

**TREASURER OF STATE [781]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 556.26, the Treasurer of State hereby amends Chapter 9, "Unclaimed Property," Iowa Administrative Code.

These rules provide definitions, due diligence guidelines and reporting requirements for holders of unclaimed property, examination procedures, confidentiality standards and instructions for claiming unclaimed property from the Treasurer's office.

These rules were published in the Iowa Administrative Bulletin under Notice of Intended Action as **ARC 0408B** on January 24, 2001. A public hearing was held on February 15, 2001, and comments were received from interested parties prior to, during and after the public hearing. Comments suggested that the rules did not address concerns regarding contingent fee structure or estimation technique and did not adopt a "Holders' Bill of Rights."

These rules are identical to those published under Notice of Intended Action.

These rules will become effective on August 1, 2001.

These rules are intended to implement Iowa Code chapter 556 and 2000 Iowa Acts, chapter 1191.

Amend 781--Chapter 9 by adopting the following new rules:

**781--9.2(556) Purpose.** Iowa Code chapter 556 authorizes the treasurer of state to establish administrative rules that are necessary for the purpose of carrying out the provisions of chapter 556, the uniform disposition of unclaimed property Act.

**781--9.3(556) Definitions.** In addition to the terms defined in Iowa Code section 556.1, the following words or terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“*Act*” means the uniform disposition of unclaimed property Act, Iowa Code chapter 556.

“*Contract auditor*” means any person or entity engaged or hired by the treasurer or the division to provide unclaimed property examination services. “Contract auditor” includes agents, employees and any subcontractor engaged by a contract auditor or engaged by its subcontractors.

“*Division*” means the Iowa unclaimed property division within the Iowa state treasurer's office that has the responsibility of administering the Act.

“*Due diligence*” means the efforts required to be undertaken by a holder of unclaimed property to find the rightful owner of such property before the property is delivered to the state.

“*Finder*” means a person hired or engaged to assist owners, heirs or other persons in the recovery of unclaimed property.

“*Finder agreement*” means an agreement to pay a fee, commission, or other compensation to a finder to identify, locate, deliver, recover, or assist in the recovery of unclaimed property reported under the Act.

“*Last activity date*” means the last verifiable date of owner-initiated activity or contact with respect to unclaimed property.

“*Treasurer*” means the treasurer of the state of Iowa.

**781--9.4(556) Forms.** The following approved forms will be used:

1. *Claim form* means the form or any other document acceptable to the division used by a claimant to file a claim relative to unclaimed property with the division.

2. *Safe Deposit Box Inventory Form* is the form required to be used to inventory and report the contents of safe deposit boxes reportable under the Act.

3. *Holder Report Form* is the form holders are required to use to report unclaimed property to the division.

4. *UP4 Negative Report* is the form that may be used if a holder has no unclaimed property to report.

**781-9.5(556) Due diligence.** Holders are to exercise reasonable and necessary due diligence as is consistent with good business practice in attempting to reactivate dormant accounts and to locate owners of unclaimed property.

**781-9.6(556) Reporting aggregate amounts to the division.** Holders shall report amounts under \$25, unclaimed property of unknown owners, and property when the owner has disclaimed entitlement to the property.

**781-9.7(556) Reporting safe deposit box contents.**

**9.7(1)** Safe deposit boxes or other safekeeping depositories that have been abandoned shall be opened and inventoried in the presence of at least two employees of the holder.

**9.7(2)** Holders shall list the contents of each box inventoried on a separate Safe Deposit Box Inventory Form provided by the division.

**9.7(3)** The property and a copy of the Safe Deposit Box Inventory Form shall then be sealed for safekeeping until delivered to the owner or to the division when required by the Act.

**781-9.8(556) Disposition of safe deposit box contents.** If the treasurer determines, after investigation and after an attempt to dispose of the unclaimed property in accordance with the Act, that the probable cost of sale exceeds the value of the property, the treasurer may destroy or otherwise dispose of the property at any time.

**781-9.9(556) Early reporting of unclaimed property.**

**9.9(1)** A holder may request permission to report and deliver property to the division before it is presumed abandoned by sending a written request to the division.

**9.9(2)** The letter must identify the property to be reported and delivered and the reasons for requesting permission to report and deliver the property prior to the date it is presumed abandoned.

**9.9(3)** The division may consent to early reporting and delivery at its sole discretion according to terms and conditions prescribed by the division.

**781-9.10(556) Examination of holders.** The division may conduct an examination of a holder if the division has reason to believe a holder has failed to report unclaimed property pursuant to the Act.

**9.10(1)** Examination and review. The treasurer may authorize employees of the treasurer and contract auditors to conduct examinations and review records in the course of an examination.

**9.10(2)** Examination entrance letter. The division shall send an examination entrance letter to holders selected for examination.

**9.10(3)** Examination records request. Holders subject to examination are required to comply with any and all requests for records that are made by the division or any contract auditor conducting an examination.

**9.10(4)** Examination entrance conference. The division, at its option, shall conduct an examination entrance conference with a holder prior to the commencement of an examination, at which the division shall identify the examination period and describe the general examination methods that will be used including, but not limited to, any estimation techniques that may be utilized.

**9.10(5)** Estimation. The division may use estimation techniques where no holder records exist or the records are insufficient to determine the holder's obligation due pursuant to the Act.

**781-9.11(556) Report of the examination findings.** Upon completion of an examination, the division shall provide a written report reflecting the total unclaimed property reporting liability and, pursuant to the Act, any interest due on amounts due and owing for failure to report and deliver property due and payable for prior years.

The division has the discretion to hold a conference with the holder to provide the written report.

**781-9.12(556) Delivery of examination findings by the holder.** The holder shall deliver to the division within 30 calendar days any unclaimed property and interest due to the division based upon the examination findings.

**781-9.13(556) Examination closure letter.** Upon receipt of the examination report and delivery of unclaimed property resulting from the examination, the division shall issue an examination closure letter informing the holder that the examination is closed.

**781-9.14(556,78GA,ch1191) Appeal of examination findings.** A holder may appeal the examination findings of the division.

**9.14(1)** The holder may utilize the appeals process after receipt of the examination report from the division.

**9.14(2)** Failure to submit the appeal request within 30 calendar days shall constitute an acceptance of the total unclaimed property reporting liability findings.

**9.14(3)** The holder shall submit to the division a written request for an appeal along with all supporting documentation.

**9.14(4)** The division shall contact the holder and schedule an appeal meeting within 20 calendar days of receipt of the holder's appeal request.

**9.14(5)** An appeal review shall be conducted at which time the holder shall present evidence supporting the holder's basis of the appeal.

**9.14(6)** Based on the evidence and additional information presented during the appeal, the division will render a decision. Such decision will be written and sent to the holder within 30 calendar days of the appeal meeting.

**9.14(7)** The holder shall file a report and deliver unclaimed property reflecting the unclaimed property reporting liability and interest due on amounts due and owing as determined by the division within 30 calendar days.

**781-9.15(556,78GA,ch1191) Entering into contracts with contract auditors.** The treasurer may enter into contracts with persons, pursuant to procedures prescribed by the treasurer, for the sole purpose of examining the records of holders to determine compliance with the Act. The treasurer may consider any relevant factors when entering into a contract for services requested in the performance of an unclaimed property examination.

**9.15(1) General conditions and requirements.**

a. Contract auditors shall comply with all terms and conditions specified in the contract with the treasurer.

b. Contract auditors shall not subcontract any work without prior written authorization from the treasurer. The contract auditors are responsible for ensuring that any subcontractors used during an examination possess sufficient training and experience to adequately perform the unclaimed property examination and agree to comply with all terms and conditions of the contract auditor's contract with the treasurer.

c. Contract auditors shall possess an ability to examine the records of entities holding various types of unclaimed property.

d. Contract auditors shall have security procedures in place to ensure that all unclaimed property examination reports and working papers are secure.

e. Contract auditors shall have the ability to evaluate and comment on the holder's procedures and accounting systems related to capturing unclaimed property for present and future reporting periods.

f. In all matters relating to an examination assignment, independence in mental attitude is to be maintained.

g. Contract auditors shall not engage in any examination without written consent from the treasurer.

**9.15(2) Guidelines.** Contract auditors shall adhere to the following guidelines.

a. Contract auditors shall not participate in examinations in which such participation could be construed or perceived as a conflict of interest. Should the contract auditor believe that it could not conduct an assigned examination due to a conflict of interest or for any other reason, the contract auditor shall notify the division. The division shall then determine whether recusal of the contract auditor from the assignment is appropriate or necessary. If the contract auditor is recused from conducting the examination of a holder, another contract auditor shall be assigned.

b. Contract auditors shall maintain strict confidentiality of any nonpublic records or documents gathered during the course of an examination in accordance with their contract.

c. Contract auditors shall properly document their review and make their working papers gathered during examinations available on demand for review by the treasurer and the attorney general's office.

d. Upon request, the contract auditors shall provide the holder with relevant copies of working papers supporting any calculation made of unclaimed property reportable and deliverable to the treasurer.

e. Contract auditors shall maintain working papers for a minimum of five years following the completion of the examination assignment, the delivery of unclaimed property, the resolution of any appeal, or the finality of judgment in any litigation, whichever is later.

f. Contract auditors should conduct examinations consistent with the Act and other applicable law, policies of the treasurer, generally accepted accounting principles, generally accepted auditing standards, and any relevant examination rules promulgated pursuant to the Act as they relate to the reporting and delivery of unclaimed property from holders or persons.

**781-9.16(556) Claims.**

**9.16(1)** All claims for abandoned property shall be filed with the division on the division's claim form or such other documents as the division finds acceptable.

**9.16(2)** Claim form requirements. The claim form shall be completed in its entirety. Under no circumstances will the division process a claim if a claimant fails to include the following:

*a.* Social security number or tax identification number, or both, of all claimants;

*b.* Signature of claimant(s).

**781-9.17(556) Claimant requirements and documentation.** The treasurer shall consider any claim filed under the Act.

**9.17(1)** Claimants should provide the following supporting documentation with their claims, as applicable:

- a. Documentation supporting the claim requirements under 9.16(2).
- b. Names, addresses and telephone numbers of any potential heirs of the apparent owner, along with the sworn statement of claimant that the claimant has no knowledge of any other potential heirs or any other claimants.
- c. A description of the extent to which the apparent owner's estate was administered by the probate court if applicable.
- d. Name and last-known address of the apparent owner as was reported by the holder.
- e. Documentation showing a copy of claimant(s) signature(s).
- f. A copy of claimant(s) driver's license or social security card.
- g. Proof of ownership if the claimant is the apparent owner.
- h. Copies of prior tax returns, birth certificate, passport or other legal documents showing claimant's identity.
- i. If claimant's name has changed, copies of supporting documentation showing the name change.
- j. Documentation showing that the owner lived at the last-known address as reported by the holder if different from the current address. If no documentation can be provided for proof of last-known address as reported by the holder, documentation showing that the claimant conducted business with the holder.

k. Such other documentation as the division may request or determine as necessary given the nature or complexity of the claim.

**9.17(2)** The claimant shall affirmatively certify that the claimant is the true owner and agree to hold harmless and indemnify the division, its employees, and the state in the event of a superior claim to such property by another claimant or person.

**9.17(3)** If the subject property is more than \$200 or is security-related, the signature of the claimant must be notarized by a notary public or be guaranteed by an officer of a bank or financial institution.

**781-9.18(556) Proof of payment.** A holder, subsequent to payment or delivery of abandoned property to the division, may make payment to the apparent owner and file a proof of payment with the division.

Upon receiving reimbursement from the division, the holder shall assume liability for the claimed assets, and indemnify and hold harmless the division from all future claims related to the claimed assets.

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Michael L. Fitzgerald, Treasurer of State

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