

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #8

Filing Date

FILED

SEP 4 3 47 PM '97

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Effective Date

Oct. 16, 1997

**NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE**

AGENCY: State Treasurer's Office TITLE NUMBER: 112CSR5

DATE EMERGENCY RULE WAS ORIGINALLY FILED: July 1, 1997

FIRST EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

SECOND EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

DATE OF FIRST EMERGENCY AMENDMENT: September 4, 1997

SERIES NUMBER OF RULE: Series 5

TITLE OF RULE: Rules for Enforcement of the Uniform Unclaimed Property Act

THE ATTACHED IS AN EMERGENCY AMENDMENT TO AN EXISTING EMERGENCY RULE.  
THIS EMERGENCY AMENDMENT BECOMES EFFECTIVE AFTER APPROVAL BY  
SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

**THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY AMENDMENT ARE  
AS FOLLOWS:**

The changes being made in this emergency rule make this rule conform to some substantial changes made  
in the agency approved rule filed September 4, 1997, due to public comment. Please approve this rule  
as an emergency so both the emergency and the proposed rule will reflect the same language.

Use additional sheets if necessary

  
Signature

\$6.20

DATE: July 1, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Treasurer's Office

EMERGENCY RULE TITLE: Rules for Enforcement of the Uniform Unclaimed Property Act  
(112CSR5)

1. Date of Filing 7/1/97

2. Statutory authority for promulgating emergency rule:

West Virginia Code - Section 38-8-28

3. Date of filing of proposed legislative rule: 7/1/97

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

This rule, promulgated via Senate Bill No. 125, adopts new language.

5. Has the same or similar emergency rule previously been filed and expired?

N/A

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

N/A

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

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8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

This rule is required according to legislation passed in Senate

Bill No. 125, effective 7/1/97. Substantial harm to the public

interest could result by operating without this rule. (See

Statement of Circumstances of Proposed Rule).

**SUMMARY OF PROPOSED RULE**

**TITLE 112**

**LEGISLATIVE RULE**

**STATE TREASURER'S OFFICE**

**SERIES 5**

**RULES FOR ENFORCEMENT OF THE  
UNIFORM UNCLAIMED PROPERTY ACT**

This rule implements the provisions of the Code of West Virginia, 1931, as amended, et seq. §36-8-1 relating to the Uniform Unclaimed Property Act. This rule has provisions for presumption of abandonment, safe deposit boxes, gift certificates, dormancy charges and other deductions, reporting/due diligence, payment or delivery of property, advertising, custody by state, crediting of dividends, interest, and increments, public sale of abandoned property, deposit of funds, claims, action to establish claims, election to take payment or delivery, destruction or disposition of property, periods of limitation, requests for reports and examination of records, retention of records, enforcement, interstate agreements, interest and penalties, transitional provisions , disposition/reporting of property held by law enforcement agencies, rules, and descent and distribution.

**STATEMENT OF CIRCUMSTANCES OF PROPOSED RULE**

**TITLE 112**

**LEGISLATIVE RULE**

**STATE TREASURER'S OFFICE**

**SERIES 5**

**RULES FOR ENFORCEMENT OF THE**

**UNIFORM UNCLAIMED PROPERTY ACT**

This agency approved rule is needed to comply with provisions of W. Va. Code embodied in Senate Bill No. 125, passed during the 1997 Regular Legislative Session on April 12, 1997, effective on July 1, 1997. This bill specifies in §36-8-28 that legislative rules must be filed on an emergency basis and in conformity with the requirements of the secretary of state and the provisions of chapter 29-9-a of the code. Without this rule, the public interest can be substantially harmed, in that no formal procedures of handling abandoned and unclaimed property would be available.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** Rules for Enforcement of the Uniform Unclaimed Property Act

**Type of Rule:** X **Legislative**         **Interpretive**         **Procedural**

**Agency**                    State Treasurer's Office

**Address**                    Building 1, Suite E-145, State Capitol Complex  
Charleston, West Virginia 25305  
Contact Person: Anoop K. Bhasin - Telephone (304) 341-0704

**1. Effect of Proposed Rule**

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	\$	\$	\$437,167	\$500,000	\$500,000
<b>PERSONAL SERVICES</b>			437,167	437,167	437,167
<b>CURRENT EXPENSE</b>			0	50,000	50,000
<b>REPAIRS &amp; ALTERNATIONS</b>			0	0	0
<b>EQUIPMENT</b>			0	12833	12833
<b>OTHER</b>			0	0	0

**2. Explanation of above estimates:**

For FY98, a general revenue appropriation for the legislature will provide operating costs for personnel. Fees charged on abandoned property recieved will in future years provide funds for both personal services, current expense, and equipment.

**3. Objectives of these rules:**

To aid in the implementation and enforcement of the Uniform Unclaimed Property Act as set forth in WV Code 36-8-1.

**Rule Title:** Rules for Enforcement of the Uniform Unclaimed Property Act

**4. Explanation of Overall Economic Impact of Proposed Rule.**

**A. Economic Impact on State Government.**

Implementation of these rules will allow the Treasurer's Office to continue receiving and trying to find the rightful owner of said property. When an owner cannot be located, the proceeds are deposited into the state's general revenue fund.

**B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.**

When the rightful owners are located, said property or proceeds from such are returned to said owners.

**C. Economic Impact on Citizens/Public at Large.**

N/A

**Date:** July 1, 1997

**Signature of Agency Head or Authorized Representative**

*John D. Kerdue*

FILED

SEP 4 3 47 PM '97

TITLE 112  
LEGISLATIVE RULE  
STATE TREASURER'S OFFICE

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 5  
RULES FOR ENFORCEMENT OF THE  
UNIFORM UNCLAIMED PROPERTY ACT

**§112-5-1. General.**

1.1. Scope. -- These rules implement the provisions of the Code of West Virginia, 1931, as amended, §36-8-1, et seq., relating to the Uniform Unclaimed Property Act.

1.2. Authority. -- W.Va. Code §36-8-28.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Purpose. -- The general purpose of these rules is to aid in the implementation and enforcement of the Uniform Unclaimed Property Act as set forth in W.Va. Code §36-8-1.

1.6. Repeal of former rule -- This legislative rule repeals and replaces WV 112CSR5 "Rules for Enforcement of the Uniform Disposition of Unclaimed Property Act" filed May 17, 1991 and effective April 19, 1991.

**§112-5-2. Definitions.**

For the purpose of these rules, the definitions and use of terms contained in the Code of West Virginia, 1931, as amended, §36-8-1, et seq., shall have the same use and meaning as prescribed to them by said Code, unless the context in which the same are used clearly requires a different meaning. Additionally, for the purpose of the rules, the following definitions shall be used:

2.1. "Act" means the Uniform Unclaimed Property Act [§36-8-1], et seq., and the rules in this part.

2.2. "Indication of Interest In Property" occurs when the owner takes any action described in Section 2 ( c) or (d)of the Act which prevents a presumption of abandonment. Non-return of mail shall constitute owners interest in property only if the holder sends a notice to the owner, return receipt requested, and has on file the signed receipt.

2.3. "Last Activity Date" means the last verifiable date of owner-authorized activity or contact with the property being remitted to the administrator.

2.4. "Safe Deposit Box" includes any safe, vault, safekeeping repository, or collateral deposit box.

2.5. "Dormancy Charges" constitute any charge deducted by a holder from property subject to the Act, which is imposed solely by virtue of the inactivity of that property; this includes service charges, handling charges, and administrative costs.

2.6. "Security" for purposes of this Act, includes but is not limited to, any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, reorganization certificate or subscription , transferable share, investment contract, investment fund share, face-amount certificate, voting-trust certificate, certificate of deposit for a security, any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

### **§112-5-3. Presumption Of Abandonment.**

3.1. Activities which do not prevent the presumption of abandonment, include, but are not limited to, automated clearing house transfers, automatic postings to accounts, computer system conversion dates, non-return of mail, and activities not requiring a direct owner response.

3.2. An owner's knowledge of some of his property held by a holder does not imply knowledge of all his property held by a holder.

3.3. In accordance with W.Va. Code §36-8-2(a)(4), registered interest paying bonds will be presumed abandoned five years after the date of the most recent unrepresented instrument issued to pay interest. In accordance with W.Va. Code §36-8-2(a)(16) or §36-

8-2(a)(17), bearer bonds will be presumed abandoned five years after the issuer's obligation to pay the principal, either by call or maturity.

3.4. Property is presumed abandoned and reportable notwithstanding the apparent owner's failure to present evidence of ownership to the holder or to make demand for payment.

3.5. The distribution and acceptance of interest income on certificates of deposit shall be evidence of an owner's interest in an automatically renewing certificate of deposit. Acceptance of the interest income may be evidenced by the fact that the owner cashed a check for interest or, if the interest is directly deposited in another account, that account is one which is not inactive or dormant, or is one in which other evidence of an owner's interest exists. The acceptance of interest shall not be indicated by the mere crediting of interest to the certificate of deposit.

#### **§112-5-4. Safe Deposit Boxes.**

4.1. Pursuant to W.Va. Code §36-8-3, contents of safe deposit boxes which have been unclaimed for more than five years after the expiration of the lease or rental period on the safe deposit boxes shall be presumed abandoned. Safe deposit boxes shall be opened and inventoried in the presence of at least two employees of the holder. The property shall then be sealed for safekeeping with a copy of the inventory attached to the outside of each storage box or envelope until delivered to the owner or the administrator.

4.2. Pursuant to Section 8(a) of the Act, property held in a safe deposit box or other safekeeping depository may not be delivered to the administrator until one hundred twenty days after filing the report required by Section 7 of the Act.

4.3. Property recovered from safe deposit boxes shall be offered by the administrator for public sale pursuant to Section 12 of the Act.

4.4. Pursuant to Section 10 (g) of the Act, the holder may be reimbursed for the cost of opening the safe deposit box. There must be a 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 expense incurred by the administrator in selling the property. The amount of reimbursement to the holder shall not exceed the amount remaining after deduction of said expenses. No other charges may be deducted unless otherwise authorized by law or expressly provided for by lawful contract with the owner.

**§112-5-5. Gift Certificates.**

Gift Certificates that are issued for food, products, goods, or services are exempt from the Act. If a gift certificate that is issued for cash or credit is unclaimed for three years following December 31 of the year in which it was issued, then 100% of the purchase price or money shall be remitted to the State.

**§112-5-6. Dormancy Charges And Other Deductions.**

Pursuant to Section 5 of the Act, a holder may deduct from property presumed abandoned a “dormancy charge” only if there is a valid and enforceable written contract between the holder and the owner under which the holder may impose the charge. The amount of the deduction is limited to an amount that is not unreasonable, excessive, or regularly reversed.

No holder may deduct a dormancy charge from property presumed abandoned if he does not normally or regularly impose a dormancy charge pursuant to a valid and enforceable contract against owners who claim their property prior to the date on which such property would be presumed abandoned.

The holder of abandoned property shall provide the following information as part of any remittance report filed pursuant to the Act from which dormancy charges have been deducted:

6.1. A copy of the contract authorizing such charges;

6.2. The value or amount of each item of property prior to deduction of charges as well as the total amount of charges deducted from each item. The holder shall maintain a record of this information in accordance with Section 21 of the Act; and

6.3. Other information or documentation as the administrator may require to substantiate the deduction of charges. This may include correspondence, signature cards, regulations, previously existing contract between the holder and the owner, by-laws or any other documentation concerning any agreement between the holder and the owner.

**§112-5-7. Reporting/due diligence.**

7.1. A person holding property presumed abandoned and subject to the Act shall file a report with the administrator concerning the property as provided in this rule. The

report must be filed before the first day of November of each year as of the thirtieth day of June, next preceding, for all holders except life insurance companies. The report must be filed for all life insurance companies before the first day of May of each year as of the thirty-first day of December, next preceding. The report shall be verified, notarized and shall include:

7.1.a. the name and social security or federal identification number, if known, and best address, which includes but is not limited to e-mail and computer codes, of each person appearing from the records of the holder to be the apparent owner of any property presumed abandoned under the Act with an aggregate value of fifty dollars or more;

7.1.b. in case of unclaimed funds of life insurance companies, the full name of the insured or annuitant and any beneficiary, if known, according to the life insurance company's records;

7.1.c. in the case of the contents of a safe deposit box or other safekeeping depository or in the case of other personal property, a description of the property and the place where it is held and may be inspected by the administrator, along with a written enforceable contract with the owner allowing for the sale of contents or use of monies to cover unpaid rent or storage charges;

7.1.d. a description of the property and any identifying number for each item of property, including a brief description of those items worth fifty dollars or more in the aggregate;

7.1.e. the total of any safe deposit box opening charges and unpaid rent or storage charges for which the holder requests reimbursement, along with a copy of the valid lien or contract with the owner allowing for the imposition of the unpaid rent or storage charges;

7.1.f. the total dormancy charges withheld and a copy of the written contract authorizing the imposition of the dormancy charges;

7.1.g. the date of the owner's last indication of interest in the property according to the records of the holder;

7.1.h. a verification of the performance of due diligence in accordance with Section 7(e) of the Act; and

7.1.i. in the case of an interest-bearing demand, savings or time deposit, the annual interest rate at the time the property was paid to the administrator;

7.2. Performance of due diligence is, but not limited to, a first class mailing to owners as required by W.Va. Code §36-8-7 (e). A holder is not required to make a due diligence mailing to owners whose property, prior to deducting allowable service charges, has an aggregate value of less than \$50, and is not included in the categories of securities, commodities, safe deposit boxes and tangible property. The letter shall contain:

7.2.a. the steps required by the owner to claim the property;

7.2.b. the steps required by the owner to have the holder reactivate the account and continue to maintain the property for the owner;

7.2.c. a statement that if none of the foregoing steps are taken, the property will be remitted to the State;

7.2.d. a statement that, the State is only a custodian for property presumed abandoned and remitted to the State, and that the owner or heirs do not lose their rights to the property and may file a claim for the property with the State;

7.2.e. a date, not less than fifteen business days prior to the date the holder will remit the property to the State, by which the owner must contact the holder; and

7.2.f. the name, address, and telephone number of the person to contact at the holder.

7.3. A report, as required by W.Va. Code §36-8-7 is deemed received and filed when it has been received in a complete, accurate, and correct form including any required remittance to the administrator's Unclaimed Property Division office in Charleston, West Virginia.

7.3.a. Any report or remittance submitted to the administrator may be:

7.3.a.1. incomplete (i.e., reports which do not include vital and pertinent information or appropriate detail; reports which are in an incorrect format; or reports which are accompanied by remittances made out to an improper payee, or account, or which reference an improper or incorrect account or security designee); or

7.3.a.2. inaccurate (i.e., reports that are out of balance and remittances that are less than the property reported or do not include remittal interest, dividends, stock splits or underlying securities).

Any report which contains incomplete or inaccurate information will be returned to the holder for correction.

7.3.b. If the administrator returns a report or remittance to a holder because it is incomplete or inaccurate, the holder shall submit a corrected report or remittance to the administrator within twenty calendar days after the administrator's return of the original report or remittance to the holder.

7.3.c. Failure of the holder to submit a corrected, accurate and complete report or remittance within the time set forth in section 7.3.b. of this rule shall be sufficient grounds for examination of the holder under Section 20 of the Act.

7.3.d. Failure of the holder to file a report and remittance on or before the due date shall be sufficient reason for assessment of interest and penalties as described in W.Va. Code §36-8-24.

7.4. Commencing the first day of July one thousand nine hundred ninety-seven, a holder must file the report on:

7.4.a. a paper form provided by or approved by the administrator; or

7.4.b. any other form authorized by administrator.

7.5. Reportable property that is not reported and remitted by a holder by the date specified in W.Va. Code §36-8-7 (d), must be reported immediately upon discovery of the omission. The holder must identify this property as being reported late and the reason.

7.6. A holder seeking an extension of time in which to report or remit, must file a request with the administrator so as to be received by the administrator a minimum of 30 business days prior to the date specified in W.Va. Code §36-8-7 (d).

7.6.a. A request by a holder for an extension of time to report or remit must include a reasonable cause for delaying the report or remittance. Reasonable cause includes, but is not limited to, a natural disaster, criminal activity related to the holder's books and records, or a recent change in the form of ownership of the holder through

merger, acquisition or reorganization. Reasonable cause does not include the failure of a holder to perform the due diligence required under section 7.2. of this rule.

7.6.b. The administrator shall respond to each request for extension within twenty business days after receipt.

7.6.c. The holder must submit a payment of 80% of the property estimated as due upon receipt of the extension.

7.6.d. Should the administrator grant an extension, it may be no less than 30 days and no more than 90 days from the date the report and/or remittance are due.

**§112-5-8. Payment Or Delivery.**

8.1. Property held in a safe deposit box or other safekeeping depository may not be delivered to the administrator until one hundred twenty days after filing the report required by Section 8 of the Act.

8.2. If the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the delivery shall not be required until a penalty or forfeiture would no longer result.

8.3. If the property reported to the administrator is a security, as defined in the rules, the administrator shall require the record of ownership of said security be transferred to the State of West Virginia or the street name of a financial institution designated by the State of West Virginia to handle the security, prior to delivery of said security to the administrator.

8.4. Whenever the administrator receives a security pursuant to W.Va. Code §36-8-8(b), in the name of the owner, he or she may take appropriate action to transfer the record of ownership of said securities to the State of West Virginia or the street name of the financial institution designated by the State of West Virginia to handle the security.

8.5. All other property subject to the Act shall be delivered to the administrator at the time of filing the report required by Section 8 of the Act.

**§112-5-9. Advertising**

In addition to the published notice required in W.Va. Code §36-8-9, the administrator may use other forms of advertising that, in the judgment of the administrator, would be in the best interests of the apparent owners of the unclaimed property,

**§112-5-10. Custody by state.**

10.1. A holder is relieved of all liability when property presumed abandoned is turned over to the administrator in good faith. Good faith means:

10.1.a. a reasonable attempt was made by the holder for payment or delivery of reportable property; and

10.1.b. the records meet reasonable standards of practice in that industry.

10.2. A holder may recover payment for property paid to the owner that has been previously turned over to the state. The holder must submit the proof of payment and supporting documentary evidence that the payee was entitled to the property.

10.3. The holder must add interest when paying a claim for property previously paid or delivered to the administrator at the rate prescribed in W.Va. Code §36-8-24.

**§112-5-11. Claims.**

11.1. After property has been paid or delivered to the administrator under W.Va. Code §36-8-8, another state may recover any property subject to W.Va. Code §36-8-4.

11.2. A person, excluding another state, claiming property paid or delivered to the administrator shall file a claim on a form prescribed by the administrator. In addition to the prescribed form, the claimant shall be required:

11.2.a. to provide a photo copy of his or her driver's license, or other acceptable form of identification approved by the administrator;

11.2.b. to complete an affidavit prescribed by the administrator on all claims of two hundred fifty dollars or more;

11.2.c. to provide the original certificate(s) in the case of securities. If original certificates are not available, an affidavit prescribed by the administrator must be completed;

11.2.d. to complete a claim form which must be verified by a notary; and

11.2.e. to provide any other evidence the administrator may require in order to allow claim.

11.3. Within ninety days after a claim is filed, the administrator shall allow or deny the claim.

11.3.a. If the claim is denied, the administrator shall inform the claimant in writing of the reason(s) for the denial and specify what additional evidence is required before the claim will be allowed.

11.3.b. Within thirty days after a claim is allowed, the property or the net proceeds of a sale of the property, together with any income or gain to which the claimant is entitled, must be delivered or paid by the administrator to the claimant.

11.3.c. A holder may recover payment for property paid to the owner that has been previously delivered to the administrator. The holder may recover from the administrator any dividend, interest or other increment to which the owner is entitled.

**§112-5-12. Action to Establish Claims.**

A person aggrieved by a decision of the administrator or whose claim has not been acted upon within ninety days after its filing may maintain an original action to establish the claim in the circuit court of Kanawha County, naming the administrator as a defendant.

**§112-5-13. Election to Take Payment or Delivery.**

13.1. The administrator may decline to receive any property which the administrator considers to have a value less than the expenses of notice and sale.

13.2. A holder, upon prior written approval of the administrator, may report and deliver property before the property is presumed abandoned. Property so delivered must be held by the administrator until the abandonment period runs and then the property will be subject to the other provisions of the Act.

**§112-5-14. Destruction or Disposition of Property.**

If the administrator determines that any property delivered under the Act, has no substantial commercial value, the administrator may destroy or otherwise dispose of the property at any time. The administrator may destroy or otherwise dispose of the property in any reasonable manner selected by the administrator.

**§112-5-15. Periods of Limitation.**

15.1. The expiration of a period of limitation on the owner's right to receive or recover property does not preclude the property from being presumed abandoned or affect a duty of the holder to file a report or to pay or deliver or transfer property to the administrator as required by the Act.

15.2. The administrator must commence an action against a holder within ten years after the time the property was first reported or specifically placed in issue.

15.3. A holder which conceals property, willfully or otherwise, does not have the protection of the stated limitations period provided in W.Va. Code §36-8-19.

**§112-5-16. Requests For Reports and Examination of Records.**

16.1. The administrator shall notify the holder in writing ten days prior to an examination conducted pursuant to Section 20 of the Act. The administrator may waive the ten day notice, prior to performing an examination, if the administrator determines that the existence of the records may be in jeopardy by use of the advance notice provision.

16.2. If unreported unclaimed property is discovered as a result of an examination the administrator shall order the holder to report and remit the property pursuant to W.Va. Code §36-8-7.

16.3. The administrator may also assess the cost of examining in accordance with W.Va. Code §36-8-20(e), @ rate of \$200.00 per day for each examiner or actual incurred expenses that are reasonable and that do not exceed the value of property found to be reportable.

16.4. The administrator may require a holder to report and pay unclaimed property that the administrator reasonably estimates.

16.5. The administrator may require a holder who has not filed a report, or has filed an inaccurate, incomplete or false report to file a verified report. The holder may also be required to disclose to the administrator those records used in compiling the verified report.

**§112-5-17. Retention of records.**

17.1. A holder required to file a report under Section 7 of the Act shall keep a record of :

17.1.a. the name and last known address of each person who, from the records of the holder of the property, appears to be the owner of the property;

17.1.b. a brief description of the property, including the identification number, if any; and

17.1.c. the balance of each account, if appropriate.

17.2. The record must be kept for 10 years from the date on which the report is filed, regardless of whether the property is reported in the aggregate under W.Va. Code §36-8-7(b)(3).

**§112-5-18. Enforcement.**

The administrator may maintain an action in this or another state to enforce Article 8, Uniform Unclaimed Property Act.

**§112-5-19. Interstate Agreements.**

19.1. The administrator may enter into an agreement with another state to exchange property and information relating to abandoned property or its possible existence.

19.2. The administrator may join with another state to seek enforcement of the Act.

19.3. At the request of another state, the administrator's attorney may maintain an action on behalf of the other state 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, but only if the other state has agreed to pay expenses incurred by the administrator's attorney in maintaining the action.

19.4. The administrator may request that the attorney general of another state or another attorney commence an action in the other state on behalf of the administrator. This state shall pay all expenses, including attorney's fees, in maintaining such an action. Expenses and attorney's fees in maintaining such an action may be paid from money received under the Act. However, such expenses and attorney's fees may not be deducted from the amount that is subject to a claim by the owner under the Act.

**§112-5-20. Interest and Penalties.**

The administrator may access interest and penalties as prescribed in W.Va. Code §36-8-24, to any holder who fails to report, pay or deliver property within the time prescribed by the Act.

**§112-5-21. Disposition/Reporting Of Property Held By Law Enforcement Agencies.**

21.1. "Stolen Property" as defined in W.Va. Code §36-8A-1 (e) and (g) shall include only those items that would not afterward be subject to state of West Virginia Code §62-1A-1, et seq.

21.2. All law enforcement agencies may tender their report of unclaimed stolen property to the Treasurer at any time after the six month period prescribed in W.Va. Code §36-8A-1(g)(1). The report must be filed on a form prescribed by the Treasurer. Alternative reporting forms may be used with the prior written approval of the Treasurer.

21.3. All cash and coins held by a law enforcement agency and not subject to W.Va. Code §60A-1-1, et seq., (the Uniform Controlled Substances Act, shall be delivered to the Treasurer. All securities as defined in section 2.6 of this rule and not subject to the Uniform Controlled Substances Act, shall be delivered to the Treasurer. No controlled substance shall be delivered to the Treasurer pursuant to the Uniform Controlled Substances Act.

21.4. Within thirty days of the receipt of an unclaimed stolen property report, the Treasurer shall, whenever possible, send a written response to the agency submitting the report, either authorizing the requested disposition of each item or requiring the items to be delivered to the Treasurer.

21.5 All weapons and ammunition may be transferred among the different detachments and areas of a law enforcement agency, for only the purposes set in W.Va. Code §36-8A-3 and §36-8A-5.

21.5.a. No weapons and ammunition may be transferred between a law enforcement agency and another law enforcement agency, for the purposes set in W.Va. Code §36-8A-3 and §36-8A-5, except:

21.5.a.1. a law enforcement agency may transfer weapons and ammunition to the West Virginia State Police Crime Lab for any legitimate and authorized law enforcement or educational purposes as stated in W.Va. Code §36-8A-3,

21.5.a.2. a law enforcement agency may transfer weapons and ammunition to the West Virginia State Division of Natural Resources (DNR) for any legitimate and authorized law enforcement or educational purpose as stated in W.Va. Code §36-8A-3, and pursuant to any statute applicable to the transfer or donation of weapons to the DNR.

21.5.b. Any weapons and ammunition transferred pursuant to rules 21.5a.1. and 21.5a.2 shall first be transferred to the Treasurer's office and at the Treasurer's discretion the weapons and ammunition may be transferred to either the West Virginia State Police or the West Virginia Division of Natural Resources (DNR).

21.6. All weapons and ammunition delivered to the Treasurer shall be destroyed as soon as practicable after delivery in the following manner:

21.6.a. The weapons and ammunition shall be delivered to a designated contractor and destroyed as the Treasurer deems appropriate. The destruction shall be performed in the presence of two witnesses. One witness shall be an employee of the State Treasurer's Office.

21.6.b. The destruction of all weapons and ammunition must be confirmed in writing by the contractor, listing the description of each weapon including: the make, model and serial number if available. This confirmation must be verified by the two witnesses present during destruction.

21.6.c. All documents pertaining to the destruction of weapons and ammunition shall be kept in a permanent file in the State Treasurer's office and will be

available for inspection by all authorized law enforcement officials during regular business hours.

21.6.d. Within thirty days after any trade-in or appropriation of any firearms or ammunition, the law enforcement agency shall file a report with the Treasurer and the State Tax Department on the trade-in or appropriation. This report shall be filed on a form prescribed by the Treasurer.

21.7. The Treasurer may authorize the disposal of any items, prior to the delivery of such items to the Treasurer, if the Treasurer considers that the probable cost of the delivery and sale will exceed the proceeds of the sale.

**§112-5-22. Rules.**

The administrator shall promulgate emergency Legislative Rules as prescribed in W.Va. Code §36-8-28.

**§112-5-23. Descent and Distribution.**

If there is no taker under the provisions of W.Va. Code §42-1-3c, the intestate estate passes to the state. Any personal property shall pass to the state treasurer for disposition by public sale in accordance with W.Va. Code §36-8-12. The proceeds of the sale of any such personal property shall be deposited to the credit of the general revenue fund.