

# Kansas Statutes Annotated

## Chapter 58, Article 39

- 58-3934.** Definitions and use of terms.
- 58-3935.** Property presumed abandoned; general rule.
- 58-3936.** General rules for taking custody of intangible unclaimed property.
- 58-3937.** Repealed.
- 58-3938.** Burden of proof as to property evidenced by record of check or draft.
- 58-3939.** Repealed.
- 58-3940 to 58-3942.** Repealed.
- 58-3943.** Stock and other intangible interests in business associations.
- 58-3944 to 58-3948.** Repealed.
- 58-3949.** Contents of safe deposit box or other safekeeping repository.
- 58-3950.** Report of abandoned property.
- 58-3951.** Advertising of unclaimed property; information required.
- 58-3952.** Payment or delivery of abandoned property.
- 58-3953.** Custody of state; holder relieved from liability; reimbursement of holder paying claim; reclaiming for owner; defense of holder; payment of safe deposit box or repository charges
- 58-3954.** Crediting of dividends, interest, or increments to owner's account
- 58-3955.** Public sale of abandoned property; exceptions.
- 58-3956.** Deposit of funds.
- 58-3957.** Filing of claim with administrator.
- 58-3958.** Claim of another state to recover property; procedure.
- 58-3959.** Action to establish claim.
- 58-3960.** Election to take property or delivery.
- 58-3961.** Destruction or disposition of property having insubstantial commercial value; immunity from liability.
- 58-3962.** Periods of limitation.
- 58-3963.** Requests for reports and examination of records.
- 58-3964.** Retention of records.
- 58-3965.** Enforcement.
- 58-3966.** Interstate agreements and cooperation; joint and reciprocal actions with other states.
- 58-3967.** Interest and penalties.
- 58-3968.** Agreement to locate reported property.
- 58-3969.** Foreign transactions.
- 58-3970.** Effect of new provisions; clarification of application.
- 58-3971.** Rules and regulations.
- 58-3972.** Severability.
- 58-3973.** Uniformity of application and construction.
- 58-3974.** Act not applicable in certain instances.
- 58-3975.** Application to certain intangible property originating or issued in Kansas.
- 58-3976.** Government agency cooperation.
- 58-3977.** Unclaimed mineral proceeds trust fund; transfers from and to state general fund; annual accounting report.
- 58-3978.** Approval of expenditures from unclaimed property claims fund, unclaimed property expense fund and unclaimed mineral proceeds trust fund; transfer of assets and liabilities of prior funds.
- 58-3979.** United States savings bonds; unclaimed property; escheat; procedure.
- 58-3980.** United States savings bonds; claim for such bonds.

## 58-3934

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

#### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3934. Definitions and use of terms.** As used in this act:

- (a) "Administrator" means the state treasurer.
- (b) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued or owing by the holder.
- (c) "Business association" means a corporation, joint-stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, mutual fund, utility, other business entity consisting of one or more persons, whether or not for profit or the United States government or any agency or subdivision thereof.
- (d) "Communication in writing" or "correspondence" shall include email or other electronic communications if the recipient has agreed in writing to receive electronic communications concerning the property.
- (e) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.
- (f) "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization or credit union.
- (g) "Holder" means a person obligated to hold for the account of, or deliver or pay to, the owner property that is subject to this act.
- (h) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection and workers compensation insurance.
- (i) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.
- (j) "Mineral" means oil, gas, uranium, sulphur, lignite, coal and any other substance that is ordinarily and naturally considered a mineral, regardless of the depth at which the oil, gas, uranium, sulphur, lignite, coal or other substance is found.
- (k) "Mineral proceeds" means amounts payable for the extraction, production or sale of minerals, or, upon abandonment of those payments, all payments that become payable thereafter. The term includes amounts payable:
  - (1) For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals;
  - (2) for the extraction, production or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments and production payments; and
  - (3) under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement.
- (l) "Money order" includes an express money order and a personal money order, on which the remitter is the purchaser. The term does not include a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.
- (m) "Owner" means a person who has a legal or equitable interest in property subject to this act or the person's legal representative. The term includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust and a creditor, claimant or payee in the case of other property.
- (n) "Person" means an individual, business association, financial organization, estate, trust, state or other government, governmental subdivision, agency or instrumentality or any other legal or commercial entity.
- (o) "Property" means tangible property or a fixed and certain interest in intangible property that is held, issued or owed in the course of a holder's business, or by a state or other government, governmental subdivision, agency or instrumentality and all income or increments therefrom. The term includes property that is referred to as or evidenced by:
  - (1) Money, a check, draft, deposit, interest or dividend;

- (2) credit balance, customer's overpayment, security deposit, refund, credit memorandum, unpaid wage, mineral proceeds or unidentified remittance;
- (3) stock or other evidence of ownership of an interest in a business association or financial organization;
- (4) a bond, debenture, note or other evidence of indebtedness;
- (5) money deposited to redeem stocks, bonds, coupons or other securities or to make distributions;
- (6) an amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers compensation insurance or health and disability insurance; and
- (7) an amount 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.
- (p) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.
- (q) "State" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico or any territory, insular possession or any other area subject to the jurisdiction of the United States.
- (r) "Utility" means a person who owns or operates 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.

**History:** L. 1994, ch. 8, § 1; L. 1999, ch. 100, § 1; L. 2000, ch. 125, § 3; Apr. 27.

## 58-3935

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

#### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3935. Property presumed abandoned; general rule.** (a) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

- (1) Traveler's check, 15 years after its issuance;
- (2) money order, seven years after issuance;
- (3) except as provided in K.S.A. 58-3943, and amendments thereto, stock or other equity interest in a business association or financial organization, including a security entitlement under article 8 of the uniform commercial code, five years after the earlier of:
  - (A) The date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner; or
  - (B) the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;
- (4) debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, five years after the date of the most recent interest payment unclaimed by the apparent owner;
- (5) a demand, savings or time deposit, including a deposit that is automatically renewable, five years after the earlier of maturity or the date of the last indication by the owner of interest in the property, except that a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;
- (6) money or credits owed to a customer as a result of a retail business transaction, five years after the obligation accrued;
- (7) amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;
- (8) property distributable by a business association or financial organization in a course of dissolution, one year after the property becomes distributable;
- (9) property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one year after the distribution date;

(10) property held by a court, state or other government, governmental subdivision, agency or instrumentality, one year after the property becomes distributable;

(11) wages or other compensation for personal services, one year after the compensation becomes payable;

(12) deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable;

(13) property held by agents and fiduciaries in a fiduciary capacity for the benefit of another person, five years after it has become payable or distributable, unless the owner has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by the fiduciary;

(14) property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

(15) property distributable in the course of a demutualization, rehabilitation or related reorganization of an insurance company shall be deemed abandoned as follows:

(A) Any check or draft, two years after the date of the demutualization or reorganization, if the check or draft has not been presented for payment and the owner has not otherwise communicated with the holder or its agent regarding the property;

(B) (i) any other property, two years after the date of the demutualization or reorganization if instruments or statements reflecting the distribution are either mailed to the owner and returned by the post office as undeliverable, or not mailed to the owner because of an address on the books and records of the holder that is known to be incorrect; and

(ii) the owner has not:

(a) Communicated in writing with the holder or its agent regarding the property; or

(b) otherwise communicated with the holder or its agent regarding the property as evidenced by a memorandum or other record on file with the holder or its agent.

(c) For any time more than two years after the date of demutualization or reorganization, any property which is not subject to subparagraph (A) or (B) of this paragraph (15) shall be treated under other provisions of this chapter for the specific type of property;

(16) all other property, five years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs; and

(17) any proceeds of a sale pursuant to K.S.A. 58-817, and amendments thereto, which remain after satisfaction of the lien provided by K.S.A. 58-816, and amendments thereto, that have been unclaimed by the owner for one year from receipt of the proceeds of the sale and satisfaction of the lien.

(b) At the time that an interest is presumed abandoned under subsection (a) any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(c) Property is unclaimed if, for the applicable period set forth in subsection (a), the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held, and has not otherwise indicated an interest in the property. A communication by an owner with a person other than the holder or the holder's representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

(d) An indication of an owner's interest in property includes:

(1) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(2) owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(3) the making of a deposit to or withdrawal from a bank account; and

(4) the payment of a premium with respect to a property interest in an insurance policy, except that the application of an automatic premium loan provision or other nonforfeiture provision contained in an

insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

(e) Property is payable or distributable for the purpose of this act notwithstanding the owner's failure to make demand or to present any instrument or document otherwise required to obtain payment.

(f) Any demand or savings account or matured timed deposit with a financial organization shall not be presumed abandoned if regular correspondence to an owner of the account has not been returned to the sender.

(g) Any outstanding check, draft, credit balance, customer's overpayment or unidentified remittance issued to a sole proprietorship or business association as part of a commercial transaction in the ordinary course of a holder's business shall not be presumed abandoned.

(h) A holder may not impose with respect to any property payable or distributable for the purpose of this act, including any income or increment derived therefrom, any fee or charge due to dormancy or inactivity or cease payment of interest unless:

(1) There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge or cease payment of interest;

(2) for property in excess of \$100, the holder, no more than three months before the initial imposition of those charges or cessation of interest, has mailed written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease, but the notice provided in this section need not be given with respect to charges imposed or interest ceased before the effective date of this act, or for property described in K.S.A. 58-3937 and 58-3938, and amendments thereto; and

(3) the holder regularly imposes such charges or ceases payment of interest and in no instance reverses or otherwise cancels them or retroactively credits interest with respect to the property. Charges imposed because of dormancy or inactivity may be made and collected monthly, quarterly or annually except that beginning with the effective date of this act, such charges may only be imposed for a maximum of five calendar years.

(i) For the purpose of this section, a person who holds property as an agent for a business association is deemed to hold the property in a fiduciary capacity for that business association alone unless the agreement between the agent and the business association provides otherwise.

(j) For the purposes of this act, a person who is deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

(k) Any property held by a financial organization that would otherwise be presumed abandoned under this section shall not be presumed abandoned if the apparent owner:

(1) Owns other property which is not presumed abandoned and if the financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this section at the address to which communications regarding the other property regularly are sent; or

(2) had another relationship with the financial organization concerning which the owner has:

(A) Communicated in writing with the financial organization; or

(B) otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the financial organization and if the financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this section at the address to which communications regarding the other relationship regularly are sent.

**History:** L. 1994, ch. 8, § 2; L. 1996, ch. 111, § 1; L. 1999, ch. 100, § 2; L. 2000, ch. 125, § 4; L. 2004, ch. 52, § 1; July 1.

## 58-3936

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

#### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3936. General rules for taking custody of intangible unclaimed property.** Except as otherwise provided in this act or by other statute of this state, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this state if:

- (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:
  - (1) The last known address of the person entitled to the property is in this state; or
  - (2) the holder is domiciled in this state or is a state or other government or governmental subdivision, agency or instrumentality 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 for the escheat or custodial taking of the property and the holder is domiciled in this state or is a state or other government or governmental subdivision, agency or instrumentality of this state;
- (e) the last known address of the apparent owner, as shown on the records of the holder, is in a foreign country and the holder is domiciled in this state or is a state or other government or governmental subdivision, agency or instrumentality of this state;
- (f) the transaction out of which the property arose occurred in this state, the holder is domiciled in a state that does not provide for the escheat or custodial taking of the property, and the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide by law for the escheat or custodial taking of the property; or
- (g) the property is a traveler's check or money order purchased in this state or the issuer of the traveler's check or money order has its principal place of business in this state and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased.

**History:** L. 1994, ch. 8, § 3; L. 1999, ch. 100, § 3; Jan. 1, 2000.

## **58-3937**

### **Chapter 58.--PERSONAL AND REAL PROPERTY Part 6.--MISCELLANEOUS PROVISIONS Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3937.**

**History:** L. 1994, ch. 8, § 4; Repealed, L. 1999, ch. 100, § 12; Jan. 1, 2000.

## **58-3938**

### **Chapter 58.--PERSONAL AND REAL PROPERTY Part 6.--MISCELLANEOUS PROVISIONS Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3938. Burden of proof as to property evidenced by record of check or draft.** A record of the issuance of a check, draft or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and a passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge and want of consideration are affirmative defenses that must be established by the holder.

**History:** L. 1994, ch. 8, § 5; L. 1999, ch. 100, § 4; Jan. 1, 2000.

## **58-3939**

### **Chapter 58.--PERSONAL AND REAL PROPERTY Part 6.--MISCELLANEOUS PROVISIONS Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3939.**

**History:** L. 1994, ch. 8, § 6; L. 1996, ch. 111, § 2; Repealed, L. 1999, ch. 100, § 12; Jan. 1, 2000.

## **58-3940 to 58-3942**

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**  
**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3940 to 58-3942.**

**History:** L. 1994, ch. 8, §§ 7 to 9; Repealed, L. 1999, ch. 100, § 12; Jan. 1, 2000.

**58-3943**

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**  
**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3943. Stock and other intangible interests in business associations.** This act does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions or other sums payable as a result of the interest unless:

(a) The records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within five years communicated in any manner described in paragraph (3) of subsection (a) of K.S.A. 58-3935, and amendments thereto; or

(b) five years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner has not within those five years communicated in any manner described in paragraph (3) of subsection (a) of K.S.A. 58-3935, and amendments thereto. The five-year period from the return of official shareholder notifications or communications shall commence from the earlier of the return of the second such mailing or the time the holder discontinues mailings to the shareholder.

**History:** L. 1994, ch. 8, § 10; L. 1999, ch. 100, § 5; Jan. 1, 2000.

**58-3944 to 58-3948**

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**  
**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3944 to 58-3948.**

**History:** L. 1994, ch. 8, §§ 11 to 15; Repealed, L. 1999, ch. 100, § 12; Jan. 1, 2000.

**58-3949**

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**  
**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3949. Contents of safe deposit box or other safekeeping repository.** Tangible property held in a safe deposit box or other safekeeping depository in this state in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law are presumed abandoned if the property remains unclaimed by the owner for more than five years after expiration of the lease or rental period on the box or other depository.

**History:** L. 1994, ch. 8, § 16; L. 1999, ch. 100, § 6; Jan. 1, 2000.

**58-3950**

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**  
**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3950. Report of abandoned property.** (a) Except as provided in subsection (i), a holder of property presumed abandoned shall make a report to the administrator concerning the property.

(b) The report must be verified and must contain:

(1) A description of the property;

(2) except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and social security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of \$100 or more;

(3) an aggregated amount of items valued under \$100 each;

(4) in the case of an amount of \$100 or more held or owing under an annuity or a life or endowment insurance policy, the full name and last known address of the insured or annuitant and of the beneficiary;

(5) in the case of property held in a safe deposit box or other safekeeping depository, a description of the property and any amounts owing to the holder;

(6) the date, if any, on which the property became payable, demandable or returnable and the date of the last transaction with the apparent owner with respect to the property; and

(7) other information that the administrator prescribes by rules and regulations as necessary for the administration of this act.

(c) If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.

(d) The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a report with respect to a life insurance company must be filed before May 1 of each year for the calendar year next preceding. The initial report of property distributable in the course of a demutualization, rehabilitation or related reorganization of an insurance company as of December 31, 2003, shall be due by November 1, 2004.

(e) The holder of property presumed abandoned shall send written notice to the apparent owner, not more than 120 days or less than 60 days before filing the report, stating that the holder is in possession of property subject to this act if:

(1) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;

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

(3) the value of the property is \$100 or more, or is reported under K.S.A. 58-3943 or 58-3949 and amendments thereto.

(f) The written notice shall also contain the following:

(1) Nature and identifying number, if any, or description of the funds or other property; and

(2) the amount appearing on the records of the holder to be due the apparent owner.

(g) If the holder is not a life insurance company, the written notice shall set forth an additional statement that the funds or other property will be reported as unclaimed property to the state treasurer of Kansas no later than November 1 of the current year.

(h) If the holder is a life insurance company, the written notice shall set forth an additional statement that the funds or other property will be reported as unclaimed property to the state treasurer of Kansas no later than May 1 of the current year.

(i) The holder of property presumed abandoned does not need to file a report under the provisions of this section if such holder has no individual property valued over \$100 and the total value of such holder's aggregated property is under \$250, unless required to do so by the provisions of subsection (k).

(j) Before the date for filing the report, the holder of property presumed abandoned may request the administrator to extend the time for filing the report. The administrator may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due which terminates the accrual of additional interest on the amount paid.

(k) The administrator, in the administrator's discretion, may require that any holder of property presumed abandoned, file a report as required by this section.

**History:** L. 1994, ch. 8, § 17; L. 1996, ch. 111, § 3; L. 1999, ch. 100, § 7; L. 2004, ch. 52, § 2; July 1.

## 58-3951

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

#### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3951. Advertising of unclaimed property; information required.** (a) Within the calendar year next following the year in which unclaimed property has been paid or delivered to the administrator, the administrator shall advertise the unclaimed property in such form as in the discretion of the administrator is

likely to attract the attention of the apparent owner of the unclaimed property. It shall contain the following information:

- (1) The name of each person appearing to be the owner of property presumed abandoned, as set forth in the report filed by the holder;
  - (2) the last known address or location of each person appearing to be the owner of property presumed abandoned, if an address or location is set forth in the report filed by the holder;
  - (3) a statement explaining that property of the owner has been presumed to be abandoned and has been taken into the protective custody of the administrator; and
  - (4) a statement that information about the abandoned property and its return to the apparent owner can be obtained at any time by a person having a legal or beneficial interest in that property by making an inquiry to the administrator.
- (b) The administrator shall not be required to advertise the name and address or location of an owner of abandoned property having a total value less than \$100, nor information concerning travelers checks and money orders.

**History:** L. 1994, ch. 8, § 18; L. 1996, ch. 111, § 4; July 1.

## **58-3952**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3952. Payment or delivery of abandoned property.** (a) At the time of the filing of the report required by subsection (d) of K.S.A. 58-3950 and amendments thereto and with that report, the holder of property presumed abandoned shall pay, deliver or cause to be paid or delivered to the administrator the property described in the report as unclaimed, but if, at the time provided for delivery of the property a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result.

(b) If the property reported to the administrator is a security or security entitlement under article 8 of the uniform commercial code, the administrator is an appropriate person to make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with article 8 of the uniform commercial code.

(c) If the holder of property reported to the administrator is the issuer of a certificated security, the administrator has the right to obtain a replacement certificate pursuant to K.S.A. 84-8-405, and amendments thereto, but an indemnity bond is not required.

(d) An issuer, the holder and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be indemnified against claims of any person in accordance with K.S.A. 58-3953 and amendments thereto for any loss or damage caused by the transfer, issuance and delivery of the certificate or security to the administrator.

(e) A holder is required to deliver property reported as aggregate under K.S.A. 58-3950, and amendments thereto, only if the total amount of the aggregate property reported exceeds \$250.

**History:** L. 1994, ch. 8, § 19; L. 1999, ch. 100, § 8; L. 2000, ch. 125, § 5; Apr. 27.

## **58-3953**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3953. Custody of state; holder relieved from liability; reimbursement of holder paying claim; reclaiming for owner; defense of holder; payment of safe deposit box or repository charges.** (a) In this section, payment or delivery is made in "good faith" if:

- (1) Payment or delivery was made in a reasonable attempt to comply with this act;
- (2) the holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and

(3) there is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

(b) Upon the payment or delivery of property to the administrator, the state assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the administrator in good faith is relieved of all liability arising thereafter with respect to the property.

(c) A holder who has paid money to the administrator pursuant to this act may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment and, upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the administrator shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that the instrument was duly presented and that payment was made to a person who reasonably appeared to be entitled to payment. The holder must be reimbursed for payment made even if the payment was made to a person whose claim was barred under K.S.A. 58-3962 and amendments thereto.

(d) A holder who has delivered property other than money to the administrator pursuant to this act may reclaim the property if it is still in the possession of the administrator, without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder.

(e) The administrator may accept a holder's affidavit as sufficient proof of the holder's right to recover money and property under this section.

(f) If a holder pays or delivers property to the administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim resulting from payment or delivery of the property to the administrator.

(g) Property removed from a safe deposit box or other safekeeping depository is received by the administrator subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The administrator shall reimburse the holder out of the proceeds remaining after deducting the expenses incurred by the administrator in selling the property.

**History:** L. 1994, ch. 8, § 20; L. 1999, ch. 100, § 9; Jan. 1, 2000.

## **58-3954**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

#### **58-3954. Crediting of dividends, interest, or increments to owner's account.**

- (a) Whenever property other than money is paid or delivered to the administrator under this act, the owner is entitled to receive from the administrator any dividends, interest or other increments realized or accruing on the property at or before liquidation or conversion thereof into money if the amount of dividends, interest or other increments is \$5 or more.
- (b) When interest bearing property is paid or delivered to the administrator, the owner shall be entitled to receive interest accruing thereafter. At the time a valid claim is approved by the administrator, simple interest without compounding shall be computed and paid based upon the average of the monthly net earnings rates of the pooled money investment portfolio for the time period the administrator has held the property. If the administrator has held the property for more than five years, the five year average of the monthly net earnings rates of the pooled money investment portfolio shall be used.

**History:** L. 1994, ch. 8, § 21; March 3.

## **58-3955**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3955. Public sale of abandoned property; exceptions.** (a) Except as provided in subsections (b) and (c), the administrator, within three years after the receipt of abandoned property, shall sell it to the

highest bidder at public sale in whatever city in the state affords in the judgment of the administrator the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if in the judgment of the administrator the bid is insufficient. If in the judgment of the administrator the probable cost of sale exceeds the value of the property, the property need not be offered for sale. Any sale held under this section shall be preceded by a single publication of notice, at least three weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(b) Securities listed on an established stock exchange shall be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.

(c) All securities presumed abandoned and delivered to the administrator shall be held for at least six months before they may be sold. All securities must be sold within one year after they are delivered to the administrator. A person making a claim under this act is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from the sale, less any amounts deducted pursuant to subsection (b) of K.S.A. 58-3956, and amendments thereto, but no person has any claim under this act against the state, the holder, any transfer agent, registrar or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

(d) The purchaser of property at any sale conducted by the administrator pursuant to this act takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

**History:** L. 1994, ch. 8, § 22; L. 2000, ch. 125, § 6; Apr. 27.

## **58-3956**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3956. Deposit of funds.** (a) Except as otherwise provided by this section, the administrator shall promptly deposit in the state general fund all funds received under this act, including the proceeds, from the sale of abandoned property under K.S.A. 58-3955 and amendments thereto, and the proceeds from the redemption of United States savings bonds under K.S.A. 58-3979, and amendments thereto. The unclaimed property claims fund is hereby created in the state treasury. The administrator shall credit moneys to the unclaimed property claims fund sufficient for the prompt payment of claims duly allowed by the administrator. The unclaimed property claims fund shall be in an amount of not less than \$100,000. Before making the deposit, the administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or contract listed in the report of an insurance company its number, the name of the company and the amount due. The record shall be available for public inspection at all reasonable business hours.

(b) Before making any deposit to the credit of the state general fund, the administrator may deduct and credit to the unclaimed property expense fund which is hereby created in the state treasury:

- (1) Any costs in connection with the sale of abandoned property;
- (2) costs of mailing and publication in connection with any abandoned property;
- (3) operating expenses; and
- (4) costs incurred in examining records of holders of property and in collecting the property from those holders.

**History:** L. 1994, ch. 8, § 23; L. 2000, ch. 125, § 7; Apr. 27.

## **58-3957**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3957. Filing of claim with administrator.** (a) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may file with the administrator a claim on a

form prescribed by the administrator and verified by the claimant. The administrator may hold a hearing on the claim in accordance with the provisions of the Kansas administrative procedure act. The decision resulting from any hearing shall be a public record.

(b) The administrator shall consider each claim within 90 days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

(c) If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, together with any additional amount required by K.S.A. 58-3954 and amendments thereto. Interest reported under the previous disposition of unclaimed property act shall not be computed, paid or delivered to the claimant after enactment of this act. If the claim is for property presumed abandoned under K.S.A. 58-3943 and amendments thereto which was sold by the administrator within three years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater.

(d) Any holder who pays the owner for property that has been delivered to the state and which, if claimed from the administrator, would be subject to subsection (c) shall add any additional amount as provided in K.S.A. 58-3954 and amendments thereto. The additional amount shall be repaid to the holder by the administrator in the same manner as the principal.

**History:** L. 1994, ch. 8, § 24; March 3.

## **58-3958**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3958. Claim of another state to recover property; procedure.** (a) At any time after property has been paid or delivered to the administrator under this act another state may recover the property if:

(1) The property was subjected to custody by this state because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed abandoned under this act, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;

(2) the last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state;

(3) the records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;

(4) the property was subjected to custody by this state under subsection (f) of K.S.A. 58-3936 and amendments thereto and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or

(5) the property is the sum payable on a travelers check, money order or other similar instrument that was subjected to custody by this state under K.S.A. 58-3937 and amendments thereto, and the instrument was purchased in the other state, and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.

(b) The claim of another state to recover escheated or abandoned property shall be presented in a form prescribed by the administrator who shall decide the claim within 90 days after it is presented. The administrator shall allow the claim if the other state is determined to be entitled to the abandoned property under subsection (a).

(c) The administrator shall require a state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim for the property.

**History:** L. 1994, ch. 8, § 25; March 3.

## 58-3959

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**  
**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3959. Action to establish claim.** A person aggrieved by a decision of the administrator or whose claims have not been acted upon within 90 days may bring an action to establish a claim in accordance with the act for judicial review and civil enforcement of agency actions.

**History:** L. 1994, ch. 8, § 26; March 3.

## 58-3960

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**  
**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3960. Election to take property or delivery.** (a) The administrator may decline to receive any property reported under this act which is considered to have a value less than the expense of giving notice and of sale. If the administrator elects not to receive custody of the property, the holder shall be notified within 120 days after filing the report required under K.S.A. 58-3950 and amendments thereto.

(b) A holder, with the written consent of the administrator and upon conditions and terms prescribed by the administrator, may report and deliver property before the property is presumed abandoned. Property delivered under this subsection shall be held by the administrator and is not presumed abandoned until such time as it otherwise would be presumed abandoned under this act.

**History:** L. 1994, ch. 8, § 27; March 3.

## 58-3961

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**  
**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3961. Destruction or disposition of property having insubstantial commercial value; immunity from liability.** If the administrator determines after investigation that any property delivered under this act has insubstantial commercial value, the administrator may destroy or otherwise dispose of the property at any time. No action or proceeding may be maintained against the state or any officer or against the holder for or on account of any action taken by the administrator pursuant to this section.

**History:** L. 1994, ch. 8, § 28; March 3.

## 58-3962

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**  
**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3962. Periods of limitation.** (a) The expiration, before or after the effective date of this act, or any period of time specified by contract, statute or court order during which a claim for money or property can be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property does not prevent the money or property from being presumed abandoned or affect any duty to file a report or to pay or deliver abandoned property to the administrator as required by this act.

(b) No action or proceeding may be commenced by the administrator against a holder concerning any provision of this act more than five years after the holder either specifically reported the property, or gave notice of a dispute regarding the property, to the administrator. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is tolled by the filing of a fraudulent report.

**History:** L. 1994, ch. 8, § 29; L. 1999, ch. 100, § 10; Jan. 1, 2000.

## 58-3963

**Chapter 58.--PERSONAL AND REAL PROPERTY**  
**Part 6.--MISCELLANEOUS PROVISIONS**

## **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3963. Requests for reports and examination of records.** (a) The administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this act.

(b) The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with the provisions of this act. The provisions of this section shall not apply to any supervised commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company which provides a letter from an independent certified public accountant or a resolution of its board of directors certifying compliance with this act, unless there is notification of noncompliance by a supervising agency of such commercial bank, trust company, savings and loan association, savings bank, credit union, or insurance company.

(c) If a person is treated under K.S.A. 58-3945 and amendments thereto as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection (b), may examine the records of the person if the administrator has given the notice required by subsection (b) to both the person and the business association at least 90 days before the examination.

(d) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this act, the administrator may assess the cost of the examination against the holder based upon the actual hourly salary rate for each examiner involved in the examination inclusive of travel to and from the place of the examination along with necessary and actual expenses for travel and subsistence as allowed under K.S.A. 75-3201 *et seq.* and amendments thereto, along with any consulting, data processing or other related expenses necessary to perform the examination. In no case may the examination charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to subsection (c) may be imposed only against the business association.

(e) If a holder fails after the effective date of this act to maintain the records required by K.S.A. 58-3964 and amendments thereto and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay such amounts as may reasonably be estimated from any available records.

**History:** L. 1994, ch. 8, § 30; March 3.

## **58-3964**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **Part 6.--MISCELLANEOUS PROVISIONS**

## **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3964. Retention of records.** (a) Every holder required to file a report under K.S.A. 58-3950 and amendments thereto, as to any property for which the holder has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for 10 years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (b) or by rules and regulations of the administrator.

(b) Any business association that sells in this state travelers checks or money orders, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this state shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

**History:** L. 1994, ch. 8, § 31; March 3.

## **58-3965**

### **Chapter 58.--PERSONAL AND REAL PROPERTY**

#### **Part 6.--MISCELLANEOUS PROVISIONS**

## **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3965. Enforcement.** (a) The administrator, for and on behalf of this state, may commence an action in a district court of Kansas:

(1) For an adjudication that certain property is unclaimed and payable or distributable to the administrator;

(2) to compel presentation of a report or payment or distribution of property to the administrator;

(3) to enforce the duty of a person to permit the examination or audit of the records of that person;

- (4) to enjoin any act that violates the public policy or provisions of this act; or
- (5) to enforce any aspect of this act in any manner.
- (b) The administrator may commence such an action in the following situations:
  - (1) The holder is a person domiciled in this state or is a governmental entity of this state;
  - (2) the holder is a person engaged in or transacting any business in this state, although not domiciled in this state; or
  - (3) the subject matter is tangible personal property held in this state.
- (c) The administrator, for and on behalf of this state, may commence an action against the United States government or any agency or subdivision thereof for an adjudication that the proceeds of United States savings bonds subject to the provisions of K.S.A. 58-3934, *et seq.*, and amendments thereto, are payable to the administrator.
- (d) In a situation where no district court in this state can obtain jurisdiction over the person involved, the administrator may commence such an action in a federal court or state court of another state having jurisdiction over that person.
- (e) The administrator shall be deemed an indispensable party to any judicial or administrative proceedings concerning the disposition and handling of unclaimed property that is or may be payable or distributable into the protective custody of the administrator. The administrator shall have a right to intervene and participate in any judicial or administrative proceeding when to do so will be in the best interest of this state, the apparent owner or the unclaimed property or to conserve and safeguard the unclaimed property against dissipation, undue diminishment or adverse discriminatory treatment.

**History:** L. 1994, ch. 8, § 32; L. 2000, ch. 125, § 8; Apr. 27.

## 58-3966

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

#### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

#### **58-3966. Interstate agreements and cooperation; joint and reciprocal actions with other states.**

(a) The administrator 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 administrator by rules and regulations may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

(b) To avoid conflicts between the administrator's procedures and the procedures of administrators in other jurisdictions that enact the uniform unclaimed property act, the administrator, so far as is consistent with the purposes, policies and provisions of this act before adopting, amending or repealing rules and regulations, shall advise and consult with administrators in other jurisdictions that enact substantially the uniform unclaimed property act and take into consideration the rules and regulations of administrators in other jurisdictions that enact the uniform unclaimed property act.

(c) The administrator may join with other states to seek enforcement of this act against any person who is or may be holding property reportable under this act.

(d) At the request of another state, the attorney general of this state may bring an action in the name of the administrator 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 by the attorney general in bringing the action.

(e) The administrator may request that the attorney general of another state or any other person bring an action in the name of the administrator in the other state. This state shall pay all expenses including attorney fees in any action under this subsection. The administrator may agree to pay the person bringing the action attorney fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses paid pursuant to this subsection may not be deducted from the amount that is subject to the claim by the owner under this act.

**History:** L. 1994, ch. 8, § 33; March 3.

## 58-3967

### Chapter 58.--PERSONAL AND REAL PROPERTY

**Part 6.--MISCELLANEOUS PROVISIONS**

**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3967. Interest and penalties.** (a) A person who willfully fails to present a report to the administrator when due or to perform any other duty required by this act, other than payment or delivery of unclaimed property as required by this act, shall pay a civil penalty of \$100 for each day the report is not presented or the duty is not performed, except the total civil penalty shall not exceed \$5,000.

(b) A person who willfully fails to send written notice as required in K.S.A. 58-3950 and amendments thereto shall pay a civil penalty not to exceed \$5 for each failure to send written notice to an apparent owner.

(c) A person who willfully fails to pay or deliver to the administrator any unclaimed property as required by this act shall pay a civil penalty equal to 25% of the value of the property that should have been paid or delivered.

(d) A person who fails to pay or deliver unclaimed property to the administrator within the time period required by this act shall pay to the administrator interest at the annual rate of 10% above the annual rate of discount, in effect on the date the property should have been paid or delivered, for the most recent issue of fifty-two-week United States treasury bills, calculated upon the value of the unclaimed property from the date that property should have been paid or delivered. If the property remains unpaid or undelivered for more than one year after becoming payable or deliverable, the interest rate for each succeeding year shall be calculated at an annual rate of 10% above the discount rate on each succeeding anniversary of the date that the unclaimed property was payable or distributable. For the purposes of assessing and calculating the penalties and interest on unclaimed property that was discovered during an examination or audit and that was not paid or distributed, as required, the date upon which the unclaimed property should have been paid or delivered shall be used as the date upon or from which penalties and interest are assessed and calculated.

(e) A person who willfully refuses after written demand by the administrator to pay or deliver property to the administrator as required under this act is guilty of a class B misdemeanor.

(f) The administrator shall have discretion to waive or reduce the payment of penalties and interest in an appropriate circumstance.

**History:** L. 1994, ch. 8, § 34; March 3.

**58-3968**

**Chapter 58.--PERSONAL AND REAL PROPERTY**

**Part 6.--MISCELLANEOUS PROVISIONS**

**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3968. Agreement to locate reported property.** (a) All agreements to pay compensation to recover or assist in the recovery of property reported under K.S.A. 58-3950, and amendments thereto, made within 24 months after the date payment or delivery is made under K.S.A. 58-3952, and amendments thereto, are unenforceable.

(b) All agreements to pay compensation to recover or assist in the recovery of property reported under K.S.A. 58-3950, and amendments thereto, made more than 24 months after the date payment or delivery is made under K.S.A. 58-3952, and amendments thereto, are unenforceable if the fee or compensation agreed upon is in excess of 15% of the value of the recoverable property. The administrator may require a third party seeking information concerning unclaimed property held for an apparent owner to provide a copy of an agreement signed by the claimant before releasing any information to the third party.

(c) State warrants that may be issued in payment for and redemption of recoverable property may be issued, in the discretion of the administrator, directly to the rightful owners or, as fiduciary of the estate of a deceased owner, to an heir or legatee, and not to a named attorney in fact, agent, assignee or other person regardless of written instructions to the contrary.

**History:** L. 1994, ch. 8, § 35; L. 2000, ch. 125, § 9; Apr. 27.

**58-3969**

**Chapter 58.--PERSONAL AND REAL PROPERTY**

**Part 6.--MISCELLANEOUS PROVISIONS**

**Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3969. Foreign transactions.** This act does not apply to any property held, due and owing in a foreign country and arising out of a foreign transaction.

**History:** L. 1994, ch. 8, § 36; March 3.

## **58-3970**

### **Chapter 58.--PERSONAL AND REAL PROPERTY Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3970. Effect of new provisions; clarification of application.** (a) This act does not relieve a holder of a duty that arose before the effective date of this act to report, pay or deliver property. A holder who did not comply with the law in effect before the effective date of this act is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this subsection, subject to subsection (b) of K.S.A. 58-3962 and amendments thereto.

(b) The initial report filed under this act for property that was not required to be reported before the effective date of this act but is subject to this act shall include all items of property that would have been presumed abandoned during the ten-year period preceding the effective date of this act as if this act had been in effect during that period.

**History:** L. 1994, ch. 8, § 37; March 3.

## **58-3971**

### **Chapter 58.--PERSONAL AND REAL PROPERTY Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3971. Rules and regulations.** The administrator is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this act.

**History:** L. 1994, ch. 8, § 38; March 3.

## **58-3972**

### **Chapter 58.--PERSONAL AND REAL PROPERTY Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3972. Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**History:** L. 1994, ch. 8, § 39; March 3.

## **58-3973**

### **Chapter 58.--PERSONAL AND REAL PROPERTY Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3973. Uniformity of application and construction.** This act shall be applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

**History:** L. 1994, ch. 8, § 40; March 3.

## **58-3974**

### **Chapter 58.--PERSONAL AND REAL PROPERTY Part 6.--MISCELLANEOUS PROVISIONS**

#### **Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT**

**58-3974. Act not applicable in certain instances.** (a) The provisions of this act shall not apply to any tangible or intangible personal property which is subject to the provisions of K.S.A. 8-1101, 8-1102, 9-1918, 10-815, 17-2206a, 17-5564, 19-320, 47-229, 47-230, 47-232, 47-236 to 47-239, inclusive, 59-514, 59-901 to 59-905, inclusive, 70-101, 70-102, 70-103 and 70-104 and amendments thereto.

(b) This act shall not apply to any personal property which is being administered or has been distributed under the provisions of K.S.A. 59-2701 to 59-2707, inclusive, and amendments thereto.

(c) This act shall not apply to any patronage dividend or capital credit held or owing by any cooperative association, society or corporation organized under the provisions of K.S.A. 17-1501 *et seq.*, 17-1601 *et seq.* or 17-4601 *et seq.* and amendments thereto.

(d) This act shall not apply to any patronage dividend or any capital credit held or owing by any public utility which is a member-owned nonprofit corporation organized under the provisions of K.S.A. 17-6001 *et seq.* and amendments thereto.

**History:** L. 1994, ch. 8, § 41; L. 1999, ch. 100, § 11; Jan. 1, 2000.

## 58-3975

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

##### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3975. Application to certain intangible property originating or issued in Kansas.** (a) All intangible property, including but not limited to, any interest, dividend or other earnings thereon, less any lawful charges, held by a business association, federal, state or local government or governmental subdivision, agency or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within three years after the date prescribed for payment or delivery, is presumed abandoned and subject to the custody of this state as unclaimed property if:

(1) The address of the owner is unknown; and

(2) the person or entity originating or issuing the intangible property is this state or any political subdivision of this state or is incorporated, organized, created or otherwise located in this state.

(b) The provisions of subsection (a) shall not apply to property which is or may be presumed abandoned and subject to the custody of this state pursuant to any other provision of law containing a dormancy period different from that prescribed in subsection (a).

(c) The provisions of subsection (a) shall apply to all property held at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.

**History:** L. 1994, ch. 8, § 42; March 3.

## 58-3976

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

##### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3976. Government agency cooperation.** Any public authority, public corporation, court or public officer of this state, or a political subdivision thereof, shall provide the administrator with such information as is necessary for carrying out the provisions of this act.

**History:** L. 1994, ch. 8, § 43; March 3.

## 58-3977

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

##### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3977. Unclaimed mineral proceeds trust fund; transfers from and to state general fund; annual accounting report.** (a) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$5,000,000 from the state general fund to the unclaimed mineral proceeds trust fund which is hereby created in the state treasury. All moneys in the unclaimed mineral proceeds trust fund shall be used for the payment of mineral proceeds claims made by another state for unclaimed mineral proceeds received in fiscal year 1994 and after the effective date of this act. Upon the request of the administrator and upon approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, the director of accounts and

reports shall transfer an additional amount not to exceed \$5,000,000 from the state general fund to the unclaimed mineral proceeds trust fund.

(b) Upon the request of the administrator, the director of accounts and reports shall make one or more transfers of moneys from the unclaimed mineral proceeds trust fund to the state general fund in such amounts and on such dates as may be requested by the administrator.

(c) The director of accounts and reports shall transfer from the unclaimed mineral proceeds trust fund to the state general fund any moneys remaining in such fund five years following the effective date of this act.

(d) The administrator shall issue an annual accounting report on the moneys paid from the unclaimed mineral proceeds trust fund for the prior fiscal year.

**History:** L. 1994, ch. 8, § 44; March 3.

## 58-3978

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

##### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3978. Approval of expenditures from unclaimed property claims fund, unclaimed property expense fund and unclaimed mineral proceeds trust fund; transfer of assets and liabilities of prior funds.** (a) All expenditures from the unclaimed property claims fund, the unclaimed property expense fund and the unclaimed mineral proceeds trust fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by a person designated by the administrator.

(b) On the effective date of this act, the director of accounts and reports shall transfer all moneys in the unclaimed property suspense fund to the unclaimed property claims fund. On the effective date of this act, the director of accounts and reports shall transfer all moneys in the unclaimed property contract fund to the unclaimed property expense fund and the unclaimed property contract fund is hereby abolished. On the effective date of this act, all liabilities of the unclaimed property suspense fund are hereby imposed on the unclaimed property claims fund and the unclaimed property suspense fund is hereby abolished.

**History:** L. 1994, ch. 8, § 45; March 3.

## 58-3979

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

##### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3979. United States savings bonds; unclaimed property; escheat; procedure.** (a) Notwithstanding the provisions of subsection (b) of K.S.A. 58-3953, and amendments thereto, United States savings bonds which are unclaimed property and subject to the provisions of K.S.A. 58-3934 *et seq.*, and amendments thereto, shall escheat to the state of Kansas three years after becoming unclaimed property and subject to the provisions of K.S.A. 58-3934 *et seq.*, and amendments thereto, and all property rights to such United States savings bonds or proceeds from such bonds shall vest solely in the state of Kansas.

(b) Within 180 days after the three years in subsection (a), if no claim has been filed in accordance with the provisions of K.S.A. 58-3934 *et seq.*, and amendments thereto, for such United States savings bonds, the administrator shall commence a civil action in the district court of Shawnee county for a determination that such United States savings bonds shall escheat to the state. The administrator may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the administrators custody to justify the expense of such proceedings.

(c) If no person shall file a claim or appear at the hearing to substantiate a claim or where the court shall determine that a claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by evidence that the administrator has substantially complied with the laws of this state, shall enter a judgment that the subject United States savings bonds have escheated to the state.

(d) The administrator shall redeem such United States savings bonds escheated to the state and the proceeds from such redemption of United States savings bonds shall be deposited in the state general fund in accordance with the provisions of K.S.A. 58-3956, and amendments thereto.

**History:** L. 2000, ch. 125, § 1; Apr. 27.

## 58-3980

### Chapter 58.--PERSONAL AND REAL PROPERTY

#### Part 6.--MISCELLANEOUS PROVISIONS

#### Article 39.--DISPOSITION OF UNCLAIMED PROPERTY ACT

**58-3980. United States savings bonds; claim for such bonds.** Any person making a claim for the United States savings bonds escheated to the state under K.S.A. 58-3979, and amendments thereto, or for the proceeds from such bonds, may file a claim in accordance with the provisions of K.S.A. 58-3934, *et seq.*, and amendments thereto. Upon providing sufficient proof the validity of such person's claim, the administrator may pay such claim in accordance with the provisions of K.S.A. 58-3934 *et seq.*, and amendments thereto.

**History:** L. 2000, ch. 125, § 2; Apr. 27.