

1 AN ACT relating to abandoned property.

2 Be it enacted by the General Assembly of the Commonwealth of Kentucky:

3 ➔SECTION 1. KRS CHAPTER 393A IS ESTABLISHED AND A NEW
4 SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this chapter:*

6 *(1) "Administrator" means the Kentucky State Treasurer;*

7 *(2) "Administrator's agent":*

8 *(a) Means a person with which the administrator contracts to conduct an*
9 *examination under Sections 55 to 65 of this Act on behalf of the*
10 *administrator; and*

11 *(b) Includes an independent contractor of the person and each individual*
12 *participating in the examination on behalf of the person or contractor;*

13 *(3) "Apparent owner" means a person whose name appears on the records of a*
14 *holder as the owner of property held, issued, or owing by the holder;*

15 *(4) "Business association" means a corporation, joint stock company, investment*
16 *company other than an investment company registered under 15 U.S.C. secs.*
17 *80a-1 to 80a-64, as amended, partnership, unincorporated association, joint*
18 *venture, limited liability company, business trust, trust company, land bank, safe*
19 *deposit company, safekeeping depository, financial organization, insurance*
20 *company, federally chartered entity, utility, sole proprietorship, or other business*
21 *entity, whether or not for profit;*

22 *(5) "Confidential information" means records, reports, and information that are*
23 *confidential under Section 78 of this Act;*

24 *(6) "Domicile" means:*

25 *(a) For a corporation, the state of its incorporation;*

26 *(b) For a business association whose formation requires a filing with a state,*
27 *other than a corporation, the state of its filing;*

1 (c) For a federally chartered entity or an investment company registered under
2 15 U.S.C. secs. 80a-1 to 80a-64, as amended, the state of its home office;

3 and

4 (d) For any other holder, the state of its principal place of business;

5 (7) "Electronic" means relating to technology having electrical, digital, magnetic,
6 wireless, optical, electromagnetic, or similar capabilities;

7 (8) "Electronic mail" means a communication by electronic means which is
8 automatically retained and stored and may be readily accessed or retrieved;

9 (9) "Financial organization" means a savings and loan association, building and
10 loan association, savings bank, industrial bank, bank, banking organization, or
11 credit union;

12 (10) "Game-related digital content":

13 (a) Means digital content that exists only in an electronic game or electronic-
14 game platform;

15 (b) Includes:

16 1. Game-play currency such as a virtual wallet, even if denominated in
17 United States currency; and

18 2. The following if for use or redemption only within the game or
19 platform or another electronic game or electronic-game platform:

20 a. Points sometimes referred to as gems, tokens, gold, and similar
21 names; and

22 b. Digital codes; and

23 (c) Does not include an item that the issuer permits to be redeemed for use
24 outside a game or platform:

25 1. For money;

26 2. For goods or services that have more than minimal value; or

27 3. That otherwise monetizes for use outside a game or platform;

1 (11) "Gift card" means:

2 (a) A stored-value card:

3 1. The value of which does not expire;

4 2. That may be decreased in value only by redemption for merchandise,
5 goods, or services; and

6 3. That, unless required by law, may not be redeemed for or converted
7 into money or otherwise monetized by the issuer; and

8 (b) Includes a prepaid commercial mobile radio service, as defined in 47 C.F.R.
9 sec. 20.3, as amended;

10 (12) "Holder" means a person obligated to hold for the account of, or to deliver or
11 pay to, the owner, property subject to this chapter;

12 (13) "Insurance company" means an association, corporation, or fraternal or
13 mutual-benefit organization, whether or not for profit, engaged in the business of
14 providing life endowments, annuities, or insurance, including accident, burial,
15 casualty, credit-life, contract-performance, dental, disability, fidelity, fire, health,
16 hospitalization, illness, life, malpractice, marine, mortgage, surety, wage-
17 protection, and worker-compensation insurance;

18 (14) "Loyalty card":

19 (a) Means a record given without direct monetary consideration under an
20 award, reward, benefit, loyalty, incentive, rebate, or promotional program,
21 which may be used or redeemed only to obtain goods or services or a
22 discount on goods or services;

23 (b) Does not include a record that may be redeemed for money or otherwise
24 monetized by the issuer;

25 (15) "Mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid
26 hydrocarbon, cement material, sand and gravel, road material, building stone,
27 chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal

1 and other clay, steam and other geothermal resources, and any other substance
2 defined as a mineral by law of this state other than this chapter;

3 (16) "Mineral proceeds":

4 (a) Means an amount payable for extraction, production, or sale of minerals,
5 or, on the abandonment of the amount, an amount that becomes payable
6 after abandonment; and

7 (b) Includes an amount payable:

8 1. For the acquisition and retention of a mineral lease, including a
9 bonus, royalty, compensatory royalty, shut-in royalty, minimum
10 royalty, and delay rental;

11 2. For the extraction, production, or sale of minerals, including a net
12 revenue interest, royalty, overriding royalty, extraction payment, and
13 production payment; and

14 3. Under an agreement or option, including a joint-operating agreement,
15 unit agreement, pooling agreement, and farm-out agreement;

16 (17) "Money order":

17 (a) Means a payment order for a specified amount of money; and

18 (b) Includes an express money order and a personal money order on which the
19 remitter is the purchaser;

20 (18) "Municipal bond" means a bond or evidence of indebtedness issued by a
21 municipality or other political subdivision of a state;

22 (19) "Net card value" means the original purchase price or original issued value of a
23 stored-value card, plus amounts added to the original price or value, minus
24 amounts used and any service charge, fee, or dormancy charge permitted by law;

25 (20) "Non-freely transferable security":

26 (a) Means a security that cannot be delivered to the administrator by the
27 Depository Trust Clearing Corporation or similar custodian of securities

1 providing post-trade clearing and settlement services to financial markets or
2 cannot be delivered because there is no agent to effect transfer; and

3 (b) Includes a worthless security;

4 (21) "Owner":

5 (a) Means a person that has a legal, beneficial, or equitable interest in property
6 subject to this chapter or the person's legal representative when acting on
7 behalf of the owner; and

8 (b) Includes:

9 1. A depositor, for a deposit;

10 2. A beneficiary, for a trust other than a deposit in trust;

11 3. A creditor, claimant, or payee, for other property; and

12 4. The lawful bearer of a record that may be used to obtain money, a
13 reward, or a thing of value;

14 (22) "Payroll card" means a record that evidences a payroll-card account as defined
15 in 12 C.F.R. pt. 1005, as amended;

16 (23) "Person" means an individual, estate, business association, public corporation,
17 government or governmental subdivision, agency, or instrumentality or other
18 legal entity;

19 (24) "Property":

20 (a) Means tangible property described in Section 8 of this Act or a fixed and
21 certain interest in intangible property held, issued, or owed in the course of
22 a holder's business or by a government, governmental subdivision, agency,
23 or instrumentality;

24 (b) Includes all income from or increments to the property;

25 (c) Includes property referred to as or evidenced by:

26 1. Money, virtual currency, interest, or a dividend, check, draft, deposit,
27 or payroll card;

1 2. A credit balance, customer's overpayment, stored-value card, security
2 deposit, refund, credit memorandum, unpaid wage, unused ticket for
3 which the issuer has an obligation to provide a refund, mineral
4 proceeds, or unidentified remittance;

5 3. A security, except for:

6 a. A worthless security; or

7 b. A security that is subject to a lien, legal hold, or restriction
8 evidenced on the records of the holder or imposed by operation
9 of law, if the lien, legal hold, or restriction restricts the holder's
10 or owner's ability to receive, transfer, sell, or otherwise negotiate
11 the security;

12 4. A bond, debenture, note, or other evidence of indebtedness;

13 5. Money deposited to redeem a security, make a distribution, or pay a
14 dividend;

15 6. An amount due and payable under an annuity contract or insurance
16 policy; and

17 7. An amount distributable from a trust or custodial fund established
18 under a plan to provide health, welfare, pension, vacation, severance,
19 retirement, death, stock purchase, profit-sharing, employee-savings,
20 supplemental-unemployment insurance, or a similar benefit;

21 (d) Does not include:

22 1. Property held in a plan described in 26 U.S.C. sec. 529A, as amended;

23 2. Game-related digital content;

24 3. A loyalty card;

25 4. An in-store credit for returned merchandise; or

26 5. A gift card;

27 (25) "Putative holder" means a person believed by the administrator to be a holder,

1 until the person pays or delivers to the administrator property subject to this
2 chapter or the administrator or a court makes a final determination that the
3 person is or is not a holder;

4 (26) "Record" means information that is inscribed on a tangible medium or that is
5 stored in an electronic or other medium and is retrievable in perceivable form;

6 (27) "Security" means:

7 (a) A security as defined in KRS 355.8-102;

8 (b) A security entitlement as defined in KRS 355.8-102, including a customer
9 security account held by a registered broker-dealer, to the extent the
10 financial assets held in the security account are not:

11 1. Registered on the books of the issuer in the name of the person for
12 which the broker-dealer holds the assets;

13 2. Payable to the order of the person; or

14 3. Specifically indorsed to the person; and

15 (c) An equity interest in a business association not included in paragraph (a) or
16 (b) of this subsection;

17 (28) "Sign" means, with present intent to authenticate or adopt a record:

18 (a) To execute or adopt a tangible symbol; or

19 (b) To attach to or logically associate with the record an electronic symbol,
20 sound, or process;

21 (29) "State" means a state of the United States, the District of Columbia, the
22 Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory
23 or insular possession subject to the jurisdiction of the United States;

24 (30) "Stored-value card":

25 (a) Means a record evidencing a promise made for consideration by the seller
26 or issuer of the record that goods, services, or money will be provided to the
27 owner of the record to the value or amount shown in the record;

1 **(b) Includes a:**

2 **1. Record that contains or consists of a microprocessor chip, magnetic**
3 **strip, or other means for the storage of information, which is**
4 **prefunded and whose value or amount is decreased on each use and**
5 **increased by payment of additional consideration;**

6 **2. Gift card; and**

7 **3. Payroll card; and**

8 **(c) Does not include a loyalty card or game-related digital content;**

9 **(31) "Utility" means a person that owns or operates for public use a plant, equipment,**
10 **real property, franchise, or license for the following public services:**

11 **(a) Transmission of communications or information;**

12 **(b) Production, storage, transmission, sale, delivery, or furnishing of electricity,**
13 **water, steam, or gas; or**

14 **(c) Provision of sewage or septic services, or trash, garbage, or recycling**
15 **disposal;**

16 **(32) "Virtual currency":**

17 **(a) Means a digital representation of value used as a medium of exchange, unit**
18 **of account, or store of value, which does not have legal tender status**
19 **recognized by the United States; and**

20 **(b) Does not include:**

21 **1. The software or protocols governing the transfer of the digital**
22 **representation of value;**

23 **2. Game-related digital content; or**

24 **3. Loyalty card; and**

25 **(33) "Worthless security" means a security whose cost of liquidation and delivery to**
26 **the administrator would exceed the value of the security on the date a report is**
27 **due under this chapter.**

1 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO
2 READ AS FOLLOWS:

3 *This chapter shall not apply to:*

4 *(1) Property held, due, and owing in a foreign country if the transaction out of which*
5 *the property arose was a foreign transaction;*

6 *(2) Money, funds, or any other intangible property held by or owing:*

7 *(a) To a nonprofit exempt under Section 501(c)(3) of the Internal Revenue*
8 *Code; or*

9 *(b) For any minerals or other raw materials capable of being used for fuel in*
10 *the course of manufacturing, processing, production, or mining;*

11 *(3) Wages or salaries of fifty dollars (\$50) or less that are not claimed by an*
12 *employee within one (1) year of the date the wages or salaries are earned, unless*
13 *the amounts are held on a payroll card;*

14 *(4) Moneys in inmate accounts and prisoner canteen accounts held by jailer under*
15 *KRS 441.137; or*

16 *(5) Funds held in a lawyer IOLTA trust account under Supreme Court Rule 3.830.*

17 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO
18 READ AS FOLLOWS:

19 *The administrator may promulgate administrative regulations under KRS Chapter 13A*
20 *to implement and administer this chapter. In promulgating the administrative*
21 *regulations, the administrator shall use the most cost-effective methods available for*
22 *the submission of reports to the administrator and the notice and advertisement of*
23 *property transferred to the administrator.*

24 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO
25 READ AS FOLLOWS:

26 *Subject to Section 12 of this Act, the following property shall be presumed abandoned*
27 *if it is unclaimed by the apparent owner during the period specified below:*

- 1 (1) A traveler's check, fifteen (15) years after issuance;
- 2 (2) A money order, seven (7) years after issuance;
- 3 (3) A state or municipal bond, bearer bond, or original-issue-discount bond, three (3)
4 years after the earliest of the date the bond matures or is called or the obligation
5 to pay the principal of the bond arises;
- 6 (4) A debt of a business association, three (3) years after the obligation to pay arises;
- 7 (5) A payroll card or demand, savings, or time deposit account, including a deposit
8 that is automatically renewable, three (3) years after the maturity of the deposit,
9 except a deposit that is automatically renewable is deemed matured on its initial
10 date of maturity unless the apparent owner consented in a record on file with the
11 holder to renewal at or about the time of the renewal, except:
- 12 (a) Property held in an interest-bearing, demand, savings, or time deposit
13 account shall, from the time it is presumed abandoned under this chapter,
14 be placed by the holder in an interest-bearing account made assignable to
15 the administrator;
- 16 (b) The administrator may examine the records of the holder relevant to the
17 establishment and maintenance of an interest-bearing account in
18 accordance with this chapter;
- 19 (c) Upon demand and proper proof by a person appearing entitled to payment
20 of property described in this subsection, the holder may withdraw the
21 property and any accrued interest for payment to the entitled person;
- 22 (d) Property described in this subsection deposited and not claimed ten (10)
23 years after it is presumed abandoned, or upon actual abandonment, shall be
24 paid to the administrator upon whichever abandonment occurs first; and
- 25 (e) The administrator shall not be required to credit interest on any property
26 described in this subsection after the property is received under paragraph
27 (d) of this subsection;

- 1 (6) Money or a credit owed to a customer as a result of a retail business transaction,
2 other than in-store credit for returned merchandise, three (3) years after the
3 obligation arose;
- 4 (7) An amount owed by an insurance company on a life or endowment insurance
5 policy or an annuity contract that has matured or terminated, three (3) years after
6 the obligation to pay arose under the terms of the policy or contract or, if a policy
7 or contract for which an amount is owed on proof of death has not matured by
8 proof of the death of the insured or annuitant, as follows:
- 9 (a) With respect to an amount owed on a life or endowment insurance policy,
10 three (3) years after the earlier of the date:
- 11 1. The insurance company has knowledge of the death of the insured; or
12 2. The insured has attained, or would have attained if living, the limiting
13 age under the mortality table on which the reserve for the policy is
14 based; and
- 15 (b) With respect to an amount owed on an annuity contract, three (3) years
16 after the date the insurance company has knowledge of the death of the
17 annuitant;
- 18 (8) Property distributable by a business association in the course of dissolution, one
19 (1) year after the property becomes distributable;
- 20 (9) Property held by a court, including property received as proceeds of a class
21 action, one (1) year after the property becomes distributable;
- 22 (10) Property held by a government or governmental subdivision, agency, or
23 instrumentality, including municipal bond interest and unredeemed principal
24 under the administration of a paying agent or indenture trustee, one (1) year
25 after the property becomes distributable;
- 26 (11) Property payable or distributable in the course of a demutualization of an
27 insurance company, three (3) years after the earlier of the last contact with the

- 1 policyholder, or the date the property became payable or distributable;
 2 (12) Wages, commissions, bonuses, or reimbursements to which an employee is
 3 entitled, or other compensation for personal services, other than amounts held in
 4 a payroll card, one (1) year after the amount becomes payable;
 5 (13) A deposit or refund owed to a subscriber by a utility, one (1) year after the deposit
 6 or refund becomes payable;
 7 (14) All funds represented by unclaimed pari-mutual winning tickets held in this state
 8 by any person, association, or corporation operating a pari-mutual or similar
 9 system of betting at quarter horse or Appaloosa racetracks, two (2) years from the
 10 time the ticket became payable; and
 11 (15) Property not specified in Section 5, 6, 7, 8, 9, or 10 of this Act, the earlier of three
 12 (3) years after the owner first has a right to demand the property or the obligation
 13 to pay or distribute the property arises.

14 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO
 15 READ AS FOLLOWS:

- 16 (1) Subject to Section 12 of this Act, property held in a pension account or retirement
 17 account that qualifies for tax deferral under the income-tax laws of the United
 18 States shall be presumed abandoned if it is unclaimed by the apparent owner
 19 three (3) years after the later of:
 20 (a) The following dates:
 21 1. Except as provided in subparagraph 2. of this paragraph, the date a
 22 second consecutive communication sent by the holder by first-class
 23 United States mail to the apparent owner is returned to the holder
 24 undelivered by the United States Postal Service; or
 25 2. If the second communication is sent later than thirty (30) days after
 26 the date the first communication is returned undelivered, the date the
 27 first communication was returned undelivered by the United States

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Postal Service; or

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(b) The earlier of the following dates:

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1. The date the apparent owner becomes seventy and one-half (70 1/2)

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years of age, if determinable by the holder; or

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2. If 26 U.S.C. secs. 1 et seq., as amended, requires distribution to avoid

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a tax penalty, two (2) years after the date the holder:

7

a. Receives confirmation of the death of the apparent owner in the

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ordinary course of its business; or

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b. Confirms the death of the apparent owner under subsection (2)

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of this section.

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(2) If a holder in the ordinary course of its business receives notice or an indication

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of the death of an apparent owner and subsection (1)(b) of this section applies,

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the holder shall attempt not later than ninety (90) days after receipt of the notice

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or indication to confirm whether the apparent owner is deceased.

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(3) If the holder does not send communications to the apparent owner of an account

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described in subsection (1) of this section by first-class United States mail, the

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holder shall attempt to confirm the apparent owner's interest in the property by

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sending the apparent owner an electronic-mail communication not later than two

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(2) years after the apparent owner's last indication of interest in the property.

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However, the holder promptly shall attempt to contact the apparent owner by

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first-class United States mail if:

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(a) The holder does not have information needed to send the apparent owner

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an electronic-mail communication or the holder believes that the apparent

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owner's electronic-mail address in the holder's records is not valid;

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(b) The holder receives notification that the electronic-mail communication

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was not received; or

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(c) The apparent owner does not respond to the electronic-mail communication

1 within thirty (30) days after the communication was sent.

2 (4) If first-class United States mail sent under subsection (3) of this section is
 3 returned to the holder undelivered by the United States Postal Service, the
 4 property shall be presumed abandoned three (3) years after the later of:

5 (a) Except as provided in paragraph (b) of this subsection, the date a second
 6 consecutive communication to contact the apparent owner sent by first-class
 7 United States mail is returned to the holder undelivered;

8 (b) If the second communication is sent later than thirty (30) days after the date
 9 the first communication is returned undelivered, the date the first
 10 communication was returned undelivered; or

11 (c) The date established by subsection (1)(b) of this section.

12 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO
 13 READ AS FOLLOWS:

14 Subject to Section 12 of this Act and except for property described in Section 5 of this
 15 Act and property held in a plan described in 26 U.S.C. sec. 529A, property held in an
 16 account or plan, including a health savings account, that qualifies for tax deferral
 17 under the income-tax laws of the United States shall be presumed abandoned if it is
 18 unclaimed by the apparent owner three (3) years after the earlier of:

19 (1) The date, if determinable by the holder, specified in the income-tax laws and
 20 regulations of the United States by which distribution of the property shall begin
 21 to avoid a tax penalty, with no distribution having been made; or

22 (2) Thirty (30) years after the date the account was opened.

23 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) Subject to Section 12 of this Act, property held in an account established under
 26 the Uniform Transfers to Minors Act, KRS 385.012 to 385.242, shall be presumed
 27 abandoned if it is unclaimed by or on behalf of the minor on whose behalf the

1 account was opened three (3) years after the later of:

2 (a) Except as provided in paragraph (b) of this subsection, the date a second
3 consecutive communication sent by the holder by first-class United States
4 mail to the custodian of the minor on whose behalf the account was opened
5 is returned undelivered to the holder by the United States Postal Service;

6 (b) If the second communication is sent later than thirty (30) days after the date
7 the first communication is returned undelivered, the date the first
8 communication was returned undelivered; or

9 (c) The date on which the custodian is required to transfer the property to the
10 minor or the minor's estate in accordance with the Uniform Gifts to Minors
11 Act or Uniform Transfers to Minors Act of the state in which the account
12 was opened.

13 (2) If the holder does not send communications to the custodian of the minor on
14 whose behalf an account described in subsection (1) of this section was opened by
15 first-class United States mail, the holder shall attempt to confirm the custodian's
16 interest in the property by sending the custodian an electronic-mail
17 communication not later than two (2) years after the custodian's last indication
18 of interest in the property. However, the holder promptly shall attempt to contact
19 the custodian by first-class United States mail if:

20 (a) The holder does not have information needed to send the custodian an
21 electronic-mail communication or the holder believes that the custodian's
22 electronic-mail address in the holder's records is not valid;

23 (b) The holder receives notification that the electronic-mail communication
24 was not received; or

25 (c) The custodian does not respond to the electronic-mail communication
26 within thirty (30) days after the communication was sent.

27 (3) If first-class United States mail sent under subsection (2) of this section is

1 returned undelivered to the holder by the United States Postal Service, the
 2 property shall be presumed abandoned three (3) years after the later of:

3 (a) The date a second consecutive communication to contact the custodian by
 4 first-class United States mail is returned to the holder undelivered by the
 5 United States Postal Service; or

6 (b) The date established by subsection (1)(c) of this section.

7 (4) When the property in the account described in subsection (1)(c) of this section is
 8 transferred to the minor on whose behalf an account was opened or to the
 9 minor's estate, the property in the account shall no longer be subject to this
 10 section.

11 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO
 12 READ AS FOLLOWS:

13 Tangible property held in a safe-deposit box and proceeds from a sale of the property
 14 by the holder permitted by law of this state other than this chapter are presumed
 15 abandoned if the property remains unclaimed by the apparent owner five (5) years
 16 after the earlier of the:

17 (1) Expiration of the lease or rental period for the box; or

18 (2) Earliest date when the lessor of the box is authorized by law of this state other
 19 than this chapter to enter the box and remove or dispose of the contents without
 20 consent or authorization of the lessee.

21 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO
 22 READ AS FOLLOWS:

23 (1) Subject to Section 12 of this Act, the net card value of a stored-value card, other
 24 than a payroll card or a gift card, shall be presumed abandoned on the latest of
 25 three (3) years after:

26 (a) December 31 of the year in which the card is issued or additional funds are
 27 deposited into it;

- 1 **(b) The most recent indication of interest in the card by the apparent owner; or**
2 **(c) A verification or review of the balance by or on behalf of the apparent**
3 **owner.**

4 **(2) The amount presumed abandoned in a stored-value card shall be the net card**
5 **value at the time it is presumed abandoned.**

6 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
7 TO READ AS FOLLOWS:

8 **(1) Subject to Section 12 of this Act, a security shall be presumed abandoned three**
9 **(3) years after:**

10 **(a) The date a second consecutive communication sent by the holder by first-**
11 **class United States mail to the apparent owner is returned to the holder**
12 **undelivered by the United States Postal Service; or**

13 **(b) If the second communication is made later than thirty (30) days after the**
14 **first communication is returned, the date the first communication is**
15 **returned undelivered to the holder by the United States Postal Service.**

16 **(2) If the holder does not send communications to the apparent owner of a security**
17 **by first-class United States mail, the holder shall attempt to confirm the apparent**
18 **owner's interest in the security by sending the apparent owner an electronic-mail**
19 **communication not later than two (2) years after the apparent owner's last**
20 **indication of interest in the security. However, the holder promptly shall attempt**
21 **to contact the apparent owner by first-class United States mail if:**

22 **(a) The holder does not have information needed to send the apparent owner**
23 **an electronic-mail communication or the holder believes that the apparent**
24 **owner's electronic-mail address in the holder's records is not valid;**

25 **(b) The holder receives notification that the electronic-mail communication**
26 **was not received; or**

27 **(c) The apparent owner does not respond to the electronic-mail communication**

1 within thirty (30) days after the communication was sent.

2 (3) If first-class United States mail sent under subsection (2) of this section is
 3 returned to the holder undelivered by the United States Postal Service, the
 4 security shall be presumed abandoned three (3) years after the date the mail is
 5 returned.

6 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 7 TO READ AS FOLLOWS:

8 At and after the time property is presumed abandoned under this chapter, any other
 9 property right or interest accrued or accruing from the property and not previously
 10 presumed abandoned shall also be presumed abandoned.

11 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 12 TO READ AS FOLLOWS:

13 (1) The period after which property shall be presumed abandoned shall be measured
 14 from the later of:

15 (a) The date the property is presumed abandoned under this chapter; or

16 (b) The latest indication of interest by the apparent owner in the property.

17 (2) Under this chapter, an indication of an apparent owner's interest in property
 18 includes:

19 (a) A record communicated by the apparent owner to the holder or agent of the
 20 holder concerning the property or the account in which the property is held;

21 (b) An oral communication by the apparent owner to the holder or agent of the
 22 holder concerning the property or the account in which the property is held,
 23 if the holder or its agent contemporaneously makes and preserves a record
 24 of the fact of the apparent owner's communication;

25 (c) Presentment of a check or other instrument of payment of a dividend,
 26 interest payment, or other distribution, or evidence of receipt of a
 27 distribution made by electronic or similar means, with respect to an

1 account, underlying security, or interest in a business association;

2 (d) Activity directed by an apparent owner in the account in which the property
3 is held, including accessing the account or information concerning the
4 account, or a direction by the apparent owner to increase, decrease, or
5 otherwise change the amount or type of property held in the account;

6 (e) A deposit into or withdrawal from an account at a financial organization,
7 including an automatic deposit or withdrawal previously authorized by the
8 apparent owner other than an automatic reinvestment of dividends or
9 interest;

10 (f) Subject to subsection (5) of this section, payment of a premium on an
11 insurance policy; and

12 (g) Any other action by the apparent owner which reasonably demonstrates to
13 the holder that the apparent owner knows that the property exists.

14 (3) An action by an agent or other representative of an apparent owner, other than
15 the holder acting as the apparent owner's agent, shall be presumed to be an
16 action on behalf of the apparent owner.

17 (4) A communication with an apparent owner by a person other than the holder or
18 the holder's representative shall not be an indication of interest in the property by
19 the apparent owner unless a record of the communication evidences the apparent
20 owner's knowledge of a right to the property.

21 (5) If the insured dies or the insured or beneficiary of an insurance policy otherwise
22 becomes entitled to the proceeds before depletion of the cash surrender value of
23 the policy by operation of an automatic-premium-loan provision or other
24 nonforfeiture provision contained in the policy, the operation shall not prevent
25 the policy from maturing or terminating.

26 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
27 TO READ AS FOLLOWS:

- 1 (1) As used in this section, "death master file" means the United States Social
2 Security Administration Death Master File or other database or service that is at
3 least as comprehensive as the United States Social Security Administration Death
4 Master File for determining that an individual reportedly has died.
- 5 (2) With respect to a life or endowment insurance policy or annuity contract for
6 which an amount is owed on proof of death, but which has not matured by proof
7 of death of the insured or annuitant, the company has knowledge of the death of
8 an insured or annuitant when:
- 9 (a) The company receives a death certificate or court order determining that the
10 insured or annuitant has died;
- 11 (b) The company conducts a comparison for any purpose between a death
12 master file and the names of some or all of the company's insureds or
13 annuitants, finds a match that provides notice that the insured or annuitant
14 has died, and validates the death;
- 15 (c) The administrator or the administrator's agent conducts a comparison for
16 the purpose of finding matches during an examination conducted under
17 Sections 55 to 65 of this Act between a death master file and the names of
18 some or all of the company's insureds or annuitants, finds a match that
19 provides notice that the insured or annuitant has died, and the company
20 validates the death; or
- 21 (d) The company:
- 22 1. Receives notice of the death of the insured or annuitant from an
23 administrator, beneficiary, policy owner, relative of the insured, or
24 trustee or from a personal representative, executor, or other legal
25 representative of the insured's or annuitant's estate; and
- 26 2. Validates the death of the insured or annuitant.
- 27 (3) The following rules apply under this section:

1 (a) A death-master-file match under subsection (2)(b) or (c) of this section
 2 occurs if the criteria for an exact or partial match are satisfied as provided
 3 by KRS 304.15-420;

4 (b) The death-master-file match shall not constitute proof of death for the
 5 purpose of submission to an insurance company of a claim by a beneficiary,
 6 annuitant, or owner of the policy or contract for an amount due under an
 7 insurance policy or annuity contract; and

8 (c) The death-master-file match or validation of the insured's or annuitant's
 9 death shall not alter the requirements for a beneficiary, annuitant, or owner
 10 of the policy or contract to make a claim to receive proceeds under the terms
 11 of the policy or contract.

12 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 13 TO READ AS FOLLOWS:

14 If proceeds payable under a life or endowment insurance policy or annuity contract are
 15 deposited into an account with check or draft-writing privileges for the beneficiary of
 16 the policy or contract and, under a supplementary contract not involving annuity
 17 benefits other than death benefits, the proceeds are retained by the insurance company
 18 or the financial organization where the account is held, the policy or contract includes
 19 the assets in the account.

20 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 21 TO READ AS FOLLOWS:

22 In Sections 15 to 21 of this Act:

23 (1) The last-known address of an apparent owner shall be any description, code, or
 24 other indication of the location of the apparent owner which identifies the state,
 25 even if the description, code, or indication of location shall not be sufficient to
 26 direct the delivery of first-class United States mail to the apparent owner;

27 (2) If the United States postal zip code associated with the apparent owner is for a

1 post office located in this state, this state shall be deemed to be the state of the
 2 last-known address of the apparent owner unless other records associated with
 3 the apparent owner specifically identify the physical address of the apparent
 4 owner to be in another state;

5 (3) If the address under subsection (2) of this section is in another state, the other
 6 state shall be deemed to be the state of the last-known address of the apparent
 7 owner; and

8 (4) The address of the apparent owner of a life or endowment insurance policy or
 9 annuity contract or its proceeds shall be presumed to be the address of the
 10 insured or annuitant if a person other than the insured or annuitant is entitled to
 11 the amount owed under the policy or contract and the address of the other person
 12 is not known by the insurance company and cannot be determined under Section
 13 16 of this Act.

14 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 15 TO READ AS FOLLOWS:

16 The administrator may take custody of property that is presumed abandoned, whether
 17 located in this state, another state, or a foreign country if:

18 (1) The last-known address of the apparent owner in the records of the holder is in
 19 this state; or

20 (2) The records of the holder do not reflect the identity or last-known address of the
 21 apparent owner, but the administrator has determined that the last-known
 22 address of the apparent owner is in this state.

23 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 24 TO READ AS FOLLOWS:

25 (1) Except as provided in subsection (2) of this section, if records of a holder reflect
 26 multiple addresses for an apparent owner and this state is the state of the most
 27 recently recorded address, this state may take custody of property presumed

1 abandoned, whether located in this state or another state.

2 (2) If it appears from records of the holder that the most recently recorded address of
3 the apparent owner under subsection (1) of this section is a temporary address
4 and this state is the state of the next most recently recorded address that is not a
5 temporary address, this state may take custody of the property presumed
6 abandoned.

7 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
8 TO READ AS FOLLOWS:

9 (1) Except as provided in subsection (2) of this section or Section 16 or 17 of this Act,
10 the administrator may take custody of property presumed abandoned, whether
11 located in this state, another state, or a foreign country, if the holder is domiciled
12 in this state or is this state or a governmental subdivision, agency, or
13 instrumentality of this state, and:

14 (a) Another state or foreign country shall not be entitled to the property
15 because there is no last-known address of the apparent owner or other
16 person entitled to the property in the records of the holder; or

17 (b) The state or foreign country of the last-known address of the apparent
18 owner or other person entitled to the property does not provide for custodial
19 taking of the property.

20 (2) Property shall not be subject to the custody of the administrator under subsection
21 (1) of this section if the property is specifically exempt from custodial taking
22 under the law of this state or the state or foreign country of the last-known
23 address of the apparent owner.

24 (3) If a holder's state of domicile has changed since the time property was presumed
25 abandoned, the holder's state of domicile in this section shall be deemed to be the
26 state where the holder was domiciled at the time the property was presumed
27 abandoned.

1 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
2 TO READ AS FOLLOWS:

3 *Except as in Section 16, 17, or 18 of this Act, the administrator may take custody of*
4 *property presumed abandoned whether located in this state or another state if:*

5 *(1) The transaction out of which the property arose took place in this state;*

6 *(2) The holder is domiciled in a state that does not provide for the custodial taking of*
7 *the property, except that if the property is specifically exempt from custodial*
8 *taking under the law of the state of the holder's domicile, the property shall not*
9 *be subject to the custody of the administrator; and*

10 *(3) The last-known address of the apparent owner or other person entitled to the*
11 *property is unknown or in a state that does not provide for the custodial taking of*
12 *the property, except that if the property is specifically exempt from custodial*
13 *taking under the law of the state of the last-known address, the property shall not*
14 *be subject to the custody of the administrator.*

15 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
16 TO READ AS FOLLOWS:

17 *The administrator may take custody of sums payable on a traveler's check, money*
18 *order, or similar instrument presumed abandoned to the extent permissible under 12*
19 *U.S.C. secs. 2501 to 2503, as amended.*

20 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
21 TO READ AS FOLLOWS:

22 *If the administrator asserts a right to custody of unclaimed property, the administrator*
23 *has the burden to prove:*

24 *(1) The existence and amount of the property;*

25 *(2) The property shall be presumed abandoned; and*

26 *(3) The property shall be subject to the custody of the administrator.*

27 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 393A IS CREATED

1 TO READ AS FOLLOWS:

2 (1) A holder of property presumed abandoned and subject to the custody of the
3 administrator shall report in a record to the administrator concerning the
4 property. A holder shall not be required to file a report if the holder has no
5 property that is presumed abandoned. The administrator shall not require a
6 holder to file a paper report.

7 (2) A holder may contract with a third party to make the report required under
8 subsection (1) of this section.

9 (3) Whether or not a holder contracts with a third party under subsection (2) of this
10 section, the holder shall be responsible:

11 (a) To the administrator for the complete, accurate, and timely reporting of
12 property presumed abandoned; and

13 (b) For paying or delivering to the administrator property described in the
14 report.

15 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 393A IS CREATED

16 TO READ AS FOLLOWS:

17 (1) The report required under Section 22 of this Act shall:

18 (a) Be signed by or on behalf of the holder and verified as to its completeness
19 and accuracy;

20 (b) If filed electronically, be in a secure format approved by the administrator
21 which protects confidential information of the apparent owner in the same
22 manner as required of the administrator and the administrator's agent
23 under Sections 77 to 83 of this Act;

24 (c) Describe the property;

25 (d) Except for a traveler's check, money order, or similar instrument, contain
26 the name, if known, last-known address, if known, and Social Security
27 number or taxpayer identification number, if known or readily

- 1 ascertainable, of the apparent owner of property with a value of fifty dollars
2 (\$50) or more;
- 3 (e) For an amount held or owing under a life or endowment insurance policy
4 or annuity contract, contain the name and last-known address of the
5 insured, annuitant, or other apparent owner of the policy or contract and of
6 the beneficiary;
- 7 (f) For property held in or removed from a safe-deposit box, indicate the
8 location of the property, where it may be inspected by the administrator, and
9 any amounts owed to the holder under Section 36 of this Act;
- 10 (g) Contain the commencement date for determining abandonment under
11 Sections 4 to 14 of this Act;
- 12 (h) State that the holder has complied with the notice requirements of Section
13 27 of this Act;
- 14 (i) Identify property that is a non-freely transferable security and explain why
15 it is a non-freely transferable security; and
- 16 (j) Contain other information the administrator prescribes.
- 17 (2) A report under Section 22 of this Act may include in the aggregate items valued
18 under fifty dollars (\$50) each. If the report includes items in the aggregate valued
19 under fifty dollars (\$50) each, the administrator shall not require the holder to
20 provide the name and address of an apparent owner of an item unless the
21 information is necessary to verify or process a claim in progress by the apparent
22 owner.
- 23 (3) A report under Section 22 of this Act may include personal information as
24 described in subsection (1) of Section 78 of this Act about the apparent owner or
25 the apparent owner's property to the extent not otherwise prohibited by federal
26 law.
- 27 (4) If a holder has changed its name while holding property presumed abandoned or

1 is a successor to another person that previously held the property for the apparent
 2 owner, the holder shall include in the report under Section 22 of this Act its
 3 former name or the name of the previous holder, if any, and the known name and
 4 address of each previous holder of the property.

5 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 6 TO READ AS FOLLOWS:

7 (1) Except as otherwise provided in subsection (2) of this section, and subject to
 8 subsection (3) of this section, the report under Section 22 of this Act shall be filed
 9 before November 1 of each year and cover the 12 months preceding July 1 of that
 10 year.

11 (2) Subject to subsection (3) of this section, the report under Section 22 of this Act to
 12 be filed by an insurance company shall be filed before May 1 of each year for the
 13 immediately preceding calendar year.

14 (3) Before the date for filing the report under Section 22 of this Act, the holder of
 15 property presumed abandoned may request the administrator extend the time for
 16 filing. The administrator may grant an extension. If the extension is granted, the
 17 holder may pay or make a partial payment of the amount the holder estimates
 18 ultimately will be due. The payment or partial payment terminates accrual of
 19 interest on the amount paid.

20 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 21 TO READ AS FOLLOWS:

22 A holder required to file a report under Section 22 of this Act shall retain records for
 23 ten (10) years after the later of the date the report was filed or the last date a timely
 24 report was due to be filed, unless a shorter period shall be provided by rule of the
 25 administrator. The holder may satisfy the requirement to retain records under this
 26 section through an agent. The records shall contain:

27 (1) The information required to be included in the report;

- 1 (2) The date, place, and nature of the circumstances that gave rise to the property
2 right;
- 3 (3) The amount or value of the property;
- 4 (4) The last address of the apparent owner, if known to the holder; and
- 5 (5) If the holder sells, issues, or provides to others for sale or issue in this state
6 traveler's checks, money orders, or similar instruments, other than third-party
7 bank checks, on which the holder is directly liable, a record of the instruments
8 while they remain outstanding indicating the state and date of issue.

9 ➔SECTION 26. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
10 TO READ AS FOLLOWS:

11 Property shall be reportable and payable or deliverable under this chapter even if the
12 owner fails to make demand or present an instrument or document otherwise required
13 to obtain payment.

14 ➔SECTION 27. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
15 TO READ AS FOLLOWS:

16 (1) Subject to subsection (2) of this section, the holder of property presumed
17 abandoned shall send to the apparent owner notice by first-class United States
18 mail that complies with Section 28 of this Act in a format acceptable to the
19 administrator not more than one hundred eighty (180) days nor less than sixty
20 (60) days before filing the report under Section 22 of this Act if:

21 (a) The holder has in its records an address for the apparent owner which the
22 holder's records do not disclose to be invalid and is sufficient to direct the
23 delivery of first-class United States mail to the apparent owner; and

24 (b) The value of the property is fifty dollars (\$50) or more.

25 (2) If an apparent owner has consented to receive electronic-mail delivery from the
26 holder, the holder shall send the notice described in subsection (1) of this section
27 both by first-class United States mail to the apparent owner's last-known mailing

1 address and by electronic mail, unless the holder believes that the apparent
 2 owner's electronic-mail address is invalid.

3 ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 4 TO READ AS FOLLOWS:

5 (1) Notice under Section 27 of this Act shall contain a heading that reads
 6 substantially as follows: "Notice. The Commonwealth of Kentucky requires us to
 7 notify you that your property may be transferred to the custody of the Kentucky
 8 State Treasurer if you do not contact us before (insert date that is thirty (30) days
 9 after the date of this notice)."

10 (2) The notice under Section 27 of this Act shall:

11 (a) Identify the nature and, except for property that does not have a fixed value,
 12 the value of the property that is the subject of the notice;

13 (b) State that the property shall be turned over to the administrator;

14 (c) State that after the property is turned over to the administrator, an apparent
 15 owner that seeks return of the property shall file a claim with the
 16 administrator;

17 (d) State that property that is not legal tender of the United States may be sold
 18 by the administrator; and

19 (e) Provide instructions that the apparent owner shall follow to prevent the
 20 holder from reporting and paying or delivering the property to the
 21 administrator.

22 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 23 TO READ AS FOLLOWS:

24 (1) The administrator shall give notice to an apparent owner that property presumed
 25 abandoned and appears to be owned by the apparent owner shall be held by the
 26 administrator under this chapter.

27 (2) In providing notice under subsection (1) of this section, the administrator shall:

- 1 (a) Not be required to use newspaper publication to provide notice; and
 2 (b) Maintain a Web site or database accessible by the public and electronically
 3 searchable that contains the names reported to the administrator of all
 4 apparent owners for whom property is being held by the administrator.
- 5 (3) The Web site or database maintained under subsection (2)(b) of this section shall
 6 include instructions for filing with the administrator a claim to property and a
 7 printable claim form with instructions for its use.
- 8 (4) In addition to giving notice under subsection (2) of this section, the administrator
 9 may use printed publication, telecommunication, the Internet, or other media to
 10 inform the public of the existence of unclaimed property held by the
 11 administrator.

12 ➔SECTION 30. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 13 TO READ AS FOLLOWS:

14 Unless prohibited by law other than this chapter, on request of the administrator, each
 15 officer, agency, board, commission, division, and department of this state, any body
 16 politic and corporate created by this state for a public purpose, and each political
 17 subdivision of this state shall make its books and records available to the administrator
 18 and cooperate with the administrator to determine the current address of an apparent
 19 owner of property held by the administrator under this chapter.

20 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 21 TO READ AS FOLLOWS:

22 In Sections 31 to 39 of this Act, payment or delivery of property shall be made in good
 23 faith if a holder:

- 24 (1) Had a reasonable basis for believing, based on the facts then known, that the
 25 property was required or permitted to be paid or delivered to the administrator
 26 under this chapter; or
- 27 (2) Made payment or delivery:

1 (a) In response to a demand by the administrator or administrator's agent; or

2 (b) Under a guidance or ruling issued by the administrator which the holder
 3 reasonably believed required or permitted the property to be paid or
 4 delivered.

5 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 6 TO READ AS FOLLOWS:

7 (1) A holder may deduct a dormancy charge from property required to be paid or
 8 delivered to the administrator if:

9 (a) A valid contract between the holder and the apparent owner authorizes
 10 imposition of the charge for the apparent owner's failure to claim the
 11 property within a specified time; and

12 (b) The holder regularly imposes the charge and regularly does not reverse or
 13 otherwise cancel the charge.

14 (2) The amount of the deduction under subsection (1) of this section shall be limited
 15 to an amount that shall not be unconscionable considering all relevant factors,
 16 including the marginal transactional costs incurred by the holder in maintaining
 17 the apparent owner's property and any services received by the apparent owner.

18 ➔SECTION 33. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 19 TO READ AS FOLLOWS:

20 (1) Except as otherwise provided in this section, on filing a report under Section 22
 21 of this Act, the holder shall pay or deliver to the administrator the property
 22 described in the report.

23 (2) If property in a report under Section 22 of this Act is an automatically renewable
 24 deposit and a penalty or forfeiture in the payment of interest would result from
 25 paying the deposit to the administrator at the time of the report, the date for
 26 payment of the property to the administrator is extended until a penalty or
 27 forfeiture no longer would result from payment, if the holder informs the

- 1 administrator of the extended date.
- 2 (3) Tangible property in a safe-deposit box shall not be delivered to the administrator
3 until one hundred twenty (120) days after filing the report under Section 22 of
4 this Act.
- 5 (4) If property reported to the administrator under Section 22 of this Act is a security,
6 the administrator may:
- 7 (a) Make an endorsement, instruction, or entitlement order on behalf of the
8 apparent owner to invoke the duty of the issuer, its transfer agent, or the
9 securities intermediary to transfer the security; or
- 10 (b) Dispose of the security under Section 41 of this Act.
- 11 (5) If the holder of property reported to the administrator under Section 22 of this
12 Act is the issuer of a certificated security, the administrator may obtain a
13 replacement certificate in physical or book-entry form under KRS 355.8-405. An
14 indemnity bond shall not be required.
- 15 (6) The administrator shall establish procedures for the registration, issuance,
16 method of delivery, transfer, and maintenance of securities delivered to the
17 administrator by a holder.
- 18 (7) An issuer, holder, and transfer agent or other person acting under this section
19 under instructions of and on behalf of the issuer or holder shall not be liable to
20 the apparent owner for, and shall be indemnified by the state against, a claim
21 arising with respect to property after the property has been delivered to the
22 administrator.
- 23 (8) A holder shall not be required to deliver to the administrator a security identified
24 by the holder as a non-freely transferable security. If the administrator or holder
25 determines that a security is no longer a non-freely transferable security, the
26 holder shall deliver the security on the next regular date prescribed for delivery of
27 securities under this act. The holder shall make a determination annually

1 whether a security identified in a report filed under Section 22 of this Act as a
 2 non-freely transferable security is no longer a non-freely transferable security.

3 ➔SECTION 34. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 4 TO READ AS FOLLOWS:

5 (1) On payment or delivery of property to the administrator under this chapter, the
 6 administrator as agent for the state assumes custody and responsibility for
 7 safekeeping the property. A holder that pays or delivers property to the
 8 administrator in good faith and substantially complies with Sections 27 and 28 of
 9 this Act shall be relieved of liability arising thereafter with respect to payment or
 10 delivery of the property to the administrator.

11 (2) This state shall defend and indemnify a holder against liability on a claim against
 12 the holder resulting from the payment or delivery of property to the administrator
 13 made in good faith and after the holder substantially complied with Sections 27
 14 and 28 of this Act.

15 ➔SECTION 35. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 16 TO READ AS FOLLOWS:

17 (1) A holder that pays money to the administrator under this chapter may file a claim
 18 for reimbursement from the administrator of the amount paid if the holder:

19 (a) Paid the money in error; or

20 (b) After paying the money to the administrator, paid money to a person the
 21 holder reasonably believed to be entitled to the money.

22 (2) If a claim for reimbursement under subsection (1) of this section is made for a
 23 payment made on a negotiable instrument, including a traveler's check, money
 24 order, or similar instrument, the holder shall submit proof that the instrument
 25 was presented and payment was made to a person the holder reasonably believed
 26 entitled to payment. The holder may claim reimbursement even if the payment
 27 was made to a person whose claim was made after expiration of a period of

- 1 limitation on the owner's right to receive or recover property, whether specified
2 by contract, statute, or court order.
- 3 (3) A holder that delivers property other than money to the administrator under this
4 chapter may file a claim under section 51 of this Act for return of the property
5 from the administrator if:
- 6 (a) The holder delivered the property in error; or
7 (b) The apparent owner has claimed the property from the holder.
- 8 (4) If a claim for return of property under subsection (3) of this section is made, the
9 holder shall include with the claim evidence sufficient to establish that the
10 apparent owner has claimed the property from the holder or that the property was
11 delivered by the holder to the administrator in error.
- 12 (5) The administrator may determine that an affidavit submitted by a holder is
13 evidence sufficient to establish that the holder shall be entitled to reimbursement
14 or to recover property under this section.
- 15 (6) A holder shall not be required to pay a fee or other charge for reimbursement or
16 return of property under this section.
- 17 (7) Not later than ninety (90) days after a claim is filed under subsection (1) or (3) of
18 this section, the administrator shall allow or deny the claim and give the claimant
19 notice of the decision in a record. If the administrator does not take action on a
20 claim during the ninety (90) day period, the claim shall be deemed denied.
- 21 (8) The claimant may initiate a proceeding under KRS Chapter 13B for review of the
22 administrator's decision or the deemed denial under subsection (7) of this section
23 not later than:
- 24 (a) Thirty (30) days following receipt of the notice of the administrator's
25 decision; or
- 26 (b) One hundred twenty (120) days following the filing of a claim under
27 subsection (1) or (3) of this section in the case of a deemed denial under

1 subsection (7) of this section.

2 (9) A final decision in an administrative proceeding initiated under subsection (8) of
3 this section shall be subject to judicial review under KRS Chapter 13B.

4 ➔SECTION 36. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
5 TO READ AS FOLLOWS:

6 Property removed from a safe-deposit box and delivered under this Act to the
7 administrator shall be subject to the holder's right to reimbursement for the cost of
8 opening the box and a lien or contract providing reimbursement to the holder for
9 unpaid rent charges for the box. The administrator shall reimburse the holder from the
10 proceeds remaining after deducting the expense incurred by the administrator in
11 selling the property.

12 ➔SECTION 37. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
13 TO READ AS FOLLOWS:

14 (1) The administrator may decline to take custody of property reported under Section
15 22 of this Act if the administrator determines that:

16 (a) The property has a value less than the estimated expenses of notice and sale
17 of the property; or

18 (b) Taking custody of the property would be unlawful.

19 (2) A holder may pay or deliver property to the administrator before the property
20 shall be presumed abandoned under this chapter if the holder:

21 (a) Sends the apparent owner of the property notice required by Section 27 of
22 this Act and provides the administrator evidence of the holder's compliance
23 with this paragraph;

24 (b) Includes with the payment or delivery a report regarding the property
25 conforming to Section 23 of this Act; and

26 (c) First obtains the administrator's consent in a record to accept payment or
27 delivery.

1 (3) A holder's request for the administrator's consent under subsection (2)(c) of this
 2 section shall be in a record. If the administrator fails to respond to the request not
 3 later than thirty (30) days after receipt of the request, the administrator shall be
 4 deemed to consent to the payment or delivery of the property and the payment or
 5 delivery shall be considered to have been made in good faith.

6 (4) On payment or delivery of property under subsection (2) of this section, the
 7 property shall be presumed abandoned.

8 ➔SECTION 38. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 9 TO READ AS FOLLOWS:

10 (1) If the administrator takes custody of property delivered under this chapter and
 11 later determines that the property has no substantial commercial value or that the
 12 cost of disposing of the property will exceed the value of the property, the
 13 administrator may return the property to the holder or destroy or otherwise
 14 dispose of the property.

15 (2) In disposing of property under subsection (1) of this section, the administrator
 16 may deliver the property to the Kentucky Historical Society, or any other
 17 museum, historical society, or organization approved by the administrator, and
 18 on such terms as the administrator deems appropriate. Upon delivery of the
 19 property to a third party described in this subsection, the administrator shall no
 20 longer be responsible for the safekeeping of the property.

21 (3) An action or proceeding shall not be commenced against the state, an agency of
 22 the state, the administrator, another officer, employee, or agent of the state, or a
 23 holder for or because of an act of the administrator under this section, except for
 24 intentional misconduct or malfeasance.

25 ➔SECTION 39. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 26 TO READ AS FOLLOWS:

27 (1) Expiration, before, on, or after the effective date of this Act, of a period of

1 limitation on an owner's right to receive or recover property, whether specified by
 2 contract, statute, or court order, shall not prevent the property from being
 3 presumed abandoned or affect the duty of a holder under this chapter to file a
 4 report or pay or deliver property to the administrator.

5 (2) The administrator shall not commence an action or proceeding to enforce this
 6 chapter with respect to the reporting, payment, or delivery of property more than
 7 five (5) years after the holder filed a non-fraudulent report under Section 22 of
 8 this Act with the administrator. The parties may agree in a record to extend the
 9 limitation in this subsection.

10 (3) The administrator shall not commence an action, proceeding, or examination
 11 with respect to a duty of a holder under this chapter more than ten (10) years
 12 after the duty arose.

13 ➔SECTION 40. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 14 TO READ AS FOLLOWS:

15 (1) Subject to Section 41 of this Act, the administrator may sell the property no
 16 earlier than three (3) years after receipt of property presumed abandoned.

17 (2) Before selling property under subsection (1) of this section, the administrator
 18 shall give notice to the public of:

19 (a) The date of the sale; and

20 (b) A reasonable description of the property.

21 (3) A sale under subsection (1) of this section shall be to the highest bidder:

22 (a) At public sale at a location in this state which the administrator determines
 23 to be the most favorable market for the property;

24 (b) On the Internet; or

25 (c) On another forum the administrator determines is likely to yield the highest
 26 net proceeds of sale.

27 (4) The administrator may decline the highest bid at a sale under this section and

1 reoffer the property for sale if the administrator determines the highest bid is
2 insufficient.

3 (5) If a sale held under this section is to be conducted other than on the Internet, the
4 administrator shall publish at least one (1) notice of the sale, at least three (3)
5 weeks but not more than five (5) weeks before the sale, in a newspaper of general
6 circulation in the county in which the property is sold.

7 ➔SECTION 41. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
8 TO READ AS FOLLOWS:

9 (1) The administrator shall not sell or otherwise liquidate a security until three (3)
10 years after the administrator receives the security and gives the apparent owner
11 notice under Section 29 of this Act that the administrator holds the security.

12 (2) The administrator shall not sell a security listed on an established stock exchange
13 for less than the price prevailing on the exchange at the time of sale. The
14 administrator may sell a security not listed on an established exchange by any
15 commercially reasonable method.

16 ➔SECTION 42. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
17 TO READ AS FOLLOWS:

18 (1) If securities are sold by the administrator before the expiration of three (3) years
19 after their delivery to the administrator, a person making a claim under this
20 chapter before the end of the three (3) year period shall be entitled to the proceeds
21 of the sale of the securities or the market value of the securities at the time the
22 claim is made, plus dividends, interest, and other increments up to the time the
23 claim is made, less any deduction for expenses of the sale.

24 (2) A person making a claim under this chapter after the expiration of the three (3)
25 year period shall be entitled to receive the securities delivered to the administrator
26 by the holder, if the securities remain in the custody of the administrator, or the
27 net proceeds received from the sale, and shall not be entitled to receive any

1 appreciation in the value of the property occurring after the delivery to the
2 administrator.

3 ➔SECTION 43. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
4 TO READ AS FOLLOWS:

5 A purchaser of property at a sale conducted by the administrator under this chapter
6 takes the property free of all claims of the owner, a previous holder, or a person
7 claiming through the owner or holder. The administrator shall execute documents
8 necessary to complete the transfer of ownership to the purchaser.

9 ➔SECTION 44. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
10 TO READ AS FOLLOWS:

11 (1) The administrator shall not sell a medal or decoration awarded for military
12 service in the Armed Forces of the United States.

13 (2) The administrator, with the consent of the respective organization under
14 paragraphs (a) to (c) of this subsection, may deliver a medal or decoration
15 described in subsection (1) of this section to be held in custody for the owner, to:

16 (a) A military veterans organization qualified under 26 U.S.C. sec. 501(c)(19);

17 (b) The agency that awarded the medal or decoration;

18 (c) The Kentucky Historical Society, or any museum or historical society
19 approved by the administrator; or

20 (d) A governmental entity.

21 (3) On delivery under subsection (2) of this section, the administrator shall not be
22 responsible for safekeeping the medal or decoration.

23 ➔SECTION 45. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
24 TO READ AS FOLLOWS:

25 The administrator shall deposit in the State Treasury all funds received under this
26 chapter, including proceeds from the sale of property under Sections 40 to 44 of this
27 Act.

1 ➔SECTION 46. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
2 TO READ AS FOLLOWS:

3 **The administrator shall:**

- 4 **(1) Record and retain the name and last-known address of each person shown on a**
5 **report filed under Section 22 of this Act to be the apparent owner of property**
6 **delivered to the administrator;**
- 7 **(2) Record and retain the name and last-known address of each insured or annuitant**
8 **and beneficiary shown on the report;**
- 9 **(3) For each policy of insurance or annuity contract listed in the report of an**
10 **insurance company, record and retain the policy or account number, the name of**
11 **the company, and the amount due or paid; and**
- 12 **(4) For each apparent owner listed in the report, record and retain the name of the**
13 **holder that filed the report and the amount due or paid.**

14 ➔SECTION 47. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
15 TO READ AS FOLLOWS:

- 16 **(1) In addition to the expenses permitted under Section 92 of this Act, the**
17 **administrator may deduct:**
- 18 **(a) Expenses of disposition of property delivered to the administrator under this**
19 **chapter;**
- 20 **(b) Costs of mailing and publication in connection with property delivered to**
21 **the administrator under this chapter;**
- 22 **(c) Reasonable service charges; and**
- 23 **(d) Expenses incurred in examining records of or collecting property from a**
24 **putative holder or holder.**
- 25 **(2) In addition to any expenses in subsection (1) of this section, the administrator**
26 **shall deduct the proportionate costs of advertisement and operations from the**
27 **amount of any claim allowed in an amount greater than ten dollars (\$10). The**

1 administrator shall deduct at least one dollar (\$1).

2 ➔SECTION 48. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
3 TO READ AS FOLLOWS:

4 Property received by the administrator under this chapter shall be held in custody for
5 the benefit of the owner and shall not be owned by the state.

6 ➔SECTION 49. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
7 TO READ AS FOLLOWS:

8 (1) If the administrator knows that property held by the administrator under this
9 chapter is subject to a superior claim of another state, the administrator shall:

10 (a) Report and pay or deliver the property to the other state; or

11 (b) Return the property to the holder so that the holder may pay or deliver the
12 property to the other state.

13 (2) The administrator shall not be required to enter into an agreement to transfer
14 property to the other state under subsection (1) of this section.

15 ➔SECTION 50. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
16 TO READ AS FOLLOWS:

17 (1) Property held under this chapter by the administrator shall be subject to the right
18 of another state to take custody of the property if:

19 (a) The property was paid or delivered to the administrator because the records
20 of the holder did not reflect a last-known address in the other state of the
21 apparent owner and:

22 1. The other state establishes that the last-known address of the apparent
23 owner or other person entitled to the property was in the other state;

24 or

25 2. Under the law of the other state, the property has become subject to a
26 claim by the other state of abandonment;

27 (b) The records of the holder did not accurately identify the owner of the

1 property, the last-known address of the owner was in another state, and,
 2 under the law of the other state, the property has become subject to a claim
 3 by the other state of abandonment;

4 (c) The property was subject to the custody of the administrator of this state
 5 under Section 19 of this Act and, under the law of the state of domicile of
 6 the holder, the property has become subject to a claim of abandonment by
 7 the state of domicile of the holder; or

8 (d) The property:

9 1. Is a sum payable on a traveler's check, money order, or similar
 10 instrument that was purchased in the other state and delivered to the
 11 administrator under Section 20 of this Act; and

12 2. Under the law of the other state, has become subject to a claim by the
 13 other state of abandonment.

14 (2) A claim by another state to recover property under this section shall be presented
 15 in a form prescribed by the administrator, unless the administrator waives
 16 presentation of the form.

17 (3) The administrator shall decide a claim under this section not later than ninety
 18 (90) days after it is presented. If the administrator determines that the other state
 19 is entitled under subsection (1) of this section to custody of the property, the
 20 administrator shall allow the claim and pay or deliver the property to the other
 21 state.

22 (4) The administrator may require another state, before recovering property under
 23 this section, to agree to indemnify this state and its agents, officers, and
 24 employees against any liability on a claim to the property.

25 ➔SECTION 51. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 26 TO READ AS FOLLOWS:

27 (1) A person claiming to be the owner of property held under this chapter by the

1 administrator may file a claim for the property on a form prescribed by the
 2 administrator. The claimant shall verify the claim as to its completeness and
 3 accuracy.

4 (2) The administrator may permit persons claiming to be the owner of property to
 5 submit claims in electronic format.

6 (3) The administrator may waive the requirement in subsection (1) of this section
 7 and may pay or deliver property directly to a person if:

8 (a) The person receiving the property or payment is shown to be the apparent
 9 owner included on a report filed under Section 22 of this Act;

10 (b) The administrator reasonably believes the person is entitled to receive the
 11 property or payment; and

12 (c) The property has a value of less than two hundred fifty dollars (\$250).

13 ➔SECTION 52. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 14 TO READ AS FOLLOWS:

15 (1) The administrator shall pay or deliver property to a claimant under subsection (1)
 16 of Section 51 of this Act if the administrator receives evidence sufficient to
 17 establish to the satisfaction of the administrator that the claimant is the owner of
 18 the property.

19 (2) Not later than ninety (90) days after a claim is filed under subsection (1) of
 20 Section 51 of this Act, the administrator shall allow or deny the claim and give
 21 the claimant notice in a record of the decision.

22 (3) If the claim is denied under subsection (2) of this section:

23 (a) The administrator shall inform the claimant of the reason for the denial
 24 and specify what additional evidence, if any, is required for the claim to be
 25 allowed;

26 (b) The claimant may file an amended claim with the administrator or request
 27 and administrative hearing under Section 54 of this Act; and

1 (c) The administrator shall consider an amended claim filed under paragraph
 2 (b) of this subsection as an initial claim.

3 (4) If the administrator does not take action on a claim during the ninety (90) day
 4 period following the filing of a claim under subsection (1) of Section 51 of this
 5 Act, the claim shall be deemed denied.

6 ➔SECTION 53. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 7 TO READ AS FOLLOWS:

8 (1) Not later than thirty (30) days after a claim is allowed under subsection (2) of
 9 Section 52 of this Act, the administrator shall pay or deliver to the owner the
 10 property or pay to the owner the net proceeds of a sale of the property. On request
 11 of the owner, the administrator may sell or liquidate a security and pay the net
 12 proceeds to the owner, even if the security had been held by the administrator for
 13 less than three (3) years or the administrator has not complied with the notice
 14 requirements under Section 41 of this Act.

15 (2) Property held under this chapter by the administrator shall be subject to a claim
 16 for the payment of an enforceable debt the owner owes in this state for:

17 (a) Child-support arrearages, including child-support collection costs and
 18 child-support arrearages that are combined with maintenance;

19 (b) A civil or criminal fine or penalty, court costs, a surcharge, or restitution
 20 imposed by a final order of an administrative agency or a final court
 21 judgment; or

22 (c) State or local taxes, penalties, and interest that have been determined to be
 23 delinquent or as to which notice has been recorded with the county sheriff
 24 or local taking authority.

25 (3) Before delivery or payment to an owner under subsection (1) of this section of
 26 property or payment to the owner of net proceeds of a sale of the property, the
 27 administrator first shall apply the property or net proceeds to a debt under

1 subsection (2) of this section the administrator determines is owed by the owner.

2 The administrator shall pay the amount to the appropriate state or local agency
3 and notify the owner of the payment.

4 (4) The administrator may make periodic inquiries of state and local agencies in the
5 absence of a claim filed under Section 51 of this Act to determine whether an
6 apparent owner included in the unclaimed-property records of this state have
7 enforceable debts described in subsection (2) of this section. The administrator
8 first shall apply the property or net proceeds of a sale of property held by the
9 administrator to a debt under subsection (2) of this section of an apparent owner
10 which appears in the records of the administrator and deliver the amount to the
11 appropriate state or local agency. The administrator shall notify the apparent
12 owner of the payment.

13 ➔SECTION 54. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
14 TO READ AS FOLLOWS:

15 Not later than one (1) year after filing a claim under subsection (1) of Section 51 of
16 this Act, the claimant may request in writing an administrative hearing, to be
17 conducted in accordance with KRS Chapter 13B.

18 ➔SECTION 55. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
19 TO READ AS FOLLOWS:

20 If a person does not file a report required by Section 22 of this Act or the administrator
21 believes that a person may have filed an inaccurate, incomplete, or false report, the
22 administrator may require the person to file a verified report in a form prescribed by
23 the administrator. The verified report shall:

24 (1) State whether the person is holding property reportable under this chapter;

25 (2) Describe property not previously reported or about which the administrator has
26 inquired;

27 (3) Specifically identify property described under subsection (2) of this section about

1 which there is a dispute whether it is reportable under this chapter; and

2 (4) State the amount or value of the property.

3 ➔SECTION 56. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
4 TO READ AS FOLLOWS:

5 The administrator, at reasonable times and on reasonable notice, may:

6 (1) Examine the records of a person, including examination of appropriate records
7 in the possession of an agent of the person under examination, if the records are
8 reasonably necessary to determine whether the person has complied with this
9 chapter;

10 (2) Issue an administrative subpoena requiring the person or agent of the person to
11 make records available for examination; and

12 (3) Bring an action seeking judicial enforcement of the subpoena.

13 ➔SECTION 57. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
14 TO READ AS FOLLOWS:

15 (1) The administrator shall promulgate administrative regulations in accordance
16 with KRS Chapter 13A governing procedures and standards for an examination
17 under Section 56 of this Act, including rules for use of an estimation,
18 extrapolation, and statistical sampling in conducting an examination.

19 (2) An examination under Section 56 of this Act shall be performed under
20 administrative regulations promulgated under subsection (1) of this section and
21 with generally accepted examination practices and standards applicable to an
22 unclaimed-property examination.

23 (3) If a person subject to examination under Section 56 of this Act has filed the
24 reports required under Sections 22 and 55 of this Act and has retained the
25 records required by Section 25 of this Act, the following shall apply to the
26 examination:

27 (a) The examination shall include a review of the person's records;

1 **(b) The examination shall not be based on an estimate unless the person**
2 **expressly consents in a record to the use of an estimate; and**

3 **(c) The person conducting the examination shall consider the evidence**
4 **presented in good faith by the person in preparing the findings of the**
5 **examination under Section 61 of this Act.**

6 ➔SECTION 58. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
7 TO READ AS FOLLOWS:

8 **Records obtained and records, including work papers, compiled by the administrator in**
9 **the course of conducting an examination under Section 56 of this Act:**

10 **(1) Shall be subject to the confidentiality and security provisions of Sections 77 to 83**
11 **of this Act and are not public records;**

12 **(2) May be used by the administrator in an action to collect property or otherwise**
13 **enforce this chapter;**

14 **(3) May be used in a joint examination conducted with another state, the United**
15 **States, a foreign country or subordinate unit of a foreign country, or any other**
16 **governmental entity if the governmental entity conducting the examination is**
17 **legally bound to maintain the confidentiality and security of information**
18 **obtained from a person subject to examination in a manner substantially**
19 **equivalent to Sections 77 to 83 of this Act;**

20 **(4) Shall be disclosed, on request, to the person that administers the unclaimed**
21 **property law of another state for that state's use in circumstances equivalent to**
22 **circumstances described in this Sections 55 to 65 of this Act, if the other state is**
23 **required to maintain the confidentiality and security of information obtained in a**
24 **manner substantially equivalent to Sections 77 to 83 of this Act;**

25 **(5) Shall be produced by the administrator under an administrative or judicial**
26 **subpoena or administrative or court order; and**

27 **(6) Shall be produced by the administrator on request of the person subject to the**

1 examination in an administrative or judicial proceeding relating to the property.

2 ➔SECTION 59. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
3 TO READ AS FOLLOWS:

4 (1) A record of a putative holder showing an unpaid debt or undischarged obligation
5 shall be prima facie evidence of the debt or obligation.

6 (2) A putative holder may establish by a preponderance of the evidence that there is
7 no unpaid debt or undischarged obligation for a debt or obligation described in
8 subsection (1) of this section or that the debt or obligation was not, or no longer
9 is, a fixed and certain obligation of the putative holder.

10 (3) A putative holder may overcome prima facie evidence under subsection (1) of this
11 section by establishing by a preponderance of the evidence that a check, draft, or
12 similar instrument was:

13 (a) Issued as an unaccepted offer in settlement of an unliquidated amount;

14 (b) Issued but later was replaced with another instrument because the earlier
15 instrument was lost or contained an error that was corrected;

16 (c) Issued to a party affiliated with the issuer;

17 (d) Paid, satisfied, or discharged;

18 (e) Issued in error;

19 (f) Issued without consideration;

20 (g) Issued but there was a failure of consideration;

21 (h) Voided not later than ninety (90) daysafter issuance for a valid business
22 reason set forth in a contemporaneous record; or

23 (i) Issued but not delivered to the third-party payee for a sufficient reason
24 recorded within a reasonable time after issuance.

25 (4) In asserting a defense under this section, a putative holder may present evidence
26 of a course of dealing between the putative holder and the apparent owner or of
27 custom and practice.

1 ➔SECTION 60. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
2 TO READ AS FOLLOWS:

3 *If a person subject to examination under Section 56 of this Act does not retain the*
4 *records required by Section 25 of this Act, the administrator may determine the value*
5 *of property due using a reasonable method of estimation based on all information*
6 *available to the administrator, including extrapolation and use of statistical sampling*
7 *when appropriate and necessary, consistent with examination procedures and*
8 *standards adopted under Section 57 of this Act.*

9 ➔SECTION 61. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
10 TO READ AS FOLLOWS:

11 *At the conclusion of an examination under Section 56 of this Act, the administrator*
12 *shall provide to the person whose records were examined a complete and unredacted*
13 *examination report that specifies:*

14 *(1) The work performed;*

15 *(2) The property types reviewed;*

16 *(3) The methodology of any estimation technique, extrapolation, or statistical*
17 *sampling used in conducting the examination;*

18 *(4) Each calculation showing the value of property determined to be due; and*

19 *(5) The findings of the person conducting the examination.*

20 ➔SECTION 62. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
21 TO READ AS FOLLOWS:

22 *(1) If a person subject to examination under Section 56 of this Act believes the*
23 *person conducting the examination has made an unreasonable or unauthorized*
24 *request or is not proceeding expeditiously to complete the examination, the*
25 *person in a record may ask the administrator to intervene and take appropriate*
26 *remedial action, including countermanning the request of the person conducting*
27 *the examination, imposing a time limit for completion of the examination, or*

1 reassigning the examination to another person.

2 (2) If a person in a record requests a conference with the administrator to present
 3 matters that are the basis of a request under subsection (1) of this section, the
 4 administrator shall hold the conference not later than thirty (30) days after
 5 receiving the request. The administrator may hold the conference in person, by
 6 telephone, or by electronic means.

7 (3) If a conference is held under subsection (2) of this section, not later than thirty
 8 (30) days after the conference ends, the administrator shall provide a report in a
 9 record of the conference to the person that requested the conference.

10 ➔SECTION 63. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 11 TO READ AS FOLLOWS:

12 (1) As used in this section, "related to the administrator" means an individual who
 13 is:

14 (a) The administrator's spouse, partner in a civil union, domestic partner, or
 15 reciprocal beneficiary;

16 (b) The administrator's child, stepchild, grandchild, parent, stepparent, sibling,
 17 stepsibling, half-sibling, aunt, uncle, niece, or nephew;

18 (c) A spouse, partner in a civil union, domestic partner, or reciprocal
 19 beneficiary of an individual in paragraph (b) of this section; or

20 (d) Any individual residing in the administrator's household.

21 (2) The administrator may contract with a person to conduct an examination under
 22 Sections 55 to 65 of this Act.

23 (3) If the person with whom the administrator contracts under subsection (2) of this
 24 section is:

25 (a) An individual, the individual shall not be related to the administrator; or

26 (b) A business entity, the entity shall not be owned in whole or in part by the
 27 administrator or an individual related to the administrator.

1 **(4) If the administrator contracts with a person under subsection (2) of this section:**

2 **(a) The contract may provide for compensation of the person based on a fixed**
 3 **fee, hourly fee, or contingent fee;**

4 **(b) A contingent fee arrangement shall not provide for a payment that exceeds**
 5 **ten percent (10%) of the amount or value of property paid or delivered as a**
 6 **result of the examination; and**

7 **(c) On request by a person subject to examination by a contractor, the**
 8 **administrator shall deliver to the person a complete and unredacted copy of**
 9 **the contract and any contract between the contractor and a person**
 10 **employed or engaged by the contractor to conduct the examination.**

11 **(5) A contract under subsection (2) of this section shall be subject to KRS 61.870 to**
 12 **61.884.**

13 ➔SECTION 64. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 14 TO READ AS FOLLOWS:

15 **The administrator or an individual employed by the administrator who participates in,**
 16 **recommends, or approves the award of a contract under Section 63 of this Act on or**
 17 **after the effective date of this Act shall not be employed by, contract with, or**
 18 **compensated in any capacity by the contractor or an affiliate of the contractor for two**
 19 **(2) years after the latest of participation in, recommendation of, or approval of the**
 20 **award or conclusion of the contract.**

21 ➔SECTION 65. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 22 TO READ AS FOLLOWS:

23 **If the administrator determines from an examination conducted under Section 56 of**
 24 **this Act that a putative holder failed or refused to pay or deliver to the administrator**
 25 **property which is reportable under this chapter, the administrator shall issue a**
 26 **determination of the putative holder's liability to pay or deliver and give notice in a**
 27 **record to the putative holder of the determination.**

1 ➔SECTION 66. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
2 TO READ AS FOLLOWS:

3 (1) Not later than thirty (30) days after receipt of a notice under Section 65 of this
4 Act, the putative holder may request an informal conference with the
5 administrator to review the determination. Except as otherwise provided in this
6 section, the administrator may designate an employee to act on behalf of the
7 administrator.

8 (2) If a putative holder makes a timely request under subsection (1) of this section for
9 an informal conference:

10 (a) Not later than twenty (20) days after the date of the request, the
11 administrator shall set the time and place of the conference;

12 (b) The administrator shall give the putative holder notice in a record of the
13 time and place of the conference;

14 (c) The conference may be held in person, by telephone, or by electronic
15 means, as determined by the administrator;

16 (d) The request tolls the ninety (90) day period under Sections 68 and 69 of this
17 Act until notice of a decision under paragraph (g) of this subsection has
18 been given to the putative holder or the putative holder withdraws the
19 request for the conference;

20 (e) The conference may be postponed, adjourned, and reconvened as the
21 administrator determines appropriate;

22 (f) The administrator or administrator's designee with the approval of the
23 administrator may modify a determination made under Section 65 of this
24 Act or withdraw it; and

25 (g) The administrator shall issue a decision in a record and provide a copy of
26 the record to the putative holder and examiner not later than twenty (20)
27 days after the conference ends.

- 1 (3) A conference under subsection (2) of this section shall not be an administrative
2 remedy and shall not be a contested case subject to KRS Chapter 13B. An oath
3 shall not be required and rules of evidence shall not apply in the conference.
- 4 (4) At a conference under subsection (2) of this section, the putative holder shall be
5 given an opportunity to confer informally with the administrator and the person
6 that examined the records of the putative holder to:
- 7 (a) Discuss the determination made under Section 65 of this Act; and
8 (b) Present any issue concerning the validity of the determination.
- 9 (5) If the administrator fails to act within the period prescribed in paragraph (a) or
10 (g) of subsection (2) of this section, the failure shall not affect a right of the
11 administrator, except that interest shall not accrue on the amount for which the
12 putative holder was determined to be liable under Section 65 of this Act during
13 the period in which the administrator failed to act until the earlier of:
- 14 (a) The date under Section 68 of this Act the putative holder initiates
15 administrative review or files an action under Section 69 of this Act; or
16 (b) Ninety (90) days after the putative holder received notice of the
17 administrator's determination under Section 68 of this Act if no review was
18 initiated under Section 68 of this Act and no action was filed under Section
19 69 of this Act.
- 20 (6) The administrator may hold an informal conference with a putative holder about
21 a determination under Section 65 of this Act without a request at any time before
22 the putative holder initiates administrative review under Section 68 of this Act or
23 files an action under Section 69 of this Act.
- 24 (7) Interest and penalties under Section 73 of this Act continue to accrue on property
25 not reported, paid, or delivered as required by this chapter after the initiation, and
26 during the pendency, of an informal conference under this section.

27 ➔SECTION 67. A NEW SECTION OF KRS CHAPTER 393A IS CREATED

1 TO READ AS FOLLOWS:

2 *A putative holder may seek relief from a determination under Section 65 of this Act by:*

3 *(1) Administrative review under Section 68 of this Act; or*

4 *(2) Judicial review under Section 69 of this Act.*

5 ➔SECTION 68. A NEW SECTION OF KRS CHAPTER 393A IS CREATED

6 TO READ AS FOLLOWS:

7 *(1) Not later than ninety (90) days after receiving notice of the administrator's*
 8 *determination under Section 65 of this Act, a putative holder may initiate a*
 9 *proceeding under KRS Chapter 13B for review of the administrator's*
 10 *determination.*

11 *(2) A final decision in an administrative proceeding initiated under subsection (1) of*
 12 *this section shall be subject to judicial review under KRS Chapter 13B.*

13 ➔SECTION 69. A NEW SECTION OF KRS CHAPTER 393A IS CREATED

14 TO READ AS FOLLOWS:

15 *(1) Not later than ninety (90) days after receiving notice of the administrator's*
 16 *determination under Section 65 of this Act, the putative holder may:*

17 *(a) File an action against the administrator in the appropriate court*
 18 *challenging the administrator's determination of liability and seeking a*
 19 *declaration that the determination is unenforceable, in whole or in part; or*

20 *(b) Pay the amount or deliver the property determined by the administrator to*
 21 *be paid or delivered to the administrator and, not later than six (6) months*
 22 *after payment or delivery, file an action against the administrator in the*
 23 *appropriate court for a refund of all or part of the amount paid or return of*
 24 *all or part of the property delivered.*

25 *(2) If a putative holder pays or delivers property the administrator determined shall*
 26 *be paid or delivered to the administrator at any time after the putative holder files*
 27 *an action under subsection (1)(a) of this section, the court shall continue the*

1 action as if it had been filed originally as an action for a refund or return of
 2 property under subsection (1)(b) of this section.

3 ➔SECTION 70. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 4 TO READ AS FOLLOWS:

5 (1) If a determination under Section 65 of this Act becomes final and not subject to
 6 administrative or judicial review, the administrator may commence an action in
 7 the court or in an appropriate court of another state to enforce the determination
 8 and secure payment or delivery of past due, unpaid, or undelivered property. The
 9 action shall be brought not later than one (1) year after the determination
 10 becomes final.

11 (2) In an action under subsection (1) of this section, if no court in this state has
 12 jurisdiction over the defendant, the administrator may commence an action in
 13 any court having jurisdiction over the defendant.

14 ➔SECTION 71. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 15 TO READ AS FOLLOWS:

16 (1) Subject to subsection (2) of this section, the administrator may:

17 (a) Exchange information with another state or foreign country relating to
 18 property presumed abandoned or relating to the possible existence of
 19 property presumed abandoned; and

20 (b) Authorize in a record another state or foreign country or a person acting on
 21 behalf of the other state or country to examine its records of a putative
 22 holder as provided in Sections 55 to 65 of this Act.

23 (2) An exchange or examination under subsection (1) of this section may be done
 24 only if the state or foreign country has confidentiality and security requirements
 25 substantially equivalent to those in Sections 77 to 83 of this Act or agrees in a
 26 record to be bound by this state's confidentiality and security requirements.

27 ➔SECTION 72. A NEW SECTION OF KRS CHAPTER 393A IS CREATED

1 TO READ AS FOLLOWS:

- 2 (1) The administrator may join another state or foreign country to examine and seek
3 enforcement of this chapter against a putative holder.
- 4 (2) On request of another state or foreign country, the Attorney General may
5 commence an action on behalf of the other state or country to enforce, in this
6 state, the law of the other state or country against a putative holder subject to a
7 claim by the other state or country, if the other state or country agrees to pay
8 costs incurred by the Attorney General in the action.
- 9 (3) The administrator may request the official authorized to enforce the unclaimed
10 property law of another state or foreign country to commence an action to
11 recover property in the other state or country on behalf of the administrator. This
12 state shall pay the costs, including reasonable attorney's fees and expenses,
13 incurred by the other state or foreign country in an action under this subsection.
- 14 (4) The administrator may pursue an action on behalf of this state to recover
15 property subject to this chapter but delivered to the custody of another state if the
16 administrator believes the property is subject to the custody of the administrator.
- 17 (5) The administrator may retain an attorney in this state, another state, or a foreign
18 country to commence an action to recover property on behalf of the administrator
19 and may agree to pay attorney's fees based in whole or in part on a fixed fee,
20 hourly fee, or a percentage of the amount or value of property recovered in the
21 action.
- 22 (6) Expenses incurred by this state in an action under this section may be paid from
23 property received under this chapter or the net proceeds of the property. Expenses
24 paid to recover property shall not be deducted from the amount that is subject to a
25 claim under this chapter by the owner.

26 ➔SECTION 73. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
27 TO READ AS FOLLOWS:

1 (1) A holder that fails to report, pay, or deliver property within the time prescribed by
 2 this chapter shall pay to the administrator interest at the tax interest rate
 3 determined under KRS 131.183 on the property or value of the property from the
 4 date the property should have been reported, paid, or delivered to the
 5 administrator until the date reported, paid, or delivered.

6 (2) Except as otherwise provided in Sections 74 or 75 of this Act, the administrator
 7 may require a holder that fails to report, pay, or deliver property within the time
 8 prescribed by this chapter to pay to the administrator, in addition to interest
 9 included under subsection (1) of this section, a civil penalty of two hundred
 10 dollars (\$200) for each day the duty is not performed, up to a cumulative
 11 maximum amount of five thousand dollars (\$5,000).

12 ➔SECTION 74. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 13 TO READ AS FOLLOWS:

14 (1) If a holder enters into a contract or other arrangement for the purpose of evading
 15 an obligation under this chapter or otherwise willfully fails to perform a duty
 16 imposed on the holder under this chapter, the administrator may require the
 17 holder to pay the administrator, in addition to interest as provided in Section 73
 18 of this Act, a civil penalty of one thousand dollars (\$1,000) for each day the
 19 obligation is evaded or the duty is not performed, up to a cumulative maximum
 20 amount of twenty-five thousand dollars (\$25,000), plus twenty-five percent (25%)
 21 of the amount or value of property that should have been but was not reported,
 22 paid, or delivered as a result of the evasion or failure to perform.

23 (2) If a holder makes a fraudulent report under this chapter, the administrator may
 24 require the holder to pay to the administrator, in addition to interest under
 25 Section 73 of this Act, a civil penalty of one thousand dollars (\$1,000) for each
 26 day from the date the report was made until corrected, up to a cumulative
 27 maximum of twenty-five thousand dollars (\$25,000), plus twenty-five percent

1 (25%) of the amount or value of any property that should have been reported but
2 was not included in the report or was underreported.

3 ➔SECTION 75. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
4 TO READ AS FOLLOWS:

5 **The administrator:**

6 (1) May waive, in whole or in part, interest under subsection (1) of Section 73 of this
7 Act and penalties under subsection (2) of Section 73 of this Act or Section 74 of
8 this Act; and

9 (2) Shall waive a penalty under subsection (2) of Section 73 of this Act if the
10 administrator determines that the holder acted in good faith and without
11 negligence.

12 ➔SECTION 76. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
13 TO READ AS FOLLOWS:

14 (1) An apparent owner that contracts with another person to locate, deliver, recover,
15 or assist in the location, delivery, or recovery of property of the apparent owner
16 which is held by the administrator may designate the person as the agent of the
17 apparent owner. The designation shall be in a record signed by the apparent
18 owner.

19 (2) The administrator shall give the agent of the apparent owner all information
20 concerning the property which the apparent owner is entitled to receive,
21 including information that otherwise is confidential information under Section
22 78 of this Act.

23 (3) If authorized by the apparent owner, the agent of the apparent owner may bring
24 an action against the administrator on behalf of and in the name of the apparent
25 owner.

26 ➔SECTION 77. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
27 TO READ AS FOLLOWS:

1 (1) As used in Sections 77 to 83 of this Act, "personal information" means:

2 (a) Information that identifies or reasonably can be used to identify an
 3 individual, such as first and last name in combination with the individual's:

4 1. Social Security number or other government-issued number or
 5 identifier;

6 2. Date of birth;

7 3. Home or physical address;

8 4. Electronic-mail address or other online contact information or
 9 Internet provider address;

10 5. Financial account number or credit or debit card number;

11 6. Biometric data, health or medical data, or insurance information; or

12 7. Passwords or other credentials that permit access to an online or other
 13 account;

14 (b) Personally identifiable financial or insurance information, including
 15 nonpublic personal information defined by applicable federal law; and

16 (c) Any combination of data that, if accessed, disclosed, modified, or destroyed
 17 without authorization of the owner of the data or if lost or misused, would
 18 require notice or reporting under KRS 365.720 to 365.730 and federal
 19 privacy and data security law, whether or not the administrator or the
 20 administrator's agent is subject to the law.

21 (2) Any provision of Sections 77 to 83 of this Act that applies to the administrator or
 22 the administrator's records applies to an administrator's agent or the agent's
 23 records.

24 ➔SECTION 78. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 25 TO READ AS FOLLOWS:

26 (1) Except as otherwise provided in this chapter, the following are confidential and
 27 exempt from public inspection or disclosure:

- 1 (a) Records of the administrator and the administrator's agent related to the
 2 administration of this chapter;
- 3 (b) Reports and records of a holder in the possession of the administrator or the
 4 administrator's agent; and
- 5 (c) Personal information and other information derived or otherwise obtained
 6 by or communicated to the administrator or the administrator's agent from
 7 an examination under this chapter of the records of a person.
- 8 (2) A record or other information that is confidential under law of this state other
 9 than this chapter, another state, or the United States continues to be confidential
 10 when disclosed or delivered under this chapter to the administrator or
 11 administrator's agent.

12 ➔SECTION 79. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 13 TO READ AS FOLLOWS:

- 14 (1) When reasonably necessary to enforce or implement this chapter, the
 15 administrator may disclose confidential information concerning property held by
 16 the administrator or the administrator's agent only to:
- 17 (a) An apparent owner or the apparent owner's personal representative,
 18 attorney, other legal representative, relative, or agent designated under
 19 Section 76 of this Act to have the information;
- 20 (b) The personal representative, executor, other legal representative, relative of
 21 a deceased apparent owner, agent designated under Section 76 of this Act
 22 by the deceased apparent owner, or a person entitled to inherit from the
 23 deceased apparent owner;
- 24 (c) Another department or agency of this state or the United States;
- 25 (d) The person that administers the unclaimed property law of another state, if
 26 the other state accords substantially reciprocal privileges to the
 27 administrator of this state if the other state is required to maintain the

1 confidentiality and security of information obtained in a manner
 2 substantially equivalent to Sections 77 to 83 of this Act; or

3 (e) A person subject to an examination as required by subsection (6) of Section
 4 60 of this Act.

5 (2) Except as otherwise provided in subsection (1) of Section 78 of this Act, the
 6 administrator shall include on the Web site or in the database required by
 7 subsection (2)(b) of Section 29 of this Act the name of each apparent owner of
 8 property held by the administrator. The administrator may include in published
 9 notices, printed publications, telecommunications, the Internet, or other media
 10 and on the Web site or in the database additional information concerning the
 11 apparent owner's property if the administrator believes the information will assist
 12 in identifying and returning property to the owner and does not disclose personal
 13 information except the home or physical address of an apparent owner.

14 (3) The administrator and the administrator's agent shall not use confidential
 15 information provided to them or in their possession, except as expressly
 16 authorized by this chapter or required by law other than this chapter.

17 ➔SECTION 80. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 18 TO READ AS FOLLOWS:

19 A person to be examined under Section 56 of this Act may require, as a condition of
 20 disclosure of the records of the person to be examined, that each person having access
 21 to the records disclosed in the examination execute and deliver to the person to be
 22 examined a confidentiality agreement that:

23 (1) Is in a form that is reasonably satisfactory to the administrator; and

24 (2) Requires the person having access to the records to comply with the provisions of
 25 Sections 77 to 83 of this Act applicable to the person.

26 ➔SECTION 81. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
 27 TO READ AS FOLLOWS:

1 Except as otherwise provided in Sections 27 and 28 of this Act, a holder shall not be
2 required under this chapter to include confidential information in a notice the holder
3 is required to provide to an apparent owner under this chapter.

4 ➔SECTION 82. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
5 TO READ AS FOLLOWS:

6 (1) If a holder is required to include confidential information in a report to the
7 administrator, the information shall be provided by a secure means.

8 (2) If confidential information in a record is provided to and maintained by the
9 administrator or administrator's agent as required by this chapter, the
10 administrator or agent shall:

11 (a) Implement administrative, technical, and physical safeguards to protect the
12 security, confidentiality, and integrity of the information as required by
13 KRS 365.720 to 365.730 and federal privacy and data security law, whether
14 or not the administrator or the administrator's agent is subject to the law;

15 (b) Protect against reasonably anticipated threats or hazards to the security,
16 confidentiality, or integrity of the information; and

17 (c) Protect against unauthorized access to or use of the information which
18 could result in substantial harm or inconvenience to a holder or the
19 holder's customers, including insureds, annuitants, and policy or contract
20 owners and their beneficiaries.

21 (3) The administrator:

22 (a) After notice and comment, shall adopt and implement a security plan that
23 identifies and assesses reasonably foreseeable internal and external risks to
24 confidential information in the administrator's possession and seeks to
25 mitigate the risks; and

26 (b) Shall ensure that an administrator's agent adopts and implements a similar
27 plan with respect to confidential information in the agent's possession.

1 (4) The administrator and the administrator's agent shall educate and train their
2 employees regarding the plan adopted under subsection (3) of this section.

3 (5) The administrator and the administrator's agent shall in a secure manner return
4 or destroy all confidential information no longer reasonably needed under this
5 chapter.

6 ➔SECTION 83. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
7 TO READ AS FOLLOWS:

8 (1) Except to the extent prohibited by law other than this chapter, the administrator
9 or administrator's agent shall notify a holder as soon as practicable of:

10 (a) A suspected loss, misuse or unauthorized access, disclosure, modification,
11 or destruction of confidential information obtained from the holder in the
12 possession of the administrator or an administrator's agent; and

13 (b) Any interference with operations in any system hosting or housing
14 confidential information which:

15 1. Compromises the security, confidentiality, or integrity of the
16 information; or

17 2. Creates a substantial risk of identity fraud or theft.

18 (2) Except as necessary to inform an insurer, attorney, investigator, or others as
19 required by law, the administrator and an administrator's agent shall not
20 disclose, without the express consent in a record of the holder, an event described
21 in subsection (1) of this section to a person whose confidential information was
22 supplied by the holder.

23 (3) If an event described in subsection (1) of this section occurs, the administrator
24 and the administrator's agent shall:

25 (a) Take action necessary for the holder to understand and minimize the effect
26 of the event and determine its scope; and

27 (b) Cooperate with the holder with respect to:

- 1 1. Any notification required by law concerning a data or other security
- 2 breach; and
- 3 2. A regulatory inquiry, litigation, or similar action.

4 ➔SECTION 84. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
5 TO READ AS FOLLOWS:

6 In applying and construing this chapter, consideration shall be given to the need to
7 promote uniformity of the law with respect to its subject matter among states that enact
8 the Revised Uniform Unclaimed Property Act.

9 ➔SECTION 85. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
10 TO READ AS FOLLOWS:

11 This chapter modifies, limits, or supersedes 15 U.S.C. secs. 7001 et seq., but does not
12 modify, limit, or supersede 15 U.S.C. sec. 7001(c), or authorize electronic delivery of
13 any of the notices described in 15 U.S.C. sec. 7003(b).

14 ➔SECTION 86. A NEW SECTION OF KRS CHAPTER 393A IS CREATED
15 TO READ AS FOLLOWS:

16 (1) An initial report filed under this chapter for property that was not required to be
17 reported before the effective date of this Act, but that is required to be reported
18 under this chapter, shall include all items of property that would have been
19 presumed abandoned during the ten (10) year period preceding the effective date
20 of this Act as if this chapter had been in effect during that period.

21 (2) This chapter shall not relieve a holder of a duty that arose before the effective
22 date of this Act to report, pay, or deliver property. Subject to subsections (2) and
23 (3) Section 39 of this Act, a holder that did not comply with the law governing
24 unclaimed property before the effective date of this Act shall be subject to
25 applicable provisions for enforcement and penalties in effect before the effective
26 date of this Act.

27 ➔Section 87. KRS 41.360 is amended to read as follows:

1 (1) Where any officer or employee of the state government or of any agency of the state
2 government has authorized the State Treasurer to deduct from his compensation as
3 such officer or employee a sum or sums for the purchase of United States Series E
4 savings bonds, and thereafter, for any cause, has departed from such office or
5 employment leaving unclaimed in the hands of the State Treasurer a sum arising
6 from such deduction not equal to the amount for which such a bond may be
7 purchased, the State Treasurer shall, within ninety (90) days after the date of the last
8 deduction, mail to such officer or employee, at his last-known address as shown on
9 the records of the Personnel Cabinet, a notice stating the sum held by the State
10 Treasurer for such officer or employee, and requesting that he make claim for the
11 same within six (6) months thereafter. A duplicate of such notice, addressed to the
12 officer or employee, shall at the same time be delivered to the state agency of which
13 the person was an officer or employee. If, at the expiration of six (6) months from
14 the date of mailing the letter, the officer or employee has not made claim for the
15 sum due him, the sum shall, as of July 1 following the expiration of such six-
16 months' period, be presumed abandoned.

17 (2) On or before September 1 of each year, the State Treasurer shall report to the
18 Department of Revenue, in duplicate, a list of the sums presumed to be abandoned
19 as of the preceding July 1, giving the name of the officer or employee and his last-
20 known address. The State Treasurer~~[Department of Revenue]~~ shall cause the report
21 to be posted and published as provided in Section 3 of this Act~~[KRS 393.110]~~. If,
22 by November 15 following such posting and publication, the sums involved have
23 not been claimed, the State Treasurer shall place the sums to the credit of the
24 general fund in the State Treasury and shall report that fact to the Department of
25 Revenue. Thereafter such sums shall have the same status as other property turned
26 over to the Department of Revenue~~[as provided in KRS 393.110]~~, and the rights of
27 any person to make claim for the same shall rest upon the same principles as the

1 rights of other claimants of property presumed to be abandoned under the
2 provisions of KRS Chapter 393.

3 ➔Section 88. KRS 164A.701 is amended to read as follows:

4 (1) (a) There is hereby created an instrumentality of the Commonwealth to be known
5 as the "Commonwealth postsecondary education prepaid tuition trust fund", to
6 be governed by the board and administered by the Tuition Account Program
7 Office. The fund shall be attached to the Kentucky Higher Education
8 Assistance Authority for administrative and reporting purposes, and shall be
9 governed, managed, and administered as a separate and distinct
10 instrumentality of the Commonwealth under the provisions of KRS 164A.700
11 to 164A.709.

12 (b) The fund shall consist of payments received from prepaid tuition contracts
13 under KRS 164A.700 to 164A.709. Payments received relating to contracts in
14 existence on April 25, 2006, and income earned from the investment of those
15 payments shall be maintained separately from payments received relating to
16 contracts entered into after April 25, 2006, and income earned from the
17 investment of those payments. Income earned from the investment of
18 payments to the fund shall remain in the fund and be credited to it.

19 (c) Notwithstanding any other statute to the contrary, all moneys received under
20 the authority of KRS 164A.700 to 164A.709 ~~and 393.015~~ shall be deemed to
21 be trust funds to be held and applied solely for payment to qualified
22 beneficiaries and purchasers and to meet the expenses necessary for the
23 administration and maintenance of the fund as provided in KRS 164A.700 to
24 164A.709.

25 (d) The fund shall not constitute an investment company as defined in KRS
26 291.010.

27 (e) Obligations under a prepaid tuition contract incurred in accordance with the

1 provisions of KRS 164A.700 to 164A.709 shall not be deemed to constitute a
2 debt, liability, or obligation of the Kentucky Higher Education Assistance
3 Authority, but shall be payable solely from the fund. Each prepaid tuition
4 contract shall contain a statement that the obligation shall be payable solely
5 from the fund.

6 (2) The purposes of the fund are:

7 (a) To provide affordable access to participating institutions for the qualified
8 beneficiaries; and

9 (b) To provide students and their parents economic protection against rising
10 tuition costs.

11 (3) The Tuition Account Program Office and the facilities of the Kentucky Higher
12 Education Assistance Authority shall be used and employed in the administration of
13 the fund including, but not limited to, the keeping of records, the employment of
14 staff to assist in the administration of the fund, the management of accounts and
15 other investments, the transfer of funds, and the safekeeping of securities
16 evidencing investments.

17 (4) (a) Assets of the fund shall be invested in any of the following security types that
18 are deemed appropriate by the board:

19 1. Government and agency bonds;

20 2. Investment grade asset-backed securities and corporate bonds;

21 3. Mortgages, excluding interest-only (IO), principal-only (PO), and
22 inverse floaters; and

23 4. Equities.

24 (b) Equities shall constitute no greater than sixty percent (60%) of the entire
25 portfolio, including up to ten percent (10%) in equities from outside the
26 United States.

27 (c) The duration of the fixed-income portion of the portfolio shall reflect the

1 future liability of the fund for tuition payments.

2 (d) Assets may be pooled for investment purposes with any other investment of
3 the Commonwealth that is eligible for asset pooling.

4 (e) Leveraging is strictly prohibited.

5 (5) The board may receive and deposit into the fund gifts made by any individual or
6 agency as deemed acceptable by the board together with funds that are obtained
7 from sources legally available and determined by the board to be applicable for the
8 purposes of KRS 164A.700 to 164A.709.

9 (6) There is created a separate account within the Kentucky Higher Education
10 Assistance Authority to be known as the prepaid postsecondary tuition
11 administrative account for the purposes of implementing and maintaining the fund.

12 (a) Moneys shall be transferred from the fund to the administrative account to
13 meet the expenses necessary for the administration and maintenance of the
14 fund. Expenses incurred by the board and the Tuition Account Program Office
15 in carrying out the provisions of KRS 164A.700 to 164A.709 shall be made
16 payable from the fund through the administrative account, and no
17 administrative expenses shall be incurred by the Kentucky Higher Education
18 Assistance Authority beyond those for which moneys are provided by the
19 fund.

20 (b) The board may establish administrative fees for handling prepaid tuition
21 contracts and deposit the funds attributable to the fees in the administrative
22 account.

23 ➔Section 89. KRS 164A.707 is amended to read as follows:

24 (1) Purchasers buying prepaid tuition for a qualified beneficiary shall enter into prepaid
25 tuition contracts with the board. These contracts shall be in a form as shall be
26 determined by the office. The contract shall provide for the purchase of a tuition
27 plan for prepaid tuition for the qualified beneficiary from one (1) to five (5) specific

- 1 academic years.
- 2 (2) Upon written notification to the office a purchaser may amend the prepaid tuition
3 contract to change:
- 4 (a) The qualified beneficiary, in accordance with 26 U.S.C. sec. 529;
- 5 (b) The projected college entrance year for which prepaid tuition is purchased.
6 Beginning July 15, 2014, if the amendment extends the projected college
7 entrance year, the utilization period shall begin with the initial projected
8 college entrance year;
- 9 (c) A tuition plan designation to another tuition plan designation;
- 10 (d) The number of years for which prepaid tuition is purchased; or
- 11 (e) Other provisions of the prepaid tuition contract as permitted by the board.
- 12 (3) A prepaid tuition account shall not be subject to attachment, levy, or execution by
13 any creditor of a purchaser or qualified beneficiary. Prepaid tuition accounts shall be
14 exempt from all state and local taxes including, but not limited to, intangible
15 personal property tax levied under KRS 132.020, individual income tax levied
16 under KRS 141.020, and the inheritance tax levied under KRS Chapter 140.
17 Payments from a prepaid tuition account used to pay qualified postsecondary
18 education expenses, or disbursed due to the death or disability of the beneficiary, or
19 receipt of a scholarship by the beneficiary shall be exempt from tax liabilities.
- 20 (4) Nothing in KRS 164A.700 to 164A.709 or in a prepaid tuition contract shall be
21 construed as a promise or guarantee that a qualified beneficiary shall be admitted to
22 an eligible educational institution, be allowed to continue to attend an eligible
23 educational institution after having been admitted, or be graduated from an eligible
24 educational institution.
- 25 (5) Prepaid tuition contract payments shall not be made in real or personal property
26 other than cash and shall not exceed the prepaid tuition. Prepaid tuition contract
27 payments may be made in a lump sum or installments.

- 1 (6) The purchaser shall designate the qualified beneficiary at the time the purchaser
2 enters into a prepaid tuition contract, except for a prepaid tuition contract purchased
3 in accordance with KRS 164A.700(13)(d). In the case of gifts made to the fund, the
4 board shall designate a qualified beneficiary at the time of the gift.
- 5 (7) The prepaid tuition contract shall provide that the purchaser and the qualified
6 beneficiary shall not directly or indirectly or otherwise control the investment of the
7 prepaid tuition account or earnings on the account. Payments made for prepaid
8 tuition shall be accounted for separately for each qualified beneficiary. No interest
9 or earnings on a prepaid tuition contract of the purchaser or qualified beneficiary
10 shall be pledged or otherwise encumbered as security of a debt.
- 11 (8) A prepaid tuition contract does not constitute a security as defined in KRS 292.310
12 or an annuity as defined in KRS 304.5-030.
- 13 (9) Each prepaid tuition contract is subject to, and shall incorporate by reference, all
14 operating procedures and policies adopted by the board, the statutes governing
15 prepaid tuition contracts in KRS 164A.700 to 164A.709 ~~and 393.015~~, and
16 administrative regulations promulgated thereunder. Any amendments to statutes,
17 administrative regulations, and operating procedures and policies shall
18 automatically amend prepaid tuition contracts, with retroactive or prospective
19 effect, as applicable.
- 20 ➔Section 90. KRS 304.15-420 is amended to read as follows:
- 21 (1) The General Assembly declares the purpose of this section shall be to require
22 recognition of the escheat statute, as found in ***Section 13 of this Act***~~[KRS 393.062]~~,
23 and to require complete and proper disclosure, transparency, and accountability
24 relating to any method of payment for annuity, retained asset, or life insurance death
25 benefits regulated by the Department of Insurance.
- 26 (2) As used in this section:
- 27 (a) "Contract" means an annuity contract. The term "contract" shall not include an

- 1 annuity used to fund an employment-based retirement plan or program where
2 the insurer is not committed by terms of the annuity contract to pay death
3 benefits to the beneficiaries of specific plan participants;
- 4 (b) "Death Master File" means the United States Social Security Administration's
5 Death Master File or any other database or service that is at least as
6 comprehensive as the United States Social Security Administration's Death
7 Master File for determining that a person has reportedly died;
- 8 (c) "Death Master File match" means a search of the Death Master File that
9 results in a match of the Social Security number or the name and date of birth
10 of an insured, annuitant, or retained asset account holder; and
- 11 (d) "Policy" means any policy or certificate of life insurance that provides a death
12 benefit. The term "policy" shall not include:
- 13 1. Any policy or certificate of life insurance that provides a death benefit
14 under:
 - 15 a. An employee benefit plan, subject to the Employee Retirement
16 Income Security Act of 1974, as defined by 29 U.S.C. sec.
17 1002(3);
 - 18 b. A governmental plan as defined by 29 U.S.C. sec. 1002(32);
 - 19 c. A church plan as defined by 29 U.S.C. sec. 1002(33); or
 - 20 d. Any federal employee benefit program;
 - 21 2. Any policy or certificate of life insurance that is used to fund a preneed
22 funeral contract or prearrangement as defined in KRS 304.12-240(1)(a);
23 or
 - 24 3. Any policies or certificates of insurance on the life of a debtor pursuant
25 to or in connection with a specific loan or other credit transaction, or any
26 group policy issued to a creditor to insure the lives of the creditor's
27 debtors and any certificates issued under such policies.

1 All other terms used in this section shall be interpreted in a manner consistent with
2 the definitions used in KRS Chapter 304.

3 (3) (a) An insurer shall perform a comparison of its insureds' in-force life insurance
4 policies, contracts, and retained asset accounts against a Death Master File, on
5 at least a semiannual basis, to identify potential matches of its insureds. An
6 insurer may comply with the requirements of this section by using the entire
7 Death Master File once, and for all comparisons thereafter, an insurer may
8 utilize the Death Master File updates.

9 (b) For those potential matches identified as a result of a Death Master File
10 match, the insurer shall within ninety (90) days of a Death Master File match:

11 1. Complete a good-faith effort, which shall be documented by the insurer,
12 to confirm the death of the insured, annuitant, or retained asset account
13 holder against other available records and information; and

14 2. Determine whether benefits are due in accordance with the applicable
15 policy or contract and, if benefits are due in accordance with the
16 applicable policy or contract:

17 a. Use good-faith efforts, which shall be documented by the insurer,
18 to locate the beneficiary or beneficiaries; and

19 b. Provide the appropriate claims forms or instructions to each
20 beneficiary to make a claim, including the need to provide an
21 official death certificate if applicable under the policy, contract, or
22 retained asset account.

23 (c) With respect to group life insurance, insurers are required only to confirm the
24 possible death of an insured when the insurers provide full recordkeeping
25 services to the group policy holder.

26 (d) To the extent permitted by law, the insurer may disclose minimum necessary
27 personal information about the insured or beneficiary to a person who the

- 1 insurer reasonably believes may be able to assist the insurer locate the
2 beneficiary or a person otherwise entitled to payment of the claims proceeds.
- 3 (4) An insurer shall not charge insureds, account holders, or beneficiaries for any fees
4 or costs associated with a search or verification conducted pursuant to this section.
- 5 (5) The benefits from a life insurance policy, contract, or a retained asset account, plus
6 any applicable accrued interest, shall first be payable to the designated beneficiaries
7 or owners and, in the event those beneficiaries or owners cannot be found, shall
8 escheat to the state as unclaimed property pursuant to Section 13 of this Act~~[KRS~~
9 ~~393.062]~~.
- 10 (6) An insurer shall notify the State Treasurer upon the expiration of the statutory time
11 period for escheat that:
- 12 (a) A life insurance policy or contract beneficiary or retained asset account holder
13 has not submitted a claim with the insurer; and
- 14 (b) The insurer has complied with subsection (3) of this section and has been
15 unable, after good-faith efforts documented by the insurer, to contact the
16 retained asset account holder or any beneficiary.
- 17 (7) Upon such notice, an insurer shall submit, on its next unclaimed property report due
18 to the State Treasurer, the unclaimed life insurance benefits or unclaimed retained
19 asset accounts, plus any applicable accrued interest, to the State Treasurer.
- 20 (8) Failure to meet any requirement of this section with such frequency as to constitute
21 a general business practice shall constitute a violation of Subtitle 12 of KRS
22 Chapter 304.
- 23 (9) Nothing in this section shall be construed to create or imply a private cause of
24 action for a violation of this section. An insurer that is making a good-faith effort to
25 comply with this section shall not be subject to any fees, fines, penalties, or interest
26 for failure to perform a comparison of its in-force life insurance policies, contracts,
27 and retained asset accounts prior to July 15, 2014.

1 (10) The commissioner shall have exclusive authority and jurisdiction in his or her
2 reasonable discretion based upon a demonstration of hardship to the insurer to issue
3 an order allowing an insurer to phase in compliance with this section for a time
4 period not to exceed one (1) year, according to a plan and timeline approved by the
5 commissioner.

6 (11) This section shall be known as the Unclaimed Life Insurance Benefits Act.

7 ➔Section 91. KRS 393.170 is amended to read as follows:

8 Whenever any property escheated under this chapter by reason of actual abandonment, or
9 death or presumption of death of the owner without leaving any person entitled to take the
10 legal or equitable title under the laws of this state relating to wills, or descent and
11 distribution, has been deposited with, or in the custody or under the control of, any federal
12 court in and for any district in this state, or in the custody of any depository, clerk or other
13 officer of such court, or has been surrendered by such court or its officers to the United
14 States Treasury, the Circuit Court of any county in which such federal court sits shall
15 have jurisdiction to ascertain whether an escheat has occurred, and to enter a judgment of
16 escheat in favor of the state. This section does not authorize a judgment to require such
17 courts, officers, agents or depositories to pay or surrender funds to this state on a
18 presumption of abandonment as provided in Sections 4 to 14 of this Act~~[KRS 393.060 to~~
19 ~~393.110].~~

20 ➔Section 92. KRS 393.250 is amended to read as follows:

21 ~~{(1)}~~Any necessary expense required to be paid by the state in administering and
22 enforcing this chapter shall be paid out of the abandoned property fund.

23 ~~{(2)}~~ ~~The county attorney shall act as agent of the department for the collection of all~~
24 ~~judgments recovered in actions prosecuted by him under this chapter. He shall~~
25 ~~promptly remit the judgment recovered to the department with the information~~
26 ~~relating thereto as the department requires.]~~

27 ➔Section 93. The following KRS sections are repealed:

- 1 393.010 Definitions for chapter -- Application of chapter.
- 2 393.060 Presumption of abandonment of certain property held by bank or financial
3 organization.
- 4 393.062 Presumption of abandonment of unclaimed funds held by life insurance
5 corporation.
- 6 393.064 Presumption of abandonment of stock or dividend of business association.
- 7 393.066 Presumption of abandonment of intangible personal property held by fiduciary.
- 8 393.072 Presumption of abandonment of property from demutualization of insurance
9 company.
- 10 393.090 Presumption of abandonment of intangible personal property not otherwise
11 covered.
- 12 393.092 Effect of property owner's residence in another state.
- 13 393.095 Unclaimed pari-mutuel tickets from quarter horse or Appaloosa racetracks.
- 14 393.100 Property paid into court -- When presumed abandoned -- Reversion to
15 municipality or consolidated local government which procured payment into court.
- 16 393.110 Administrative regulations for reports by holders of abandoned property to
17 report to department -- Posting and publication of notices.
- 18 393.115 Advertising expenses.
- 19 393.120 Sale of property required to be liquidated to pay department.
- 20 393.125 Sale by department.
- 21 393.130 Rights and duties of persons who have transferred property to department.
- 22 393.140 Claim of interest in property surrendered to state.
- 23 393.150 State Treasurer to determine claims.
- 24 393.160 Appeals from decision of State Treasurer.
- 25 393.180 Proceedings instituted by county attorney on relation of State Treasurer.
- 26 393.190 Assistant Attorney General to aid county attorney.
- 27 393.210 Property in two or more counties.

- 1 393.220 Disposition of tangible property during proceeding.
- 2 393.230 Proceeding to force payment or surrender of intangible property -- To establish
3 actual abandonment.
- 4 393.240 Actions may be joined -- Procedure for action.
- 5 393.260 Limitation of state's action.
- 6 393.270 Person under disability, extension.
- 7 393.280 Examination of records -- Promulgation of administrative regulations and rules
8 -- Delegation of State Treasurer's authority.
- 9 393.290 Civil action to enforce production of reports or the surrender of property.
- 10 393.990 Penalties.
- 11 ➔Section 94. The Treasurer shall submit a report to the Legislative Research
12 Commission by December 15, 2018, regarding the status of the abandoned property fund.