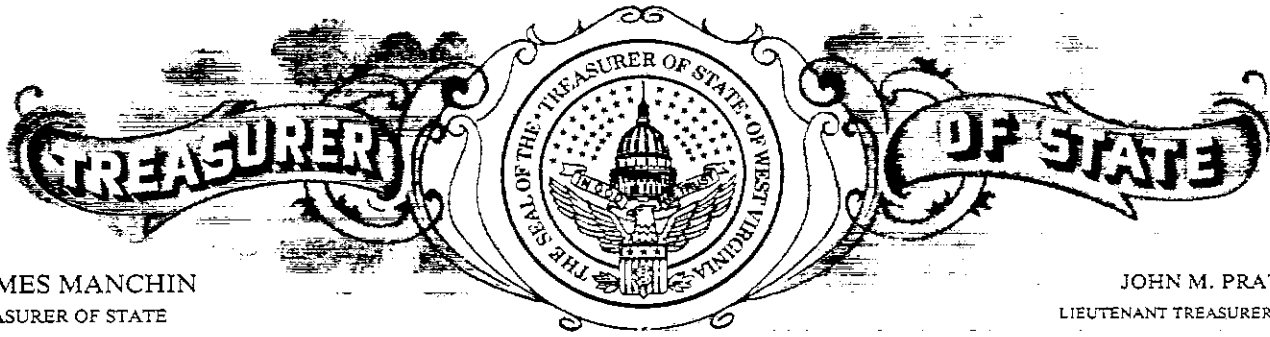


UNITED STATES OF AMERICA STATE OF WEST VIRGINIA



A. JAMES MANCHIN
TREASURER OF STATE

JOHN M. PRATT
LIEUTENANT TREASURER OF STATE

NOTICE OF PUBLIC HEARING ON PROPOSED RULE

AGENCY: TREASURER OF STATE
RULE TYPE: LEGISLATIVE
RULE TITLE: RULES FOR ENFORCEMENT OF THE UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

A COMMENT PERIOD ON THE ABOVE PROPOSED RULE HAS BEEN SCHEDULED AND WILL END ON OCTOBER 1, 1986, AT 1:30 P.M. ORAL COMMENTS ARE TO BE PRESENTED AT THE FOLLOWING ADDRESS: STATE CAPITOL COMPLEX

BUILDING 7 (SEVEN)

CONFERENCE ROOM E

CHARLESTON, WEST VIRGINIA 25305

WRITTEN COMMENTS ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

OFFICE OF THE TREASURER OF STATE

DIVISION OF UNCLAIMED PROPERTY

THE STATE CAPITOL

CHARLESTON, WEST VIRGINIA 25305

ATTENTION: CAMERON HAUGHT

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THE PROPOSED RULE.

OFFICE OF THE TREASURER OF STATE
WEST VIRGINIA

1986 AUG 20 AM 11:11

FILED

A. James Manchin
A. James Manchin
Treasurer of State

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules For Enforcement of the Uniform Disposition of Unclaimed Property Act

Type of Rule: x Legislative Interpretive Procedural

Agency Treasurer of State Address State Capitol
Charleston, West Virginia 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.

Not Applicable

3. Objectives of these rules:

To clarify sections of the "Uniform Disposition of Unclaimed Property Act."

FILED
 1985 AUG 20 AM 11:11
 CLERK OF SENATE
 SECY RAY H STATE

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

This will allow our office to collect additional amounts of unclaimed property.

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

None

C. Economic Impact on Citizens/Public at Large.

This will provide for the return of additional unclaimed property to the citizens of our State.

Date August 15, 1986

Signature of Agency Head or Authorized Representative



A. James Manchin
Treasurer of State

WEST VIRGINIA LEGISLATIVE RULE
TREASURER OF STATE
CHAPTER 36-8
SERIES V

Title: Rules for Enforcement of the Uniform
Disposition of Unclaimed Property Act

Section 1. General

1.1 Scope - This legislative rule establishes the rules for the enforcement of the Uniform Disposition of Unclaimed Property Act.

1.2 Authority - West Virginia Code 36-8-27

1.3 Filing Date -

1.4 Effective Date -

Section 2. Definitions

2.1 For the purpose of these Rules, the definitions and use of terms contained in Chapter 36, Article 8, Sections 1 and 3(b), Official Code of West Virginia, 1931, as amended, shall have the same use in meaning as ascribed to them by said Code unless the context in which the same are used clearly requires a different meaning.

2.2 As used in these rules, unless the context otherwise requires:

a) "Act" means Chapter 36, Article 8, Section 1, et seq., Official Code of West Virginia, 1931, as amended, entitled "Uniform Disposition of Unclaimed Property Act."

b) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

c) "Last known address" means the last known description of the location of the owner sufficient for the purpose of the delivery of mail.

FILED
1986 AUG 20 AM 11:11
OFFICE OF THE TREASURER
OF WEST VIRGINIA
STATE

FILED

Section 3. Safe-Deposit Box or Other
Safekeeping Repository

3.1 Any funds or other personal property, tangible or intangible, removed from or contained in a safe-deposit box or any other safekeeping repository in this State on which the lease or rental period has expired due to non-payment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than seven years from the date on which the lease or rental period expired, shall be presumed abandoned.

3.2 When the contents of any safe-deposit box or other safekeeping repository is presumed abandoned pursuant to the Act or these rules, the Treasurer of State shall have the right, in his discretion, to order said safe-deposit box or other safekeeping repository opened by the holder, provided that the costs incurred by the holder for opening such safe-deposit box or other safekeeping repository may be deducted by the holder from his next annual remittance required by the Act or such reasonable costs may be reimbursed to the holder by the Treasurer of State. The opening cost of any safe-deposit box or other safekeeping repository shall be determined by the holder's regular schedule of charges for such service or a reasonable fee, whichever is less.

3.3 Any safe-deposit box or other safekeeping repository which has been opened by the holder pursuant to the Act or these rules, shall have the contents therein inventoried in the presence of at least two employees of the holder who shall verify the accuracy of said inventory. The property and a copy of the inventory shall then be sealed for safekeeping until delivered to the owner or the Treasurer of State.

Section 4. Service Charges and Other Deductions

4.1 There must be a valid, enforceable, written contract between the holder and the owner to permit the lawful withholding of charges described in Section 2(g) of the Act. No holder may seek to implement the terms of any contract against any abandoned property subject to the Act if he does not implement the terms of such contract against the owners who claim their assets prior to the presumption of abandonment. The holder shall provide the following information as part of any remittance report filed pursuant to the Act from which charges have been deducted:

- a) the citation of the Act or a copy of the

contract authorizing such charges;

b) the value or amount of each item or property, prior to deduction of charges as well as the total amount of charges deducted from each item. The holder shall maintain a record for three years from the date or date on which charges were deducted; and

c) such other information or documentation as the Treasurer of State may reasonably require to substantiate the deduction of charges. This may include correspondence, signature cards, regulations, by-laws or any other documentation concerning any agreement between the holder and the owner.

Section 5. Stock and Other Intangible Business Interests

5.1 Pursuant to Sections 5 and 9 of the Act, any intangible interest in a business association, as evidenced by the stock records or membership records of the association, is presumed abandoned if:

a) the interest in the association is owned by a person who, for more than seven years, has neither claimed a dividend or other sum referred to in Section 5 of the Act nor corresponded in writing with the association or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association; and

b) the association does not know the location of the owner at the end of such seven-year period. With respect to such intangible interest, the business association shall be deemed the holder.

5.2 The holder of an interest under Section 5 of the Act and these rules, shall deliver a duplicate certificate or other evidence of ownership (if the holder does not issue certificates of ownership) to the Treasurer of State. Upon delivery of a duplicate certificate to the Treasurer of State, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved from liability in accordance with the provisions of Section 14 of the Act.

5.3 Any dividends or other distributions held for or owing to a person at the time the stock or other security to which they attach is presumed abandoned, such dividends or other distributions shall also be presumed abandoned as of the same time, and therefore subject to the provisions of the Act.

Section 6. Abandoned Mineral Interests

6.1 If the proceeds or other intangible property interests from any mineral interests are presumed abandoned as provided by the Act, then the mineral interest which generates the intangible property interests shall be subject to the presumption of abandonment and therefore deliverable to the Treasurer of State.

6.2 All mineral interests presumed abandoned within a single production unit shall be grouped together, as far as practicable, for purposes of sale.

6.3 Any interest presumed abandoned and delivered to the Treasurer of State, or sold by the Treasurer of State pursuant to the Act, shall remain subject to all prior valid pooling and drilling orders, rules or regulations of the appropriate State agencies or commissions.

6.4 Before the Treasurer of State shall sell any mineral interest which is presumed abandoned under the Act or these rules, such sale shall be preceded by publication of notice thereof as a Class I legal advertisement in compliance with the provisions of Article 3, (59-3-1, et seq.) Chapter 59 of the Official Code of West Virginia, as amended, and the publication area for such notice shall be the county wherein such mineral interest is located. The notice shall be at least three (3) weeks in advance of sale.

Section 7. Retirement Accounts

7.1 Accounts established pursuant to Section 26 U.S.C. 401(a), et seq. (commonly known as Self-Employed Retirement or Keogh Plans) and Section 26 U.S.C. 408(a), et seq. (commonly known as Individual Retirement Accounts or IRA's) are presumed abandoned when there has been no contact with the owner or beneficiary for a period of seven years from such time as distribution of all or part of the property constituting the respective account shall be, under the terms of the retirement plan, mandatory.

Section 8. Property Held by Courts and Public Officers
and Agencies

All intangible personal property in the custody of a state court receiver which is presumed abandoned under Section 8 must be reported to the Treasurer of State pursuant to Section 11 of the Act. The Treasurer of State may petition the court to order such property delivered to the Treasurer as provided under Section 13 of the Act.

Section 9. Property Presumed Abandoned When the Last
Address of the Owner is Unknown

9.1 Unless otherwise provided for in the Act or these rules, intangible property is subject to the custody of this State as abandoned property if the conditions raising a presumption of abandonment under the Act are satisfied and:

- a) the last address of the owner is unknown; and
- b) the holder's domicile is the State of West Virginia.

Section 10. Negative Reports

10.1 Every person that in any year does not hold property subject to being reported under the Act shall file a statement to this effect when requested in writing by the Treasurer of State.

Section 11. Sale of Abandoned Property

11.1 Securities listed on an established stock exchange must 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 Treasurer of State considers advisable.

11.2 A person making a claim under this act after the sale of securities is entitled to the proceeds received from sale, 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 State. Nor is any person entitled to any appreciation in the value of said securities occurring between the time of the sale of the securities and the time the person makes the claim. Any such claims against

the State shall be handled under the provisions of Chapter 14 of the Official Code of West Virginia.

11.3 Any property delivered to the Treasurer of State pursuant to the Act which the Treasurer of State determines has obvious commercial value, or if it is questionable whether or not said property has obvious commercial value, then the Treasurer of State is authorized to employ the services of competent appraisers to determine the value, if any, of the delivered property. If the appraisers determine the property has no obvious commercial value, then such property may be disposed of by the Treasurer of State pursuant to the Act. All property which has been determined to have obvious commercial value shall be sold pursuant to the Act. The Treasurer of State shall pay the necessary cost of appraisal incurred from the trust and expense fund established pursuant to Section 18 of the Act.

Section 12. Examination of Records

12.1 The Treasurer of State, his agents and employees, may at reasonable times and upon reasonable notice examine the records of any person to determine if said person has complied with the provision of the Act. In the event such person refuses to permit the Treasurer of State to examine such records, the Treasurer of State may petition the Circuit Court of the county where the person resides or has his principal place of business for an order to allow the Treasurer of State, his agents or employees, to examine all appropriate records of such person.

12.2 Whenever the Treasurer of State has reason to believe that a person has failed to report property which should have been reported pursuant to the provisions of the Act, he may issue written interrogatories requiring such person to answer the questions set forth. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reason for objection shall be stated in lieu of an answer. The answers and objections are to be signed by the person making them. The person answering the interrogatories shall deliver a copy of the answers and objections if any, to the Treasurer of State within thirty (30) days after receipt of the interrogatories. The Treasurer of State may, upon a showing of good cause, grant an extension of the time to answer said interrogatories.

12.3 The Treasurer of State may, when he determines it necessary, employ independent auditors to examine the records of any person.

12.4 If an examination of the records of a person results in the disclosure of property reportable and deliverable under the Act, the Treasurer of State may assess the cost of the examination against the holder at the rate of One Hundred Seventy-Five Dollars (\$175.00) a day for each staff examiner, and the rate of Four Hundred Dollars (\$400.00) a day for each independent auditor, but in no case may the charges exceed the value of the property found to be reportable and deliverable.

12.5 Every person required to file a report under the Act, shall maintain records necessary for the filing of the report required under Chapter 36, Article 8, Section 11 of the Act. The holder shall retain the aforesaid records for a period of at least three (3) years from the date any abandoned property is reportable to the Treasurer of State under the Act.

Section 13. Securities Received in Name of Owner

13.1 Whenever the Treasurer of State shall receive securities under the Act in the name of the owner, he may, when he determines it to be in the best interest of the State of West Virginia, take appropriate action to transfer the record of ownership of said securities into the title of the State of West Virginia.

Section 14. Owner of Cashier's Check Defined

14.1 The owner of a cashier's check under the Act shall be deemed to be either the purchaser or payee of the check who is in possession of the instrument. Any banking or financial organization or business association which has issued a cashier's check which is presumed abandoned under this Act shall report the name and address, if known, of both the payee and purchaser of the check in accordance with Section 11 of the Act.

Section 15. Authority for Discontinuance

15.1 If payment of interest or dividends on property subject to the Act is discontinued at any time during the period of inactivity, the Holder shall include or attach as part of the report filed pursuant to the Act:

a) a copy of a valid, enforceable contract which authorizes such discontinuance of payment of interest or dividends; or

b) the citation of the statute which authorized such discontinuance of payments of interest or dividends.

Section 16. Non-Enforcement of Right

16.1 A contract or statute shall not be considered as authorizing discontinuance of payment of interest or dividends if such payment would not have been discontinued, or would otherwise have accrued to the benefit of the owner, in the event the property had been claimed by the owner prior to being reported or delivered to the Treasurer of State under the Act.

Section 17. Alternative Reporting Forms

17.1 The Treasurer of State may accept computer print-outs as unclaimed property reports in lieu of the designated forms provided that the print-outs contain the information specified on the forms. Verification as required under the Act shall be submitted with the print-outs. Before a holder may substitute alternative reporting forms, he must first receive the approval of the Treasurer of State.

Section 18. Interest

18.1 A person who fails to pay or deliver property within the time prescribed by the Act may be required to pay to the Treasurer of State interest at the annual legal rate on the property or value thereof from the date the property should have been paid or delivered to the Treasurer of State.

Section 19. Estimates in the Absence of Records

19.1 If a holder fails after the effective date of the Act to maintain the records necessary to report to the Treasurer of State pursuant to the Act or the records of the holder available for the periods subject to the Act are insufficient to permit the preparation of an accurate report, the Treasurer of State may require the holder to report and pay such amounts as may reasonably be estimated from any available records.

Section 20. Determination of Claims; Hearings

20.1 Whenever the Treasurer of State disputes or disagrees with any claim any person has made for the return of property or money paid or delivered to the Treasurer of State, the Treasurer of State shall cause to be held a hearing as provided for in the Act.

20.2 Treasurer of State is hereby empowered to appoint an attorney, licensed to practice the law in the State of West Virginia, as a hearing examiner to determine the validity of any claim made by any person seeking the return of money or property paid or delivered to the Treasurer of State, which said claim the Treasurer of State disputes. Said hearing examiner shall be paid a fee of Two Hundred Dollars (\$200.00) per day if said hearing is held in the City of Charleston; and, if said hearing be held other than in the City of Charleston, said hearing examiner shall be paid Two Hundred Dollars (\$200.00) per day plus all necessary and reasonable expenses.

20.3 After the appointment of said hearing examiner, and the assignment of any disputed case or cases to said hearing examiner, each party to said dispute shall be given written notice by said hearing examiner of his intent to hold a hearing on the validity of said claims. All hearings shall be held within thirty (30) days of the appointment of said hearing examiner, unless the same shall be continued at the request of either party, in writing, and served upon both the hearing examiner and the other party, and for good cause shown.

20.4 At the request of either party the hearing examiner shall issue subpoenas and subpoenas duces tecum in accordance with the provisions of Chapter 29A, Article 5, Section 1, Official Code of West Virginia, 1931, as amended. All subpoenas and subpoenas duces tecum shall be issued and served within the time and for the fees and shall be enforced, as specified in Chapter 29A.

20.5 At any such hearing, any person claiming an interest in the property in question may represent himself or be represented by an attorney, licensed to practice the law in this State.

20.6 When, in his discretion and when it is necessary, the hearing examiner shall be empowered to employ the services of a stenographer or court reporter to record, transcribe or otherwise memorialize said hearing and be empowered to recommend that the Treasurer of State pay the reasonable costs thereof.

20.7 Within fifteen (15) days after the conclusion of said hearing, or within fifteen (15) days after said transcript has been received by the hearing examiner from the court reporter or stenographer, whichever the case may be, said hearing examiner shall prepare a written Order setting forth his findings of fact and conclusions of law relative to the rightful ownership of said money or property in dispute. If the hearing examiner's order shall be in favor of the claimant, the Treasurer of State shall make return of the property to said claimant within fifteen (15) days of receipt of said Order. If the hearing examiner's Order is in favor of the Treasurer of State, the claimant shall be entitled to seek judicial review of said decision in accordance with the provisions of the Act.

20.8 The hearing examiner shall serve written copies of his Order upon every party or their attorneys, as the case may be, by registered or certified mail.

20.9 The Order of the hearing examiner shall be final unless vacated or modified upon a judicial review thereof in accordance with the provision of the Act.