) the transaction out of which the property arose occurred in this state; and

(i) (A) the last-known address of the apparent owner or other person entitled to the property is unknown; or

(B) the last-known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property; and

(ii) the holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not

applicable to the property.

(2) No sum payable on a traveler's check, money order, or similar written instrument, other than a third-party bank check, may be subjected to the custody of this state as unclaimed property unless:

(a) the records of the issuer show that the traveler's check, money order, or similar written instrument was purchased in this state;

(b) the issuer has its principal place of business in this state and the records of the issuer do not show the state in which the traveler's check, money order, or similar written instrument was purchased; or

(c) the issuer has its principal place of business in this state, the records of the issuer show the state in which the traveler's check, money order, or similar written instrument was purchased, and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

NEW SECTION. Section 4. Gift certificates and credit memos. (1) A gift certificate or a credit memo issued in the ordinary course of an issuer's business which remains unclaimed by the owner for more than 7 years after becoming payable or distributable is presumed abandoned.

(2) In the case of a gift certificate, the amount

presumed abandoned is the price paid by the purchaser for the gift certificate. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

NEW SECTION. Section 5. Service, handling, maintenance, or other charge or fee -- deduction. (1) No service, handling, maintenance, or other charge or fee of any kind may be deducted or withheld from any property subject to escheat under this chapter unless specifically permitted by this chapter.

(2) Even when specifically permitted by this chapter, such charges or fees may not be excluded, withheld, or deducted from property subject to this chapter if, under its normal procedure, the holder would not have excluded, withheld, or deducted such charges or fees had the property been claimed by the owner prior to being reported or remitted to the department.

Section 6. Section 70-9-301, MCA, is amended to read:

"70-9-301. Report of abandoned property -- duty to prevent abandonment prior to filing. (1) Every person holding moneys or other property, tangible or intangible, presumed abandoned under parts 1 through 3 shall report the property to the department of--revenue as hereinafter provided.

(2) The report shall be verified and shall include:

(a) except with respect to travelers' checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of \$10 or more presumed abandoned under parts 1 through 3;

(b) in case of unclaimed moneys of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(c) the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due. Items of value under \$10 each may be reported in aggregate.

(d) the date when the property became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the property; and

(e) other information which the department of--revenue prescribes by rule as necessary for the administration of parts 1 through 3.

(3) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(4) The report shall be filed before November 1 every 3 years as of June 30 next preceding, but the reports of life insurance corporations, banking and financial organizations, and cooperatives shall be filed before May 1 of each year as of December 31 next preceding. The department may request that any other reports be filed each year. The department may postpone the reporting date upon written request by any person required to file a report. The department shall furnish forms for this report.

(5) ~~if the holder of property presumed abandoned under parts 1 through 3 knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall before filing the annual report communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.~~ Not more than 120 days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under parts 1 through 3 shall send written notice to the apparent owner at his last known address informing him that the holder is in possession of property subject to this chapter if:

(a) the holder has in his records an address for the apparent owner which the holder's records do not disclose to

be inaccurate;

(b) the claim of the apparent owner is not barred by the statute of limitations; and

(c) the property has a value of \$50 \$100 or more.

(6) Verification if made by a partnership shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer."

Section 7. Section 70-9-302, MCA, is amended to read:

"70-9-302. Notice of property presumed abandoned -- publication -- mail. (1) ~~Within 120 days from the filing of the report required by 70-9-301 the department of revenue shall publish notice at least once each week for 2 successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state. The department shall publish notice of property presumed abandoned not later than March 1 after the report required by 70-9-301 is due or, in the case of property reported by life insurance corporations, banking and financial organizations, and cooperatives, August 1 of the year the report is due. The~~

notice must be published at least once a week for 2 consecutive weeks in a newspaper of general circulation in the county in this state in which is located the last-known address of any person to be named in the notice. If no address is listed or the address is outside the state, the notice must be published in the county in which the holder of the property has its principal place of business within this state.

(2) The published notice shall be entitled "Notice of Names of Persons Appearing to Be Owners of Abandoned Property" and shall contain:

(a) the names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified;

(b) a statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the department; and

(c) a statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within 65 days from the date of the second published notice, the abandoned property will be

placed not later than 85 days after such publication date in the custody of the department to whom all further claims must thereafter be directed.

(3) The department is not required to publish in such notice any item of less than \$50 \$100 unless the department considers such publication to be in the public interest.

~~(4) Within 120 days from the receipt of the report required by 78-9-301, the department shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of \$50 or more presumed abandoned under parts 1 through 3.~~

~~(5) The mailed notice shall contain:~~

~~(a) a statement that, according to a report filed with the department, property is being held to which the addressee appears entitled;~~

~~(b) the name and address of the person holding the property and any necessary information regarding changes of name and address of the holder;~~

~~(c) a statement that if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.~~

~~(6)~~ (4) This section is not applicable to sums payable on travelers' checks or money orders presumed abandoned

1 under 70-9-201."

2 Section 8. Section 70-9-307, MCA, is amended to read:

3 "70-9-307. Period of limitations not to prevent
4 presumption or affect duties ~~== limitation on department~~
5 ~~action.~~ (1) The expiration of any period of time specified
6 by statute or court order during which an action or
7 proceeding may be commenced or enforced to obtain payment of
8 a claim for money or recovery of property shall not prevent
9 the money or property from being presumed abandoned property
10 or affect any duty to file a report required by parts 1
11 through 3 or to pay or deliver abandoned property to the
12 department of revenue.

13 ~~(2) No action or proceeding may be commenced by the~~
14 ~~department with respect to any duty of a holder under parts~~
15 ~~1 through 3 more than 10 years after the duty arose."~~

16 Section 9. Section 70-9-314, MCA, is amended to read:

17 "70-9-314. Examination ~~--of--records--for--failure--to~~
18 ~~report Records requirements -- examination.~~ (1) Every holder
19 ~~required to file a report under 70-9-301 concerning any~~
20 ~~property for which it has obtained the last-known address of~~
21 ~~the owner shall maintain a record of the name and last-known~~
22 ~~address of the owner for 10 years after the property becomes~~
23 ~~reportable, except to the extent that a shorter time is~~
24 ~~provided in subsection (2).~~

25 (2) ~~Any business association that sells its travelers'~~

1 ~~checks, money orders, or similar written instruments, other~~
2 ~~than third-party bank checks on which the business~~
3 ~~association is directly liable, or that provides such~~
4 ~~instruments to others for sale in this state shall maintain~~
5 ~~a record of those instruments while they remain outstanding,~~
6 ~~indicating the state and date of issue, for 5 years after~~
7 ~~the date the property is reportable.~~

8 ~~††131~~ The department of ~~--revenue~~ or its designated
9 agent may at reasonable times and upon reasonable notice
10 examine the records of any person ~~†--the--department--has~~
11 ~~reason--to--believe--that--such--person--has--failed--to--report~~
12 ~~property--that--should--have--been--reported--pursuant--to--parts--1~~
13 ~~through--3 who it has reason to believe may be holding~~
14 ~~unclaimed property.~~ In addition, the department shall, in
15 the course of conducting an investigation, examination, or
16 audit under Title 15, identify any abandoned property which
17 is subject to parts 1 through 3.

18 ~~††141~~ The commissioner of insurance shall, in the
19 course of conducting an investigation, examination, or audit
20 under Title 33, identify any abandoned property which is
21 subject to parts 1 through 3 and shall, as soon as
22 practicable, give a detailed report of any such
23 identification to the department of ~~revenue~~.

24 ~~††151~~ The department of commerce shall, in the course
25 of conducting an investigation, examination, or audit under

Title 32, identify any abandoned property which is subject to parts 1 through 3 and shall, as soon as practicable, give a detailed report of any such identification to the department of revenue."

Section 10. Section 70-9-316, MCA, is amended to read:

"70-9-316. Penalties. (1) Any person who willfully fails to render any report or perform other duties required under parts 1 through 3 shall be punished by a fine of \$50 for each day such report is withheld but not more than \$1,000.

(2) Any person who willfully refuses to pay or deliver abandoned property to the department of revenue as required under parts 1 through 3 shall be punished by a fine of not less than \$100 or more than \$1,000 or imprisonment for not more than 6 months, or both, in the discretion of the court.

~~(3) A person who fails to pay or deliver property within the time prescribed in parts 1 through 3 may be required to pay to the department interest at the rate of 1% a month or fraction thereof on the property or value thereof from the date the property should have been paid or delivered until it is paid or delivered."~~

NEW SECTION. Section 11. Interstate agreements and cooperation. (1) The department may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise determine

unclaimed property that it or another state may be entitled to subject to a claim of custody. The department may require the reporting of information needed to enable compliance with agreements made pursuant to this section.

(2) To avoid conflicts between the department's procedures and the procedures of administrators in other jurisdictions that enact substantially the Uniform Unclaimed Property Act, the department, as far as is consistent with the purposes, policies, and provisions of this chapter, shall advise and consult with administrators in other jurisdictions that enact substantially the Uniform Unclaimed Property Act and take into consideration the rules of administrators in such other jurisdictions.

NEW SECTION. Section 12. Joint and reciprocal actions with other states. (1) The department may join with other states to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

(2) At the request of another state, the attorney general of this state may bring an action in the name of the department of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat or a claim of abandonment by the other state if the other state has agreed to pay expenses incurred

1 by the attorney general in bringing the action.

2 (3) The department may request that the attorney
3 general of another state or any other person bring an action
4 in the name of the administrator in the other state. This
5 state shall pay all expenses, including attorney fees, in
6 any action under this subsection. The department may agree
7 to pay the person bringing the action attorney fees based in
8 whole or in part on a percentage of the value of any
9 property recovered in the action. No expenses paid pursuant
10 to this subsection may be deducted from the amount that is
11 subject to the claim by the owner under this chapter.

12 NEW SECTION. Section 13. Repealer. Section 70-9-103,
13 MCA, is repealed.

14 NEW SECTION. Section 14. Codification instruction.
15 Sections 3 through 5, 11, and 12 are intended to be codified
16 as an integral part of Title 70, chapter 9, and the
17 provisions of Title 70, chapter 9, apply to sections 3
18 through 5, 11, and 12.

19 NEW SECTION. Section 15. Effective date. This act is
20 effective July 1, 1983.

-End-

THIRD READING

MISSING

HOUSE BILL NO. 179

INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT TO CONFORM WITH THE UNITED STATES SUPREME COURT DECISION IN TEXAS V. NEW JERSEY, 379 US 670, AND WITH CURRENT APPLICABLE FEDERAL STATUTES; AMENDING SECTIONS 70-9-101, 70-9-102, 70-9-301, 70-9-302, 70-9-307, 70-9-314, AND 70-9-316, MCA; REPEALING SECTION 70-9-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-9-101, MCA, is amended to read:

"70-9-101. Short title. Parts 1 through 3 of this chapter may be cited as the "Uniform Disposition--of Unclaimed Property Act"."

Section 2. Section 70-9-102, MCA, is amended to read:

"70-9-102. Definitions. As used in parts 1 through 3, unless the context otherwise requires, the following definitions apply:

(1) "Banking organization" means any bank, national bank, trust company, savings bank, industrial bank, land bank, safe deposit company, or a private banker engaged in business in this state.

(2) "Business association" means any corporation,

other than a public corporation, joint-stock company, business trust, partnership, or any association for business purposes of two or more individuals.

~~(3) "Department" means the department of revenue provided for in 2-15-1301.~~

~~(3)(4) "Financial organization" means any savings and loan association, building and loan association, credit union, cooperative bank, or investment company engaged in business in this state.~~

~~(4)(5) "Holder" means any person in possession of property subject to parts 1 through 3 belonging to another or who is trustee in case of a trust or is indebted to another on an obligation subject to parts 1 through 3.~~

~~(6) "Intangible property" includes:~~

~~(a) money, checks, drafts, deposits, interest, dividends, and income;~~

~~(b) credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;~~

~~(c) stocks and other intangible ownership interests in business associations;~~

~~(d) money deposited to redeem stocks, bonds, coupons, and other securities or to make distributions;~~

~~(e) amounts due and payable under the terms of~~

1 ~~insurance policies; and~~

2 ~~(f) amounts distributable from a trust or custodial~~

3 ~~fund established under a plan to provide health, welfare,~~

4 ~~pension, vacation, severance, retirement, death, stock~~

5 ~~purchases, profit sharing, employee savings, supplemental~~

6 ~~unemployment insurance, or similar benefits.~~

7 ~~(g) "Last-known address" means a description, in the~~

8 ~~records of the holder, of the location of the apparent owner~~

9 ~~sufficient for the purpose of the delivery of mail.~~

10 ~~(5)(b) "Life insurance corporation" means any~~

11 ~~association or corporation transacting within this state the~~

12 ~~business of insurance on the lives of persons or insurance~~

13 ~~appertaining thereto, including, but not by way of~~

14 ~~limitation, endowments and annuities.~~

15 ~~(6)(d) "Owner" means a depositor in case of a deposit,~~

16 ~~a beneficiary in case of a trust, or creditor, claimant, or~~

17 ~~payee in case of other choses in action or any person having~~

18 ~~a legal or equitable interest in property subject to parts 1~~

19 ~~through 3 or his legal representative.~~

20 ~~(7)(i) "Person" means any individual, business~~

21 ~~association, government or political subdivision, public~~

22 ~~corporation, public authority, estate, trust, two or more~~

23 ~~persons having a joint or common interest, or any other~~

24 ~~legal or commercial entity.~~

25 ~~(8)(iii) "Utility" means any person who owns or operates~~

1 within this state for public use any plant, equipment,

2 property, franchise, or license for the transmission of

3 communications or the production, storage, transmission,

4 sale, delivery, or furnishing of electricity, water, steam,

5 or gas."

6 **NEW SECTION.** Section 3. General rules for taking

7 custody of intangible unclaimed property. (1) Unless

8 otherwise provided by law, intangible property is subject to

9 the custody of this state as unclaimed property if the

10 conditions raising a presumption of abandonment under part 2

11 are satisfied and:

12 (a) the last-known address of the apparent owner, as

13 shown on the records of the holder, is in this state;

14 (b) the records of the holder do not reflect the

15 identity of the person entitled to the property and it is

16 established that the last-known address of the person

17 entitled to the property is in this state;

18 (c) the records of the holder do not reflect the

19 last-known address of the apparent owner and it is

20 established that:

21 (i) the last-known address of the person entitled to

22 the property is in this state; or

23 (ii) the holder is a domiciliary or a government or

24 governmental subdivision or agency of this state and has not

25 previously paid or delivered the property to the state of

1 the last-known address of the apparent owner or other person
2 entitled to the property;

3 (d) the last-known address of the apparent owner, as
4 shown on the records of the holder, is in a state that does
5 not provide by law for the escheat or custodial taking of
6 the property or its escheat or unclaimed property law is not
7 applicable to the property and the holder is a domiciliary
8 or a government or governmental subdivision or agency of
9 this state;

10 (e) the last-known address of the apparent owner, as
11 shown on the records of the holder, is in a foreign nation
12 and the holder is a domiciliary or a government or
13 governmental subdivision or agency of this state; or

14 (f) the transaction out of which the property arose
15 occurred in this state; and

16 (i) (A) the last-known address of the apparent owner
17 or other person entitled to the property is unknown; or

18 (B) the last-known address of the apparent owner or
19 other person entitled to the property is in a state that
20 does not provide by law for the escheat or custodial taking
21 of the property or its escheat or unclaimed property law is
22 not applicable to the property; and

23 (ii) the holder is a domiciliary of a state that does
24 not provide by law for the escheat or custodial taking of
25 the property or its escheat or unclaimed property law is not

1 applicable to the property.

2 (2) No sum payable on a traveler's check, money order,
3 or similar written instrument, other than a third-party bank
4 check, may be subjected to the custody of this state as
5 unclaimed property unless:

6 (a) the records of the issuer show that the traveler's
7 check, money order, or similar written instrument was
8 purchased in this state;

9 (b) the issuer has its principal place of business in
10 this state and the records of the issuer do not show the
11 state in which the traveler's check, money order, or similar
12 written instrument was purchased; or

13 (c) the issuer has its principal place of business in
14 this state, the records of the issuer show the state in
15 which the traveler's check, money order, or similar written
16 instrument was purchased, and the laws of the state of
17 purchase do not provide for the escheat or custodial taking
18 of the property or its escheat or unclaimed property law is
19 not applicable to the property.

20 ~~NEW SECTION.~~ Section 4. Gift certificates and credit
21 memos. (1) A gift certificate or a credit memo issued in the
22 ordinary course of an issuer's business which remains
23 unclaimed by the owner for more than 7 years after becoming
24 payable or distributable is presumed abandoned.

25 (2) In the case of a gift certificate, the amount

1 presumed abandoned is the price paid by the purchaser for
2 the gift certificate. In the case of a credit memo, the
3 amount presumed abandoned is the amount credited to the
4 recipient of the memo.

5 NEW SECTION. Section 5. Service, handling,
6 maintenance, or other charge or fee -- deduction. (1) No
7 service, handling, maintenance, or other charge or fee of
8 any kind may be deducted or withheld from any property
9 subject to escheat under this chapter unless specifically
10 permitted by this chapter.

11 (2) Even when specifically permitted by this chapter,
12 such charges or fees may not be excluded, withheld, or
13 deducted from property subject to this chapter if, under its
14 normal procedure, the holder would not have excluded,
15 withheld, or deducted such charges or fees had the property
16 been claimed by the owner prior to being reported or
17 remitted to the department.

18 Section 6. Section 70-9-301, MCA, is amended to read:

19 "70-9-301. Report of abandoned property -- duty to
20 prevent abandonment prior to filing. (1) Every person
21 holding moneys or other property, tangible or intangible,
22 presumed abandoned under parts 1 through 3 shall report the
23 property to the department of--revenue as hereinafter
24 provided.

25 (2) The report shall be verified and shall include:

1 (a) except with respect to travelers' checks and money
2 orders, the name, if known, and last known address, if any,
3 of each person appearing from the records of the holder to
4 be the owner of any property of value of \$10 or more
5 presumed abandoned under parts 1 through 3;

6 (b) in case of unclaimed moneys of life insurance
7 corporations, the full name of the insured or annuitant and
8 his last known address according to the life insurance
9 corporation's records;

10 (c) the nature and identifying number, if any, or
11 description of the property and the amount appearing from
12 the records to be due. Items of value under \$10 each may be
13 reported in aggregate.

14 (d) the date when the property became payable,
15 demandable, or returnable and the date of the last
16 transaction with the owner with respect to the property; and

17 (e) other information which the department of--revenue
18 prescribes by rule as necessary for the administration of
19 parts 1 through 3.

20 (3) If the person holding property presumed abandoned
21 is a successor to other persons who previously held the
22 property for the owner or if the holder has changed his name
23 while holding the property, he shall file with his report
24 all prior known names and addresses of each holder of the
25 property.

(4) The report shall be filed before November 1 every 3 years as of June 30 next preceding, but the reports of life insurance corporations, banking and financial organizations, and cooperatives shall be filed before May 1 of each year as of December 31 next preceding. The department may request that any other reports be filed each year. The department may postpone the reporting date upon written request by any person required to file a report. The department shall furnish forms for this report.

(5) ~~If the holder of property presumed abandoned under parts 1 through 3 knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall before filing the annual report communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner. Not more than 120 days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under parts 1 through 3 shall send written notice to the apparent owner at his last known address informing him that the holder is in possession of property subject to this chapter if:~~

~~(a) the holder has in his records an address for the apparent owner which the holder's records do not disclose to~~

~~be inaccurate;~~

~~(b) the claim of the apparent owner is not barred by the statute of limitations; and~~

~~(c) the property has a value of \$50 \$100 or more.~~

(6) Verification if made by a partnership shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer."

Section 7. Section 70-9-302, MCA, is amended to read:

"70-9-302. Notice of property presumed abandoned -- publication -- mail. (1) Within 120 days from the filing of the report required by 70-9-301, the department of revenue shall publish notice at least once each week for 2 successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state. The department shall publish notice of property presumed abandoned not later than March 1 after the report required by 70-9-301 is due or, in the case of property reported by life insurance corporations, banking and financial organizations, and cooperatives, August 1 of the year the report is due. The

1 ~~notice must be published at least once a week for 2~~
 2 ~~consecutive weeks in a newspaper of general circulation in~~
 3 ~~the county in this state in which is located the last-known~~
 4 ~~address of any person to be named in the notice. If no~~
 5 ~~address is listed or the address is outside the state, the~~
 6 ~~notice must be published in the county in which the holder~~
 7 ~~of the property has its principal place of business within~~
 8 ~~this state.~~

9 (2) The published notice shall be entitled "Notice of
 10 Names of Persons Appearing to Be Owners of Abandoned
 11 Property" and shall contain:

12 (a) the names in alphabetical order and last known
 13 addresses, if any, of persons listed in the report and
 14 entitled to notice within the county as hereinbefore
 15 specified;

16 (b) a statement that information concerning the amount
 17 or description of the property and the name and address of
 18 the holder may be obtained by any persons possessing an
 19 interest in the property by addressing an inquiry to the
 20 department; and

21 (c) a statement that if proof of claim is not
 22 presented by the owner to the holder and if the owner's
 23 right to receive the property is not established to the
 24 holder's satisfaction within 65 days from the date of the
 25 second published notice, the abandoned property will be

1 placed not later than 85 days after such publication date in
 2 the custody of the department to whom all further claims
 3 must thereafter be directed.

4 (3) The department is not required to publish in such
 5 notice any item of less than \$50 ~~100~~ unless the department
 6 considers such publication to be in the public interest.

7 ~~(4) Within 128 days from the receipt of the report~~
 8 ~~required by 78-9-381, the department shall mail a notice to~~
 9 ~~each person having an address listed therein who appears to~~
 10 ~~be entitled to property of the value of \$50 or more presumed~~
 11 ~~abandoned under parts 2 through 3.~~

12 ~~(5) The mailed notice shall contain:~~

13 ~~(a) a statement that according to a report filed with~~
 14 ~~the department, property is being held to which the~~
 15 ~~addressee appears entitled;~~

16 ~~(b) the name and address of the person holding the~~
 17 ~~property and any necessary information regarding changes of~~
 18 ~~name and address of the holder;~~

19 ~~(c) a statement that if satisfactory proof of claim is~~
 20 ~~not presented by the owner to the holder by the date~~
 21 ~~specified in the published notice, the property will be~~
 22 ~~placed in the custody of the department to whom all further~~
 23 ~~claims must be directed.~~

24 ~~(6) This section is not applicable to sums payable~~
 25 ~~on travelers' checks or money orders presumed abandoned~~

1 under 70-9-201."

2 Section 8. Section 70-9-307, MCA, is amended to read:

3 "70-9-307. Period of limitations not to prevent
4 presumption or affect duties ~~-- limitation on department~~
5 ~~action.~~ (1) The expiration of any period of time specified
6 by statute or court order during which an action or
7 proceeding may be commenced or enforced to obtain payment of
8 a claim for money or recovery of property shall not prevent
9 the money or property from being presumed abandoned property
10 or affect any duty to file a report required by parts 1
11 through 3 or to pay or deliver abandoned property to the
12 department of revenue.

13 ~~(2) No action or proceeding may be commenced by the~~
14 ~~department with respect to any duty of a holder under parts~~
15 ~~1 through 3 more than 10 years after the duty arose."~~

16 Section 9. Section 70-9-314, MCA, is amended to read:

17 "70-9-314. Examination ~~-- of records -- for -- failure -- to~~
18 ~~report~~ ~~Records requirements -- examination.~~ (1) Every holder
19 ~~required to file a report under 70-9-301 concerning any~~
20 ~~property for which it has obtained the last-known address of~~
21 ~~the owner shall maintain a record of the name and last-known~~
22 ~~address of the owner for 10 years after the property becomes~~
23 ~~reportable, except to the extent that a shorter time is~~
24 ~~provided in subsection (2).~~

25 ~~(2) Any business association that sells its travelers'~~

1 ~~checks, money orders, or similar written instruments, other~~
2 ~~than third-party bank checks on which the business~~
3 ~~association is directly liable, or that provides such~~
4 ~~instruments to others for sale in this state shall maintain~~
5 ~~a record of those instruments while they remain outstanding,~~
6 ~~indicating the state and date of issue, for 5 years after~~
7 ~~the date the property is reportable.~~

8 ~~(2)(3) The department of -- revenue or its designated~~
9 ~~agent may at reasonable times and upon reasonable notice~~
10 ~~examine the records of any person if -- the department -- has~~
11 ~~reason -- to -- believe -- that -- such -- person -- has -- failed -- to -- report~~
12 ~~property -- that -- should -- have -- been -- reported -- pursuant -- to -- parts -- 1~~
13 ~~through -- 3 who it has reason to believe may be holding~~
14 ~~unclaimed property.~~ In addition, the department shall, in
15 the course of conducting an investigation, examination, or
16 audit under Title 15, identify any abandoned property which
17 is subject to parts 1 through 3.

18 ~~(2)(4) The commissioner of insurance shall, in the~~
19 ~~course of conducting an investigation, examination, or audit~~
20 ~~under Title 33, identify any abandoned property which is~~
21 ~~subject to parts 1 through 3 and shall, as soon as~~
22 ~~practicable, give a detailed report of any such~~
23 ~~identification to the department of revenue.~~

24 ~~(3)(5) The department of commerce shall, in the course~~
25 ~~of conducting an investigation, examination, or audit under~~

1 Title 32, identify any abandoned property which is subject
2 to parts 1 through 3 and shall, as soon as practicable, give
3 a detailed report of any such identification to the
4 department of revenue."

5 Section 10. Section 70-9-316, MCA, is amended to read:

6 "70-9-316. Penalties. (1) Any person who willfully
7 fails to render any report or perform other duties required
8 under parts 1 through 3 shall be punished by a fine of \$50
9 for each day such report is withheld but not more than
10 \$1,000.

11 (2) Any person who willfully refuses to pay or deliver
12 abandoned property to the department of revenue as required
13 under parts 1 through 3 shall be punished by a fine of not
14 less than \$100 or more than \$1,000 or imprisonment for not
15 more than 6 months, or both, in the discretion of the court.

16 ~~(3) A person who fails to pay or deliver property~~
17 ~~within the time prescribed in parts 1 through 3 may be~~
18 ~~required to pay to the department interest at the rate of 12~~
19 ~~a month or fraction thereof on the property or value thereof~~
20 ~~from the date the property should have been paid or~~
21 ~~delivered until it is paid or delivered."~~

22 NEW SECTION. Section 11. Interstate agreements and
23 cooperation. (1) The department may enter into agreements
24 with other states to exchange information needed to enable
25 this or another state to audit or otherwise determine

1 unclaimed property that it or another state may be entitled
2 to subject to a claim of custody. The department may require
3 the reporting of information needed to enable compliance
4 with agreements made pursuant to this section.

5 (2) To avoid conflicts between the department's
6 procedures and the procedures of administrators in other
7 jurisdictions that enact substantially the Uniform Unclaimed
8 Property Act, the department, as far as is consistent with
9 the purposes, policies, and provisions of this chapter,
10 shall advise and consult with administrators in other
11 jurisdictions that enact substantially the Uniform Unclaimed
12 Property Act and take into consideration the rules of
13 administrators in such other jurisdictions.

14 NEW SECTION. Section 12. Joint and reciprocal actions
15 with other states. (1) The department may join with other
16 states to seek enforcement of this chapter against any
17 person who is or may be holding property reportable under
18 this chapter.

19 (2) At the request of another state, the attorney
20 general of this state may bring an action in the name of the
21 department of the other state in any court of competent
22 jurisdiction to enforce the unclaimed property laws of the
23 other state against a holder in this state of property
24 subject to escheat or a claim of abandonment by the other
25 state if the other state has agreed to pay expenses incurred

1 by the attorney general in bringing the action.

2 (3) The department may request that the attorney
3 general of another state or any other person bring an action
4 in the name of the administrator in the other state. This
5 state shall pay all expenses, including attorney fees, in
6 any action under this subsection. The department may agree
7 to pay the person bringing the action attorney fees based in
8 whole or in part on a percentage of the value of any
9 property recovered in the action. No expenses paid pursuant
10 to this subsection may be deducted from the amount that is
11 subject to the claim by the owner under this chapter.

12 NEW SECTION. Section 13. Repealer. Section 70-9-103,
13 MCA, is repealed.

14 NEW SECTION. Section 14. Codification instruction.
15 Sections 3 through 5, 11, and 12 are intended to be codified
16 as an integral part of Title 70, chapter 9, and the
17 provisions of Title 70, chapter 9, apply to sections 3
18 through 5, 11, and 12.

19 NEW SECTION. Section 15. Effective date. This act is
20 effective July 1, 1983.

-End-