

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1966

ENROLLED

Com. Sub. for
HOUSE BILL No. 205

(By ~~Mr.~~ *Originating in the House Committee on the Judiciary*)

PASSED *Feb. 8,* 1966

In Effect *July 1, 1967* Passage



FILED IN THE OFFICE
ERNEST D. DANLEY
SECRETARY OF STATE
THIS DATE *2-14-66*

#205

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 205

(Originating in the House Committee on the Judiciary)

[Passed February 8, 1966; in effect July 1, 1967.]

AN ACT to amend chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eight, relating to the disposition of abandoned and unclaimed personal property; providing for the procedure to follow with respect thereto; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eight, to read as follows:

Article 8. Uniform Disposition of Unclaimed Property Act.

Section 1. Definitions and Use of Terms.—As used in

2 this article, unless the context otherwise requires:

3 (a) “Banking organization” means any bank, trust
4 company, or a private banker engaged in business in this
5 state, or a banking institution as defined in section one,
6 article four, chapter thirty-one of this code.

7 (b) “Business association” means any corporation
8 (other than a public corporation), joint stock company,
9 business trust, partnership, or any association for business
10 purposes of two or more individuals.

11 (c) “Financial organization” means any savings and
12 loan association, building and loan association, industrial
13 loan company, credit union, business association which
14 issues travelers checks, or investment company, engaged
15 in business in this state.

16 (d) “Holder” means any person in possession of prop-
17 erty subject to this article belonging to another, or who
18 is trustee in case of a trust, or is indebted to another
19 on an obligation subject to this article.

20 (e) "Life insurance corporation" means any associ-
21 ation or corporation transacting within this state the
22 business of insurance on the lives of persons or insurance
23 appertaining thereto, including, but not by way of limita-
24 tion, endowments and annuities.

25 (f) "Owner" means a depositor in case of a deposit,
26 a beneficiary in case of a trust, a creditor, claimant, or
27 payee in case of other choses in action, or any person
28 having a legal or equitable interest in property subject
29 to this article, or his legal representative.

30 (g) "Person" means any individual, business associ-
31 ation, government or political subdivision, public corpo-
32 ration, public authority, estate, trust, two or more persons
33 having a joint or common interest, or any other legal
34 or commercial entity; but shall not include any retirement
35 system supported entirely or in part by the state of
36 West Virginia.

37 (h) "Utility" means any person who owns or operates
38 within this state, for public use, any plant, equipment,
39 property, franchise, or license for the transmission of
40 communications or the production, storage, transmission,
41 sale, delivery, or furnishing of electricity, water, steam,
42 or gas.

Sec. 2. Property Held by Banking or Financial Organ-

2 **izations.**—The following property held or owing by a
3 banking or financial organization is presumed abandoned:

4 (a) Any demand, savings or matured time deposit
5 made in this state with a banking organization, together
6 with any interest or dividend thereon, excluding any
7 charges which may lawfully be withheld, if the owner
8 has not within the immediately preceding fifteen years
9 increased or decreased the amount of the deposit: *Pro-*
10 *vided*, That notwithstanding the fact that there has been
11 no increase or decrease in the amount of the deposit
12 within said fifteen-year period, there shall be no presump-
13 tion of abandonment if the owner has within the immedi-
14 ately preceding year:

15 (1) Presented the pass book or other similar evidence
16 of deposit for the crediting of interest; or

17 (2) Corresponded in writing with the banking organi-
18 zation concerning the deposit; or

19 (3) Otherwise indicated an interest in the deposit as
20 evidenced by a memorandum on file with the banking
21 organization. In any case where the owner has taken

22 any of the actions specified in (1), (2) or (3) of this
23 subparagraph (a), there shall thereafter be no presump-
24 tion of abandonment unless and until another fifteen
25 years have passed without any increase or decrease in
26 the amount of the deposit and without any of such
27 actions having been taken in the last year of such further
28 fifteen-year period.

29 (b) Any funds paid in this state toward the purchase
30 of shares or other interest in a financial organization
31 or any deposit made therewith in this state, and any
32 interest or dividends thereon, excluding any charges
33 that may lawfully be withheld, if the owner has not
34 within the immediately preceding fifteen years increased
35 or decreased the amount of the funds or deposit: *Provided,*
36 *however,* That notwithstanding the fact that there has
37 been no increase or decrease in the amount of the funds
38 or deposit within said fifteen-year period, there shall be
39 no presumption of abandonment if the owner has within
40 the immediately preceding year:

41 (1) Presented an appropriate record for the crediting
42 of interest or dividends; or

43 (2) Corresponded in writing with the financial organ-
44 ization concerning the funds or deposit; or

45 (3) Otherwise indicated an interest in the funds or
46 deposit as evidenced by a memorandum on file with the
47 financial organization.

48 In any case where the owner has taken any of the
49 actions specified in (1), (2) or (3) of this subparagraph
50 (b), there shall thereafter be no presumption of abandon-
51 ment unless and until another fifteen years have passed
52 without any increase or decrease in the amount of the
53 funds or deposit and without any of such actions having
54 been taken in the last year of such further fifteen-year
55 period.

56 (c) Any sum payable on any check certified in this
57 state or on any written instrument issued in this state
58 on which a banking or financial organization is directly
59 liable, including, by way of illustration but not of limita-
60 tion, a certificate of deposit, draft, and traveler's check,
61 that has been outstanding for more than fifteen years
62 from the date it was payable, or from the date of its
63 issuance if payable on demand, unless the owner has

64 within the preceding year corresponded in writing with
65 the banking or financial organization concerning it, or
66 otherwise indicated an interest as evidenced by a
67 memorandum on file with the banking or financial
68 organization.

69 (d) Any funds or other personal property, tangible
70 or intangible, removed from a safe deposit box or any
71 other safekeeping repository in this state on which the
72 lease or rental period has expired due to nonpayment
73 of rental charges or other reason, or any surplus amounts
74 arising from the sale thereof pursuant to law, that have
75 been unclaimed by the owner for more than fifteen years
76 from the date on which the lease or rental period expired.

Sec. 3. Unclaimed Funds Held by Life Insurance

2 **Corporations.**—(a) Unclaimed funds, as defined in this
3 section, held and owing by a life insurance corporation
4 shall be presumed abandoned if the last known address,
5 according to the records of the corporation, of the person
6 entitled to the funds is within this state. If a person
7 other than the insured or annuitant is entitled to the
8 funds and no address of such person is known to the

9 corporation or if it is not definite and certain from the
10 records of the corporation what person is entitled to
11 the funds, it is presumed that the last known address
12 of the person entitled to the funds is the same as the
13 last known address of the insured or annuitant according
14 to the records of the corporation.

15 (b) "Unclaimed funds," as used in this section, means
16 all moneys held and owing by any life insurance corpo-
17 ration unclaimed and unpaid for more than seven years
18 after the moneys became due and payable as established
19 from the records of the corporation under any life or
20 endowment insurance policy or annuity contract which
21 has matured or terminated. A life insurance policy not
22 matured by actual proof of the death of the insured is
23 deemed to be matured and the proceeds thereof are
24 deemed to be due and payable if such policy was in
25 force when the insured attained the limiting age under
26 the mortality table on which the reserve is based, unless
27 the person appearing entitled thereto has within the
28 preceding seven years, (1) assigned, readjusted, or paid
29 premiums on the policy, or subjected the policy to loan,

30 or (2) corresponded in writing with the life insurance
31 corporation concerning the policy. Moneys otherwise
32 payable according to the records of the corporation are
33 deemed due and payable although the policy or contract
34 has not been surrendered as required.

Sec. 4. Deposits and Refunds Held by Utilities.—The

2 following funds held or owing by any utility are pre-
3 sumed abandoned:

4 (a) Any deposit made subsequent to one thousand
5 nine hundred fifty-seven by a subscriber with a utility
6 to secure payment for, or any sum paid in advance for,
7 utility services to be furnished in this state, less any
8 lawful deductions, that has remained unclaimed by the
9 person appearing on the records of the utility entitled
10 thereto for more than five years after the termination
11 of the services for which the deposit or advance pay-
12 ment was made.

13 (b) Any sum which a utility has been ordered to
14 refund and which was received subsequent to one
15 thousand nine hundred fifty-seven for utility services
16 rendered in this state, together with any interest thereon,

17 less any lawful deductions, that has remained unclaimed
18 by the person appearing on the records of the utility
19 entitled thereto for more than five years after the date
20 it became payable in accordance with the final determi-
21 nation or order providing for the refund.

Sec. 5. Undistributed Dividends and Distributions of

2 **Business Associations.**—Any stock or other certificate of
3 ownership, or any dividend, profit, distribution, interest,
4 payment on principal, or other sum held or owing by a
5 business association for or to a shareholder, certificate
6 holder, member, bondholder, or other security holder, or
7 a participating patron of a cooperative, who has not
8 claimed it, or corresponded in writing with the business
9 association concerning it, within five years after the date
10 prescribed for payment or delivery, is presumed aban-
11 doned if:

12 (a) It is held or owing by a business association organ-
13 ized under the laws of or created in this state; or

14 (b) It is held or owing by a business association doing
15 business in this state, but not organized under the laws
16 of or created in this state, and the records of the busi-

17 ness association indicate that the last known address of
18 the person entitled thereto is in this state.

**Sec. 6. Property of Business Associations and Banking
2 or Financial Organizations Held in Course of Dissolution.**

3 —All intangible personal property distributable in the
4 course of a voluntary dissolution of a business associa-
5 tion, banking organization, or financial organization
6 organized under the laws of or created in this state, that
7 is unclaimed by the owner within one year after the date
8 for final distribution, is presumed abandoned.

Sec. 7. Property Held by Fiduciaries.—All intangible
2 personal property and any income or increment thereon,
3 held in a fiduciary capacity for the benefit of another
4 person is presumed abandoned unless the owner has,
5 within five years after the final date for distribution of
6 such property and the cessation of all active fiduciary
7 duties as required by law or the instrument under which
8 the fiduciary is acting, increased or decreased the prin-
9 cipal, accepted payment of principal or income, corre-
10 sponded in writing with the fiduciary concerning the
11 property, or otherwise indicated an interest as evidenced
12 by a memorandum on file with the fiduciary:

13 (a) If the property is held by a banking organization
14 or a financial organization, or by a business association
15 organized under the laws of or created in this state;
16 or

17 (b) If it is held by a business association, doing busi-
18 ness in this state, but not organized under the laws of or
19 created in this state, and the records of the business
20 association indicate that the last known address of the
21 person entitled thereto is in this state; or

22 (c) If it is held in this state by any other person.

Sec. 8. Property Held by Courts and Public Officers

2 **and Agencies.**—(a) All intangible personal property held
3 for the owner by any state or federal court, public corpo-
4 ration, public authority, or public officer in this state, or
5 a political subdivision thereof, that has remained un-
6 claimed by the owner for more than five years is pre-
7 sumed abandoned: *Provided, however,* That this provision
8 shall in no way affect such property in the custody or
9 control of any state or federal court in any pending
10 action: *And provided further,* That if any federal statute
11 provides for the distribution of any unclaimed property

12 subject to the jurisdiction of a federal court, this statute
13 shall not apply.

14 (b) Notwithstanding the provisions of subsection (a)
15 of this section, all intangible personal property in the
16 custody or control of a general receiver of a state court
17 of record appointed pursuant to the provisions of article
18 six, chapter fifty-one of this code, that has remained
19 unclaimed by the owner for more than fifteen years is
20 presumed abandoned: *Provided, however,* That any such
21 property in the custody or control of any such general
22 receiver in which there is any contingent remainder
23 interest, or any vested remainder interest which is sub-
24 ject to open to let in persons not yet in being or to open
25 to let in members of any class, or any executory interest,
26 or executory devise interest, or any base, qualified, con-
27 ditional, or limited fee estate or interest, or any other
28 qualified, conditional, limited or determinable estate or
29 interest, shall not be presumed abandoned until such
30 property has remained unclaimed for more than fifteen
31 years after such estate or interest has vested or any such

32 class has closed and the persons entitled to such prop-
33 erty have been determined.

**Sec. 9. Miscellaneous Personal Property Held for
2 Another Person.**—All intangible personal property not
3 otherwise covered by this article, including any income or
4 increment thereon and after deducting any lawful charges,
5 that is held or owing in this state in the ordinary course
6 of the holder's business and has remained unclaimed
7 by the owner for more than five years after it became
8 payable or distributable is presumed abandoned: *Pro-*
9 *vided, however,* That this section shall not apply to such
10 property held or owing by a utility prior to one thousand
11 nine hundred fifty-seven.

**Sec. 10. Reciprocity for Property Presumed Abandoned
2 or Escheated under the laws of Another State.**—If specific
3 property which is subject to the provisions of sections
4 two, five, six, seven, and nine is held for or owed or
5 distributable to an owner whose last known address is
6 in another state by a holder who is subject to the juris-
7 diction of that state, the specific property is not presumed
8 abandoned in this state and subject to this article if:

9 (a) It may be claimed as abandoned or escheated
10 under the laws of such other state; and

11 (b) The laws of such other state make reciprocal pro-
12 vision that similar specific property is not presumed
13 abandoned or escheatable by such other state when held
14 for or owed or distributable to an owner whose last
15 known address is within this state by a holder who is
16 subject to the jurisdiction of this state.

Sec. 11. Report of Abandoned Property.—(a) Every
2 person holding funds or other property, tangible or intan-
3 gible, presumed abandoned under this article shall report
4 to the state treasurer with respect to the property as
5 hereinafter provided.

6 (b) The report shall be verified and shall include:

7 (1) The name, if known, and last known address, if
8 any, of each person appearing from the records of the
9 holder to be the owner of any property of the value of
10 fifty dollars or more presumed abandoned under this
11 article;

12 (2) In case of unclaimed funds of life insurance
13 corporations, the full name of the insured or annuitant

14 and his last known address according to the life insur-
15 ance corporation's records;

16 (3) The nature and identifying number, if any, or
17 description of the property and the amount appearing
18 from the records to be due, except that items of value
19 under fifty dollars each may be reported in aggregate;

20 (4) The date when the property became payable,
21 demandable, or returnable, and the date of the last trans-
22 action with the owner with respect to the property;
23 and

24 (5) Other information which the state treasurer pre-
25 scribes by rule as necessary for the administration of this
26 article.

27 (c) If the person holding property presumed aban-
28 doned is a successor to other persons who previously held
29 the property for the owner, or if the holder has changed
30 his name while holding the property, he shall file with
31 his report all prior known names and addresses of each
32 holder of the property.

33 (d) The report shall be filed before November first
34 of each year as of June thirtieth next preceding, but the

35 report of life insurance corporations shall be filed before
36 May first of each year as of December thirty-first next
37 preceding. The state treasurer may postpone the report-
38 ing date upon written request by any person required to
39 file a report.

40 (e) If the holder of property presumed abandoned
41 under this article knows the whereabouts of the owner
42 and if the owner's claim has not been barred by the
43 statute of limitations, the holder shall, before filing the
44 annual report, attempt to communicate with the owner
45 so that the owner may take necessary steps to prevent
46 abandonment from being presumed. A notice from the
47 holder to the owner sent to the owner's last known address
48 by United States mail, postage prepaid, shall satisfy the
49 requirements of this subsection (e).

50 (f) Verification, if made by a partnership, shall be
51 executed by a partner; if made by an unincorporated
52 association or private corporation, by an officer; and if
53 made by a public corporation, by its chief fiscal officer.

54 (g) The initial report filed under this article shall
55 include all items of property which, under the provi-

56 sions hereof, would have been presumed abandoned on
57 the effective date of this article had this article been in
58 effect on July one, one thousand nine hundred fifty-two.

Sec. 12. Notice and Publication of Lists of Abandoned

2 **Property.**—(a) Within one hundred twenty days from
3 the filing of the report required by section eleven, the
4 state treasurer shall cause notice to be published at least
5 once each week for two successive weeks in an English
6 language newspaper of general circulation in the county
7 in this state in which is located the last known address
8 of any person to be named in the notice. If no address
9 is listed or if the address is outside this state, the notice
10 shall be published in the county in which the holder of
11 the abandoned property has his principal place of busi-
12 ness within this state.

13 (b) The published notice shall be entitled “Notice of
14 Names of Persons Appearing to Be Owners of Abandoned
15 Property,” and shall contain:

16 (1) The names in alphabetical order and last known
17 addresses, if any, of persons listed in the report and enti-
18 tled to notice within the county as hereinbefore specified.

19 (2) A statement that information concerning the
20 amount or description of the property and the name and
21 address of the holder may be obtained by any persons
22 possessing an interest in the property by addressing an
23 inquiry to the state treasurer.

24 (3) A statement that if proof of claim is not presented
25 by the owner to the holder and if the owner's right to
26 receive the property is not established to the holder's
27 satisfaction within sixty-five days from the date of the
28 second published notice, the abandoned property shall be
29 placed in the custody of the state treasurer, to whom all
30 further claims must thereafter be directed.

31 (c) The state treasurer is not required to publish in
32 such notice any item of less than fifty dollars unless he
33 deems such publication to be in the public interest.

34 (d) Within ten days after the first publication of the
35 notice required by subsection (a) of this section, the state
36 treasurer shall mail a notice to each person having an
37 address listed therein who appears to be entitled to prop-
38 erty of the value of fifty dollars or more presumed aban-
39 doned under this article.

40 (e) The mailed notice shall contain:

41 (1) A statement that, according to a report filed with
42 the state treasurer, property is being held to which the
43 addressee appears entitled.

44 (2) The name and address of the person holding the
45 property and any necessary information regarding changes
46 of name and address of the holder.

47 (3) A statement that, if satisfactory proof of claim
48 is not presented by the owner to the holder by the date
49 specified in the published notice, the property will be
50 placed in the custody of the state treasurer, to whom all
51 further claims must be directed.

52 (f) Within five days after the date specified in the
53 published notice, the state treasurer shall mail to each
54 holder a notice specifying the date on which the holder's
55 payment or delivery of abandoned property is due the
56 state treasurer.

Sec. 13. Payment or Delivery of Abandoned Property.

2 —Every person who has filed a report as provided by
3 section eleven shall within twenty-five days after the
4 time specified in section twelve for claiming the property

5 from the holder pay or deliver to the state treasurer all
6 abandoned property specified in the report, except that,
7 if the owner establishes his right to receive the abandoned
8 property to the satisfaction of the holder within the
9 time specified in section twelve, or if it appears that for
10 some other reason the presumption of abandonment is
11 erroneous, the holder need not pay or deliver the property,
12 which will no longer be presumed abandoned, to the state
13 treasurer, but in lieu thereof shall file a verified written
14 explanation of the proof of claim or of the error in the
15 presumption of abandonment.

Sec. 14. Relief from Liability by Payment or Delivery.

2 —The payment or delivery of property to the state treas-
3 urer by any holder shall terminate any legal relationship
4 between the holder and the owner and shall release
5 and discharge such holder from any and all liability to
6 the owner, his heirs, personal representatives, successors
7 and assigns by reason of such delivery or payment, regard-
8 less of whether such property is in fact and in law aban-
9 doned property, and such delivery and payment may be
10 pleaded as a bar to recovery and shall be a conclusive

11 defense in any suit or action brought by such owner,
12 his heirs, personal representatives, successors and assigns,
13 or any claimant against the holder by reason of such
14 delivery or payment. The state treasurer shall reimburse
15 any holder who cannot be relieved of such liability by
16 this section for all liability to the owner, his heirs, per-
17 sonal representatives, successors and assigns, incurred
18 by reason of any such delivery or payment. The state
19 treasurer shall assume custody and shall be responsible
20 for the safekeeping of any such property paid or delivered
21 to him. Any holder who has paid moneys to the state
22 treasurer pursuant to this article may make payment
23 to any person appearing to such holder to be entitled
24 thereto, and upon proof of such payment and proof that
25 the payee was entitled thereto, the state treasurer shall
26 forthwith reimburse the holder for the payment.

Sec. 15. Income Accruing after Payment of Delivery.

2 —When property is paid or delivered to the state treas-
3 urer under this article, the owner is not entitled to
4 receive income or other increments accruing thereafter.

Sec. 16. Periods of Limitation Not a Bar.—The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this article or to pay or deliver abandoned property to the state treasurer.

Sec. 17. Sale of Abandoned Property.—(a) All abandoned property other than money delivered to the state treasurer under this article shall within one year after the delivery be sold by him to the highest bidder at public sale in whatever city in the state affords in his judgment the most favorable market for the property involved. The state treasurer may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) Any sale held under this section shall be preceded by a single publication of notice thereof, at least three

14 weeks in advance of sale in an English language news-
15 paper of general circulation in the county where the
16 property is to be sold.

17 (c) The purchaser at any sale conducted by the state
18 treasurer pursuant to this article shall receive title to
19 the property purchased, free from all claims of the owner
20 or prior holder thereof and of all persons claiming through
21 or under them. The state treasurer shall execute all
22 documents necessary to complete the transfer of title.

Sec. 18. Deposits of Funds; Trust and Expense Fund;

2 **Records of Deposits.**—(a) All funds received under this
3 article, including the proceeds from the sale of abandoned
4 property under section seventeen, shall forthwith be
5 deposited by the state treasurer in a special fund to be
6 known as the “trust and expense fund.”

7 (b) From said fund the state treasurer shall make
8 prompt payment of claims duly allowed as hereinafter
9 provided, and shall pay the necessary costs of selling
10 abandoned property, of mailing notices, of making publi-
11 cations required by this article, and of paying other
12 operating expenses and administrative expenses reason-

13 ably incurred by the treasurer in the administration and
14 enforcement of the provisions of this article. At any time
15 when the balance of said fund shall exceed one hundred
16 fifty thousand dollars, the state treasurer may, and at
17 least once every fiscal year shall, transfer to the general
18 school fund the balance of the trust and expense fund
19 which shall exceed one hundred fifty thousand dollars.
20 The treasurer is authorized to draw his requisitions for
21 such sums upon the auditor in the manner provided by
22 law.

23 (c) Before making any deposit to said fund, the state
24 treasurer shall record the name and last known address
25 of each person appearing from the holder's reports to be
26 entitled to the abandoned property, and the name and
27 last known address of each insured person or annuitant,
28 and with respect to each policy or contract listed in the
29 report of a life insurance corporation, its number, the
30 name of the corporation, and the amount due. Such
31 records shall be available for public inspection at all
32 reasonable business hours.

Sec. 19. Claim for Abandoned Property Paid or

2 **Delivered.**—Any person claiming an interest in any prop-
3 erty paid or delivered to the state treasurer under this
4 article may file a claim thereto or to the proceeds from
5 the sale thereof on a form prescribed by the state
6 treasurer.

Sec. 20. Determination of Claims; Hearings.—(a) The

2 state treasurer shall promptly consider any claim filed
3 under this article, and if he is satisfied from the evidence
4 submitted that such claim is valid, he shall immediately
5 allow same. If he is not so satisfied, then he or an assist-
6 ant designated by him in writing, shall hold a hearing,
7 and all of the pertinent provisions of article five, chapter
8 twenty-nine-a of this code shall apply to and govern
9 the hearing and the administrative procedures in connec-
10 tion with and following such hearing, with like effect
11 as if the provisions of said article five were set forth
12 in extenso in this section, except that where the property
13 in question was located in a county within this state
14 immediately before delivery or payment thereof to the
15 state treasurer, the hearing shall be held in such county.
16 Within thirty days after the filing of a claim, the state

17 treasurer shall in writing, served in person or by regis-
18 tered or certified mail, notify the person making the
19 claim that he has decided to allow the claim or that he
20 has determined that a hearing as herein specified will
21 be necessary. Any such hearing shall be held within
22 thirty days after receipt of notice from the state treasurer
23 that a hearing will be necessary, unless there is a post-
24 ponement or continuance for good cause.

25 (b) For the purpose of any such hearing, the state
26 treasurer shall have the power and authority to issue
27 subpoenas and subpoenas duces tecum, in accordance
28 with the provisions of section one, article five, chapter
29 twenty-nine-a of this code. All subpoenas and subpoenas
30 duces tecum shall be issued and served within the time
31 and for the fees and shall be enforced, as specified in
32 section one, article five of said chapter twenty-nine-a,
33 and all of the said section one provisions dealing with
34 subpoenas and subpoenas duces tecum shall apply to
35 subpoenas and subpoenas duces tecum issued for the
36 purpose of a hearing hereunder. At any such hearing,
37 any person claiming an interest in the property in ques-

38 tion may represent himself or be represented by an
39 attorney at law admitted to practice before any circuit
40 court of this state.

41 (c) After such hearing and consideration of all the
42 testimony, evidence and record in the case, the state
43 treasurer shall make and enter an order deciding the
44 claim in question. Such order shall be accompanied by
45 findings of fact and conclusions of law as specified in
46 section three, article five, chapter twenty-nine-a of this
47 code, and a copy of such order and accompanying findings
48 and conclusions shall be served upon all of the parties
49 and their attorneys of record, if any, in person or by
50 registered or certified mail. The state treasurer shall
51 also cause a notice to be served with the copy of such
52 order, which notice shall advise the parties of their right
53 to judicial review, in accordance with the provisions of
54 section twenty-one of this article. The order of the state
55 treasurer shall be final unless vacated or modified upon
56 judicial review thereof in accordance with the provisions
57 of section twenty-one of this article.

58 (d) The order and the accompanying findings of fact
59 and conclusions of law shall be public records. When
60 a claim is allowed by the state treasurer, whether with
61 or without hearing, the same shall be paid forthwith
62 without deduction for costs of notices or sale or for
63 administrative charges.

Sec. 21. Judicial Review.—(a) Any party adversely
2 affected by a final order made and entered by the state
3 treasurer after such hearing, held in accordance with the
4 provisions of section twenty of this article, is entitled
5 to judicial review thereof. All of the pertinent provisions
5 of section four, article five, chapter twenty-nine-a of this
6 code shall apply to and govern such review with like
7 effect as if the provisions of said section four were set
8 forth in extenso in this section, except that where the
9 property in question was located in a county within this
10 state immediately before delivery or payment thereof to
11 the state treasurer, the petition shall be filed in the cir-
12 cuit court of such county.

13 (b) The judgment of the circuit court shall be final
14 unless reversed, vacated or modified on appeal to the
15 supreme court of appeals in accordance with the provi-

16 sions of section one, article six, chapter twenty-nine-a
17 of this code.

**Sec. 22. Election to Take Payment or Delivery;
2 Destruction of Property Which Has No Obvious Com-
3 mercial Value.**—(a) The state treasurer, after receiving
4 reports of property deemed abandoned pursuant to this
5 article, may decline to receive any property reported
6 which he deems to have a value less than the cost of giving
7 notice and holding sale, or he may, if he deems it desir-
8 able because of the small sum involved, postpone taking
9 possession until a sufficient sum accumulates. Unless the
10 holder of the property is notified to the contrary within
11 one hundred twenty days after filing the report required
12 under section eleven, the state treasurer shall be deemed
13 to have elected to receive the custody of the property.

14 (b) Any property delivered to the state treasurer pur-
15 suant to this article which has no obvious commercial
16 value shall be retained by the state treasurer until such
17 time as he determines to destroy or otherwise dispose
18 of the same. If the state treasurer determines that any
19 property delivered to him pursuant to this article has no

20 obvious commercial value, he may at any time thereafter
21 destroy or otherwise dispose of the same, and in that
22 event no action or proceeding shall be brought or main-
23 tained against the state or any officer thereof or against
24 the holder for or on account of any action taken by the
25 state treasurer pursuant to this article with respect to
26 said property.

Sec. 23. Examination of Records.—Whenever the state
2 treasurer has reason to believe that a person has failed
3 to report property which should have been reported pur-
4 suant to the provisions of this article, he may issue a
5 subpoena duces tecum requiring such person to produce
6 at a reasonable time at such person's residence or princi-
7 pal place of business such of his books, records or papers
8 as are reasonably necessary for the state treasurer to
9 determine whether a report was required. Every such
10 subpoena duces tecum shall be served at least five days
11 before the return date thereof. Upon motion made
12 promptly, and in any event before the time specified in
13 a subpoena duces tecum for compliance therewith, the
14 circuit court of the county in which such person resides

15 or has his principal place of business, or the judge thereof
16 in vacation, may grant any relief with respect to such
17 subpoena duces tecum which such court, under the West
18 Virginia rules of civil procedure for trial courts of rec-
19 ord, could grant, and for any of the same reasons, with
20 respect to a subpoena duces tecum issued from such court.
21 In case of disobedience or neglect of any subpoena duces
22 tecum served on any person, the circuit court of the
23 county in which such person resides or has his principal
24 place of business, or the judge thereof in vacation, upon
25 application by the state treasurer, may compel obedience
26 by attachment proceedings for contempt as in the case
27 of disobedience of the requirements of a subpoena duces
28 tecum issued from such circuit court.

Sec. 24. Proceeding to Compel Delivery of Abandoned

2 **Property.**—If any person refuses to pay or deliver prop-
3 erty to the state treasurer as required under this article,
4 he may bring an action in the circuit court of the county
5 where the holder resides or has his principal place of
6 business to enforce such payment or delivery.

Sec. 25. Appeals from Circuit Courts.—Any person
2 adversely affected by the final judgment of any circuit
3 court under the provisions of this article may seek review
4 thereof by appeal to the supreme court of appeals of this
5 state, and jurisdiction is hereby conferred upon such
6 court to hear and entertain such appeals upon application
7 made therefor in the manner and within the time pro-
8 vided by law for civil appeals generally.

Sec. 26. Offenses and Penalties.—(a) Any person who
2 shall wilfully fail to render any report required under
3 this article shall be guilty of a misdemeanor, and, upon
4 conviction thereof, shall be punished by a fine not to
5 exceed five hundred dollars.

6 (b) Any person who shall wilfully refuse to pay or
7 deliver abandoned property to the state treasurer as
8 required under this article shall be guilty of a misde-
9 meanor, and, upon conviction thereof, shall be punished
10 by a fine of not less than one hundred dollars nor more
11 than one thousand dollars, or by imprisonment for not
12 more than thirty days, or by both fine and imprisonment
13 in the discretion of the court.

Sec. 27. Rules and Regulations.—To carry out the
2 provisions of this article the state treasurer may make
3 necessary rules and regulations in accordance with the
4 provisions of chapter twenty-nine-a of this code.

Sec. 28. Effect of Laws of Other States.—This article
2 shall not apply to any property that has been presumed
3 abandoned or escheated under the laws of another state
4 prior to the effective date of this article.

Sec. 29. Severability.—If any provision of this article
2 or the application thereof to any person or circumstances
3 is held invalid, the invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or application, and
6 to this end the provisions of this article are severable.

Sec. 30. Uniformity of Interpretation.—This article
2 shall be so construed as to effectuate its general purpose
3 to make uniform the law of those states which enact it.

Sec. 31. Effective Date.—This act shall take effect on
2 July one, one thousand nine hundred sixty-seven.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O. Roy Parker
Chairman Senate Committee

James W. Loys
Chairman House Committee

Originated in the House.

Takes effect July 1, 1967.

J. Soule Thayer
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Howard E. Carson
President of the Senate

H. Rabau White
Speaker House of Delegates

The within *approved* this the *14th*
day of *February*, 1966.

Huey C. Smith
Governor



FEB 14 8 53 PM '66
OFFICE OF THE GOVERNOR

PRESENTED TO THE
GOVERNOR

Date 2/14/66

Time 10:50 Am

FILED

FEB 14 11 07 PM '66

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

RDB