

CHAPTER 5.**DISPOSITION OF UNCLAIMED BUSINESS INTERESTS****ARRANGEMENT OF SECTIONS****Section****Part 1-Short Title, Definitions, Application**

§501. Short Title.

§502. Definitions.

§503. Purpose.

§504. Scope.

§505. Exemptions from Chapter.

Part 2 -Escheat of Unclaimed Business Interests

§506. Escheat of Tangible Business Interests.

§507. Undistributed Dividends and Distributions of Business Associations.

§508. Property Distributable in course of voluntary or involuntary dissolution or liquidation of Business Associations.

Part 3 - Identification of Escheated Property

§509. Report of Escheated Property.

§510. Notice and Publication of List of Escheated Property.

§511. Payment or Delivery of Escheated Property.

§512. Examination of Records.

Section**Part 4 - Payment of Claims**

§513. Filing of Claim; Form; consideration; notice and hearing; interest; "owner"

§514. Judicial Action on determination.

Part 5 - Administration of Unclaimed Property

§515. Relief from Liability by Payment or delivery; payment to others; reimbursement; reclamation of property.

§516. Defense of payee against claims of others; indemnification; mistake of law or fact; refund or re-delivery of Property.

§517. Income accruing after payment or delivery.

§518. Deposit of funds.

§519. Distribution of dividends where number of claimants unknown.

§520. Rules and regulations.

§521. Action by Registrar.

§522. Penalties.

§523. Failure to report, pay or deliver property; interest.

§524. Effective Date.

An Act to establish a procedure for the disposition of unclaimed business interests. [section numbering style modified to conform to format][Rev.2003]

Commencement: April 7, 1999
 Source: P.L. 1999-89

Part 1- SHORT TITLE; DEFINITIONS; APPLICATION**§501. Short Title.**

This Chapter may be cited as the Disposition of Unclaimed Business Interests Act. [P.L. 1999-89, §1.]

§502. Definitions.

As used in this Chapter, unless the context otherwise requires:

- (a) “Act” means the Disposition of Unclaimed Business Interests Act.
- (b) “Apparent Owner” means the Person who appears from the records of the Holder to be entitled to Property held by the Holder.
- (c) “Appropriate Person” means any Person qualifying as an appropriate person.
- (d) “Business association” means any private corporation, joint stock company, business trust, partnership, or any association for business purposes of two or more individuals, other than banking or financial organizations, whether or not for profit.
- (e) “Domicile” in the case of a corporation, refers to the place where the corporation is incorporated
- (f) “Escheat Period” means the three-year or six-month period referred to in sections 507 and 508, inclusive, whichever is applicable to the particular Property.
- (g) “Escheat,” unless specifically qualified means the vesting in the Republic of title to Property the whereabouts of whose Owner is unknown or whose Owner is unknown or which a known Owner has refused to accept, whether by judicial determination or by operation of law, subject to the right of claimants to appear and claim the Escheated Property or any portion thereof. When used in reference to the law of another State,
- (h) “Escheat” includes the transfer to the State of the right to the custody of such Property.
- (i) “Government or Governmental Subdivision or Agency” is the Government of the thereof.
- (j) “Holder” means any Person in possession of Property subject to this Chapter belonging to another, or any Person who is indebted to another on an obligation subject to this Chapter.
- (k) “Owner” means a shareholder, certificate holder, member, bondholder, or other security holder of a Business Association, or a participating patron of a cooperative, or a creditor, claimant, or payee in case of other chooses in action, or any Person having a legal equitable interest in Property subject to this Chapter, or his legal representative.
- (l) “Person” unless specifically qualified, means any individual, Business Association, Government or Governmental Subdivision or Agency, two or more Persons having a joint or common interest, or any other legal or commercial entity, whether such person is acting in his own right or in representative or fiduciary capacity.
- (m) “Property,” unless specifically qualified, includes all classes of property, real personal and mixed.
- (n) “Republic” means the Republic of the Marshall Islands.
- (o) “Secretary” means the Secretary of the Ministry of Finance for the Republic of the Marshall Islands.
- (p) “Unclaimed Property” unless specifically qualified, means all Property;
 - (i) which, under the provisions of this Chapter, is or will become unclaimed, abandoned, Escheated, or distributed to the State, or
 - (ii) to the possession of which the State is or will become entitled under the provisions of this Chapter, if not claimed by the Person or Persons entitled thereto within the time allowed by law, whether or not there has been a judicial

determination that such Property is unclaimed, abandoned, Escheated, Permanently Escheated, or distributed to the State. [P.L. 1999-89, §2.][Paragraphs “relettered” to conform to proper code format (Rev.2003)]

§503. Purpose.

It is the purpose of this Chapter to provide for the receipt, custody liquidation, investment, management, disposal, Escheat and distribute the dividends and other interests in Business Associations, to the possession of which the Republic is, or may become, entitled under the provisions of this Chapter. [P.L. 1999-89, §3.]

§504. Scope.

The provisions of this Chapter do not apply to money or other Property held by the Republic or any officer thereof as trustee or bailee under the terms of an express contract to which the Republic or any officer thereof is a party. [P.L. 1999-89, §4.]

§505. Exemptions from Chapter.

This Chapter shall not apply to:

- (a) Any Property in the official custody of a government or local agency if such Property may be transferred to the general fund of such Agency under other provisions of the Associations Law.
- (b) Any security, instrument or other intangible business interest issued in a foreign country. [P.L. 1999-89, §5.]

Part 2 -ESCHEAT OF UNCLAIMED BUSINESS INTERESTS

§506. Escheat of intangible business interests.

Unless otherwise provided by statute of the Republic, dividends, distributions and other tangible or intangible interests in a Business Association Escheat to the Republic under this Chapter if the conditions for Escheat as stated in Sections 507 and 508, inclusive, exist, and if:

- (a) The Apparent Owner’s last known address as shown on the records of the Holder is in the Republic.
- (b) No address of the Apparent Owner appears on the records of the Holder and:
 - (1) The last known address of the Apparent Owner is in the Republic; or
 - (2) The Holder is Domiciled in the Republic and has not previously paid the Property to the State of the last known address of the Apparent Owner.
- (c) The Apparent Owner’s last known address as shown on the records of the Holder is in a State that does not provide by law for the Escheat of such Property, and the Holder is Domiciled in the Republic.
- (d) The Apparent Owner’s last known address as shown on the records of the Holder is in a foreign nation and the Holder is Domiciled in the Republic. [P.L. 1999-89, §6.]

§507. Undistributed dividends and distributions of Business Associations.

(1) Any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a Business Association for or to its shareholder, certificate holder, member, bondholder, or other security holder, who has not claimed it, or corresponded in writing with the Business Association concerning it, within three years after the date prescribed for payment or delivery, Escheats to the Republic.

(2) Any intangible interest in a Business Association, as evidenced by the stock records or membership records of the Business Association, Escheats to the Republic if:

(a) A dividend or other sum referred to in Subdivision (a) has not been claimed by the Owner or an Appropriate Person for more than three years;

(b) Neither the owner nor an appropriate person has within such three year period corresponded in writing with the Business Association or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association, for which the Business Association may require Reasonable Assurance of Effectiveness; and

(c) The Business Association does not know the location of the Owner at the end of such three-year period.

(3) With respect to such interest, the Business Association shall be deemed the Holder.

(4) Subject to Section 505, any dividends or other distributions held for or owing to a Person at the time the stock or other security to which they attach Escheats to the Republic pursuant to Subdivision (b) also Escheat to the Republic as of the same time.

(5) With respect to any interest that may Escheat pursuant to Subdivision (b), the Business Association shall make reasonable efforts to notify the Owner by mail that the Owner's interest in the Business Association will Escheat to the Republic. The notice shall be given not less than 6 nor more than 12 months before the time the interest in the Business Association becomes reportable to the Secretary of Finance in accordance with this Chapter. The notice required by this Subdivision shall specify the time that the interest will Escheat and the effects of Escheat, including the possible liquidation of the interest, and the necessity for filing a claim for the return of the interest or its proceeds. It shall also include a form, as prescribed by the Secretary of Finance, by which the Owner may confirm the Owner's current address. If that form is filled out, signed by the Owner, and returned to the Holder, it shall be deemed that the Business Association knows the location of the Owner. [P.L. 1999-89, §7.] [Subsections and paragraphs renumbered to conform with style of the Code]

§508. Property distributable in course of voluntary or involuntary dissolution or liquidation of Business Associations.

(1) All Property distributable in the course of voluntary or involuntary dissolution or liquidation of a Business Association that is unclaimed by the Owner within six months after the date of final distribution or liquidation shall be reduced to cash by the Holder and shall thereafter Escheat to the Republic.

(2) Reasonable costs and fees incurred in connection with the sale or other disposition of Unclaimed Property may be deducted and withheld from the cash remitted to the Republic under Subdivision (a); provided such fees may not be withheld or deducted if, under the policy or procedures of the Holder, the Holder would not have withheld or deducted such charges or fees in the event the Property had been claimed by the Owner prior to being reported or remitted to the Secretary of Finance.

(3) No other service, handling, maintenance or other charge or fee of any kind which is

imposed because of the inactive or unclaimed status contemplated by this Chapter, may be deducted or withheld from any Property subject to Escheat under this Chapter, unless specifically permitted by this Chapter. [P.L. 1999-89, §8.][Subsections re-numbered to conform to style of the Code]

Part 3 - IDENTIFICATION OF ESCHEATED PROPERTY

§509. Report of Escheated Property.

- (1) Every Holder shall report to the Secretary of Finance as provided in this section.
- (2) The report shall be on a form prescribed or approved by the Secretary of Finance and shall include:
 - (a) The nature and identifying number, if any, or description of any Property and the amount appearing from the records to be due, except that items of value under fifty dollars (\$50) each may be reported in the aggregate.
 - (b) Except for any Property reported in the aggregate, the date when the Property became payable, demandable, or returnable, and the date of the last transaction with the Owner with respect to the Property.
 - (c) Other information which the Secretary of Finance prescribes by regulation as necessary for the administration of this Chapter.
- (3) If the Holder is a successor to other Persons who previously held the Property for the Owner, if the Holder has changed his or her name while holding the Property, he or she shall file with his or her report all prior known names and addresses of each holder of the Property.
- (4) The report shall be filed before November 1 of each year. The Secretary of Finance may postpone the reporting date upon his or her own motion or upon written request by any Person required to file a report.
- (5) The report, if made by an individual, shall be verified by the individual; if made by a partnership, by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer or other employee authorized by the Holder. [P.L. 1999-89, §9.][Subsections and paragraphs re-numbered/lettered to conform with style of the Code]

§510. Notice and publication of lists of Escheated Property.

- (1) Within one year after payment or delivery of Escheated Property as required, the Secretary of Finance shall cause a notice to be published, in a newspaper of general circulation which the Secretary of Finance determines is most likely to give notice to the Owner of Property.
- (2) Each published notice shall be entitled "notice to owners of unclaimed business interests."
- (3) Each published notice shall also contain a statement that information concerning the amount or description of the Property may be obtained by any Person possessing an interest in the Property by addressing an inquiry to the Secretary of Finance.
- (4) If the Property or report delivered to the Secretary of Finance includes the tax identification number of the Apparent Owner, Secretary of Finance shall request the Division of Revenue and Taxation to provide a current address for the Apparent Owner on the basis of that number. The Secretary of Finance shall mail a notice to the Apparent Owner for whom a current address is obtained if the address is different than the address previously reported to the Secretary

of Finance. [P.L. 1999-89, §10.][Subsection re-numbered to conform with style of the Code]

§511. Payment or delivery of Escheated Property.

(1) Every Person filing a report as provided for and shall pay or deliver to the Secretary of Finance all Escheated Property specified in the report at the same time the report is filed.

(2) The Holder of any interest shall deliver to the Secretary of Finance a duplicate certificate, or in the case of uncertificated business interests, a duplicate of such record or memorandum kept on file with the Business Association as evidence of such interest. Upon delivery of a duplicate certificate or such other evidence to the Secretary of Finance, the Holder and any transfer agent, registrar or other Person acting for or on behalf of the Holder in executing or delivering the duplicate shall be relieved from all liability of every kind to any Person including, but not limited to, any Person acquiring an original certificate or other original evidence of the interest, or any duplicate issued to the Secretary of Finance, for any losses or damages resulting to that Person by issuance and delivery to the Secretary of Finance of such duplicate.

(3) Except as otherwise agreed by the Secretary of Finance and the Holder, payment of any Property under this section shall be made to the Secretary of Finance at the office of the Secretary of Finance in the RMI or at such other location as the Secretary of Finance by regulation may designate. [P.L. 1999-89, §11.][Subsections re-numbered to conform with the style of the Code]

§512. Exam nation of records.

(a) The Secretary of Finance may at reasonable times and reasonable notice examine the records of any Person if he has reason to believe that such person has failed to report property that should have been reported pursuant to this Chapter.

(b) When requested by the Secretary of Finance, such examination shall be conducted by any licensing or regulating Agency otherwise empowered by the laws of the Republic to examine the records of the Holder. [P.L. 1999-89, §12.][Subsections re-numbered to conform with the style of the Code]

Part 4 - Payment of Claims

§513. Filing of claim; form; consideration; notice and hearing; interest; “Owner”

(1) Any Person, who claims an interest in Property paid or delivered to the Secretary of Finance under this Chapter may file a claim to the Property or to the net proceeds from its sale. The claim shall be on a form prescribed by the Registrar of Corporations and filed with the Office of the Attorney General and signed by the claimant.

(2) The Registrar of Corporations shall consider each claim within 90 days after it is filed. He may hold a hearing and receive evidence. He shall give written notice to the claimant if he denies the claim in whole or in part. Such notice may be given by mailing it to the address, if any, stated in the claim as the address to which notices are to be sent. If no such address is stated in the claim, the notice may be mailed to the address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either an address to which notices are to be sent or an address of the claimant. If the Registrar of Corporations accepts the claim, he shall within seven (7) days notify the claimant and the Secretary of Finance of such acceptance and the value of the accepted claim.

(3) For purposes of this section, "Owner" means the Person who had legal right to the Property prior to its Escheat, his heirs, or his legal representative. [P.L. 1999-89, §13.][Subsections re-numbered.]

§514. Judicial action on determinations.

Any Person aggrieved by a decision of the Registrar of Corporations or as to whose claim the Registrar of Corporations has failed to make a decision within 90 days after the filing of the claim, may commence an action, naming the Registrar of Corporations as defendant, to establish his claim in the High court of the Republic of the Marshall Islands. The action shall be brought within ninety (90) days after the decision of the Registrar of Corporations or within 180 days from the filing of the claim if the Secretary of Finance fails to make a decision. The summons and a copy of the complaint shall be served upon the Registrar of Corporations and the Attorney-General and the Registrar of Corporations shall have 60 days within which to respond by answer. The action shall be tried without a jury. [P.L. 1999-89, §14.]

Part 5 - ADMINISTRATION OF UNCLAIMED PROPERTY

§515. Relief from liability by payment or delivery; payment to others; reimbursement; reclamation of Property.

(1) Upon the payment or delivery of Escheated Property to the Registrar of Corporations, the Republic shall assume custody and shall be responsible for safekeeping of the Property. Any Person who pays or delivers Escheated Property to the Secretary of Finance under this Chapter is relieved from all liability to the extent of the value of the Property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the Property.

(2) Any holder who has paid moneys to the Secretary of Finance pursuant to this Chapter may make payment to any Person appearing to such holder to be entitled thereto, and upon filing proof of such payment and proof that the payee was entitled thereto, the Secretary of Finance shall forthwith reimburse the Holder for the payment without deduction of any fee or other charges. Where reimbursement is sought for a payment made on a negotiable instrument, the Holder shall be reimbursed under this Subdivision upon filing proof that the instrument was duly presented to him and that payment was made thereon to a Person who appeared to the Holder to be entitled to payment

(3) Any Holder who has delivered Property, including a certificate of any interest in a Business Association, to the Secretary of Finance pursuant to this Chapter may reclaim such Property if still in the possession of the Secretary of Finance without payment of any fee or other charges upon filing proof that the Owner thereof has claimed such Property from such holder. The Secretary of Finance may, in his discretion, accept an affidavit of the Holder stating the facts that entitle the Holder to reimbursement under this Subdivision as sufficient proof for the purposes of this Subdivision.

(4) The Holder shall be reimbursed under this section even if he made the payment to a Person whose claim against him was barred because of the expiration of any applicable statutory limitations period. [P.L. 1999-89, §15.][Subsections re-numbered]

§516. Defense of payee against claims of others; indemnification; mistake law or fact;

refund or redelivery of Property.

(1) If the Holder pays or delivers Escheated Property to Secretary of Finance in accordance with this chapter and thereafter any Person claims the Property from the Holder or another State claims the Property from the Holder under that State's laws relating to Escheat, Secretary of Finance shall, upon written notice of such claim, defend the Holder against the claim and indemnify him against any liability on the claim.

(2) If any Holder, because of mistake of law or fact, pays or delivers any Property to the Secretary of Finance that has not Escheated under this chapter and thereafter claims the Property from the Secretary of Finance, the Secretary of Finance shall, if he has not disposed of the Property in accordance with this chapter, refund or redeliver the Property to the Holder without deduction for any fee or other charge.

(3) As used in this section "Escheated Property" means Property which this Chapter provides Escheats to the Republic, whether or not it is determined that another State had a superior right to Escheat Property at the time it was paid or delivered to the Secretary of Finance or at some time thereafter. [P.L. 1999-89, §16.][Subsections re-numbered]

§517. Income accruing after payment or delivery.

When Property other than money is delivered to the Secretary of Finance under this Chapter, any dividends, interest or other increments realized or accruing on such Property at or prior to liquidation or conversion thereof into money, shall upon receipt be credited to the Owner's account by the Secretary of Finance. Except for amounts so credited the Owner is not entitled to receive income or other increments on money or other Property paid or delivered to the Secretary of Finance under this Chapter. All interest received and other income derived from the investment of moneys deposited in the Unclaimed Property Fund under the provisions of this Chapter shall, on order of the Secretary of Finance, be transferred to the General Fund. [P.L. 1999-89, §17.]

§518. Deposit of funds.

(1) All money received under this Chapter shall be deposited in the Unclaimed Property Fund in an account tilted "Abandoned Business Interests". This account shall be separate from the General Fund.

(2) All money in the Abandoned Business Interests Account in the Unclaimed Property Fund is hereby continuously appropriated to the Secretary of Finance without regard to fiscal years, for expenditure in accordance with law in carrying out; and enforcing the provisions of this Chapter, including, but not limited to, the following purposes:

(a) For payment of claims allowed by the Secretary of Finance under the provisions of this Chapter.

(b) For refund, to the Person making such deposit, of amounts, including overpayments, deposited in error in such fund.

(c) For payment of costs of official advertising in connection with the sale of Property held in the name of an account in such fund. [P.L. 1999-89, §18.][Subsections and paragraphs re-numbered]

§519. Distribution of dividends where number of claimants unknown.

If undistributed dividends are received pursuant to Section 507 and the precise number of

shareholders is unknown the following procedure shall be followed:

(1) The Registrar of Corporations shall request by public advertisement the names of all person claiming to be shareholders and shall create a registrar of all claimants.

(2) After a period of not less than three (3) years after the advertisement, the Registrar of Corporations shall distribute 85% of the dividend receipt to the claimants whose claims have been accepted.

(3) The amount of money to be distributed shall be divided by the number of claims to determine a dividend per share and each claim that is accepted shall be paid a dividend in accordance with the amount of shares accepted.

(4) The Registrar of Corporations shall continue to accept claims for a period of three (3) years from the first advertisement. Upon expiration of the three (3) year period any funds remaining shall be distributed to the claimants in proportion to the number of claimed shares accepted by the Registrar of Corporations. [P.L. 1999-89, §19.][Subsections re-numbered]

§520. Rules and regulations.

The Registrar of Corporations is hereby authorized to make necessary rules and regulations to carry out the provisions of this Chapter, including the designation by regulation of each State that does not provide by law for the Escheat of unclaimed or abandoned intangible Property of any kind. [P.L. 1999-89, §20.]

§521. Action by Registrar of Corporations; purposes.

(1) The Registrar of Corporations may bring an action in a court of appropriate jurisdiction, as specified in this section, for any of the following purposes:

(a) To enforce the duty of any Person under this Chapter to permit the examination of the records of such Person.

(b) For a judicial determination that particular Property is subject to Escheat by the Republic pursuant to this Chapter.

(c) To enforce the delivery of any Property to the Registrar of Corporations as required under this Chapter.

(2) The Registrar of corporations may bring an action under this Chapter in any court of the appropriate jurisdiction in the Republic in any of the following cases:

(a) Where the Holder is any Person Domiciled in the Republic.

(b) Where the Holder is any Person engaged in or transacting business in the Republic, although not Domiciled in the Republic.

(3) In any case where no court of the Republic can obtain jurisdiction over the Holder, the Registrar of corporations may bring an action in any federal or state court with jurisdiction over the Holder, with the Attorney-General in bringing the action. [P.L. 1999-89, §21.]

§522. Penalties.

(1) Any Person who willfully fails to render any report or perform other duties required under this Chapter shall be punished by a fine of ten dollars (\$10) for each day such report is withheld or such duty is not performed, but not more than one thousand dollars (\$1,000).

(2) Any Person who willfully refuses to pay or deliver Escheated Property to the Secretary of Finance as required under this Chapter shall be punished by a fine of not less than five

hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisonment for not more than six months, or both. [P.L. 1999-89, §22.]

§523. Failure to report, pay or deliver Property; interest.

In addition to any damages, penalties, or fines for which a Person may be liable under other provisions of law, any Person who fails to report or pay or deliver Unclaimed Property within the time prescribed by this Chapter, shall pay to the Secretary of Finance interest at the rate of 12 percent per annum on such Property or value thereof from the date such Property should have been paid or delivered. [P.L. 1999-89, §23.]

§524. Effective Date.

This Chapter shall take effect upon certification in accordance with Article IV, Section 21 of the Constitution.