

Chapter 169: UNCLAIMED FUNDS

169.01 Unclaimed funds definitions.

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

(A) "Financial organization" means any bank, trust company, savings bank, safe deposit company, mutual savings bank without mutual stock, savings and loan association, credit union, or investment company.

(B)(1) "Unclaimed funds" means any moneys, rights to moneys, or intangible property, described in section 169.02 of the Revised Code, when, as shown by the records of the holder, the owner has not, within the times provided in section 169.02 of the Revised Code, done any of the following:

(a) Increased, decreased, or adjusted the amount of such funds;

(b) Assigned, paid premiums, or encumbered such funds;

(c) Presented an appropriate record for the crediting of such funds or received payment of such funds by check, draft, or otherwise;

(d) Corresponded with the holder concerning such funds;

(e) Otherwise indicated an interest in or knowledge of such funds;

(f) Transacted business with the holder.

(2) "Unclaimed funds" does not include any of the following:

(a) Money received or collected under section 9.39 of the Revised Code;

(b) Any payment or credit due to a business association from a business association representing sums payable to suppliers, or payment for services rendered, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;

(c) Any payment or credit received by a business association from a business association for tangible goods sold, or services performed, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;

(d) Any credit due a retail customer that is represented by a gift certificate, gift card, merchandise credit, or merchandise credit card, redeemable only for merchandise.

For purposes of divisions (B)(2)(b) and (c) of this section, "business association" means any corporation, joint venture, business trust, limited liability company, partnership, association, or other business entity composed of one or more individuals, whether or not the entity is for profit.

(C) "Owner" means any person, or the person's legal representative, entitled to receive or having a legal or equitable interest in or claim against moneys, rights to moneys, or other intangible property, subject to this chapter.

(D)(1) "Holder" means any person that has possession, custody, or control of moneys, rights to moneys, or other intangible property, or that is indebted to another, if any of the following applies:

(a) Such person resides in this state;

(b) Such person is formed under the laws of this state;

(c) Such person is formed under the laws of the United States and has an office or principal place of business in this state;

(d) The records of such person indicate that the last known address of the owner of such moneys, rights to moneys, or other intangible property is in this state;

(e) The records of such person do not indicate the last known address of the owner of the moneys, rights to moneys, or other intangible property and the entity originating or issuing the moneys, rights to moneys, or other intangible property is this state or any political subdivision of this state, or is incorporated, organized, created, or otherwise located in this state. Division (D)(1)(e) of this section applies to all moneys, rights to moneys, or other intangible property that is in the possession, custody, or control of such person on or after July 22, 1994, whether the moneys, rights to moneys, or other intangible property becomes unclaimed funds prior to or on or after that date.

(2) "Holder" does not mean any hospital granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code or any hospital owned or operated by the state or by any political subdivision. Any entity in order to be exempt from the definition of "holder" pursuant to this division shall make a reasonable, good-faith effort to contact the owner of the unclaimed funds.

(E) "Person" includes a natural person; corporation, whether for profit or not for profit; copartnership; unincorporated nonprofit association; public authority; estate; trust; two or more persons having a joint or common interest; eleemosynary organization; fraternal or cooperative association; other legal or community entity; the United States government, including any district, territory, possession, officer, agency, department, authority, instrumentality, board, bureau, or court; or any state or political subdivision thereof, including any officer, agency, board, bureau, commission, division, department, authority, court, or instrumentality.

(F) "Mortgage funds" means the mortgage insurance fund created by section 122.561 of the Revised Code, and the housing guarantee fund created by division (D) of section 128.11 of the Revised Code.

(G) "Lawful claims" means any vested right a holder of unclaimed funds has against the owner of such unclaimed funds.

(H) "Public utility" means any entity defined as such by division (A) of section 745.01 or by section 4905.02 of the Revised Code.

(I) "Deposit" means to place money in the custody of a financial organization for the purpose of establishing an income-bearing account by purchase or otherwise.

(J) "Income-bearing account" means a time or savings account, whether or not evidenced by a certificate of deposit, or an investment account through which investments are made solely in obligations of the United States or its agencies or instrumentalities or guaranteed as to principal and interest by the United States or its agencies or instrumentalities, debt securities rated as investment grade by at least two nationally recognized rating services, debt securities which the director of commerce has determined to have been issued for the safety and welfare of the residents of this state, and equity interests in mutual funds that invest solely in some or all of the above-listed securities and involve no general liability, without regard to whether income earned on such accounts, securities, or interests is paid periodically or at the end of a term.

(K) "Director of commerce" may be read as the "division of unclaimed funds" or the "superintendent of unclaimed funds."

Amended by 129th General Assembly File No. 79, HB 267, § 1, eff. 5/22/2012.

Effective Date: 09-05-2001; 2006 SB223 03-23-2007

169.02 Further defining unclaimed funds.

Subject to division (B) of section [169.01](#) of the Revised Code, the following constitute unclaimed funds:

(A) Except as provided in division (R) of this section, any demand, savings, or matured time deposit account, or matured certificate of deposit, together with any interest or dividend on it, less any lawful claims, that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(B) Any funds paid toward the purchase of withdrawable shares or other interest in a financial organization, and any interest or dividends on them, less any lawful claims, that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(C) Except as provided in division (A) of section [3903.45](#) of the Revised Code, moneys held or owed by a holder, including a fraternal association, providing life insurance, including annuity or endowment coverage, unclaimed for three years after becoming payable as established from the records of such holder under any life or endowment insurance policy or annuity contract that has matured or terminated. An insurance policy, the proceeds of which are payable on the death of the insured, not matured by proof of death of the insured is deemed matured and the proceeds payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based.

Moneys otherwise payable according to the records of such holder are deemed payable although the policy or contract has not been surrendered as required.

(D) Any deposit made to secure payment or any sum paid in advance for utility services of a public utility and any amount refundable from rates or charges collected by a public utility for utility services held or owed by a holder, less any lawful claims, that has remained unclaimed for one year after the termination of the services for which the deposit or advance payment was made or one year from the date the refund was payable, whichever is earlier;

(E) Except as provided in division (R) of this section, any certificates, securities as defined in section [1707.01](#) of the Revised Code, nonwithdrawable shares, other instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a

holder, including funds deposited with a fiscal agent or fiduciary for payment of them, and instruments representing an ownership interest, unclaimed for five years. Any underlying share or other intangible instrument representing an ownership interest in a business association, in which the issuer has recorded on its books the issuance of the share but has been unable to deliver the certificate to the shareholder, constitutes unclaimed funds if such underlying share is unclaimed for five years. In addition, an underlying share constitutes unclaimed funds if a dividend, distribution, or other sum payable as a result of the underlying share has remained unclaimed by the owner for five years.

This division shall not prejudice the rights of fiscal agents or fiduciaries for payment to return the items described in this division to their principals, according to the terms of an agency or fiduciary agreement, but such a return shall constitute the principal as the holder of the items and shall not interrupt the period for computing the time for which the items have remained unclaimed.

In the case of any such funds accruing and held or owed by a corporation under division (E) of section [1701.24](#) of the Revised Code, such corporation shall comply with this chapter, subject to the limitation contained in section [1701.34](#) of the Revised Code. The period of time for which such funds have gone unclaimed specified in section [1701.34](#) of the Revised Code shall be computed, with respect to dividends or distributions, commencing as of the dates when such dividends or distributions would have been payable to the shareholder had such shareholder surrendered the certificates for cancellation and exchange by the date specified in the order relating to them.

Capital credits of a cooperative which after January 1, 1972, have been allocated to members and which by agreement are expressly required to be paid if claimed after death of the owner are deemed payable, for the purpose of this chapter, fifteen years after either the termination of service by the cooperative to the owner or upon the nonactivity as provided in division (B) of section [169.01](#) of the Revised Code, whichever occurs later, provided that this provision does not apply if the payment is not mandatory.

(F) Any sum payable on certified checks or other written instruments certified or issued and representing funds held or owed by a holder, less any lawful claims, that are unclaimed for five years from the date payable or from the date of issuance if payable on demand; except that the unclaimed period for money orders that are not third party bank checks is seven years, and the unclaimed period for traveler's checks is fifteen years, from the date payable or from the date of issuance if payable on demand.

As used in this division, "written instruments" include, but are not limited to, certified checks, cashier's checks, bills of exchange, letters of credit, drafts, money orders, and traveler's checks.

If there is no address of record for the owner or other person entitled to the funds, such address is presumed to be the address where the instrument was certified or issued.

(G) Except as provided in division (R) of this section, all moneys, rights to moneys, or other intangible property, arising out of the business of engaging in the purchase or sale of securities, or otherwise dealing in intangibles, less any lawful claims, that are held or owed by a holder and are unclaimed for five years from the date of transaction.

(H) Except as provided in division (A) of section [3903.45](#) of the Revised Code, all moneys, rights to moneys, and other intangible property distributable in the course of dissolution or liquidation of a holder that are unclaimed for one year after the date set by the holder for distribution;

(I) All moneys, rights to moneys, or other intangible property removed from a safe-deposit box or other safekeeping repository located in this state or removed from a safe-deposit box or other safekeeping repository of a holder, on which the lease or rental period has expired, or any amount arising from the sale of such property, less any lawful claims, that are unclaimed for three years from the date on which the lease or rental period expired;

(J) Subject to division (M)(2) of this section, all moneys, rights to moneys, or other intangible property, and any income or increment on them, held or owed by a holder which is a fiduciary for the benefit of another, or a fiduciary or custodian of a qualified retirement plan or individual retirement arrangement under section 401 or 408 of the Internal Revenue Code, unclaimed for three years after the final date for distribution;

(K) All moneys, rights to moneys, or other intangible property held or owed in this state or held for or owed to an owner whose last known address is within this state, by the United States government or any state, as those terms are described in division (E) of section [169.01](#) of the Revised Code, unclaimed by the owner for three years, excluding any property in the control of any court in a proceeding in which a final adjudication has not been made;

(L) Amounts payable pursuant to the terms of any policy of insurance, other than life insurance, or any refund available under such a policy, held or owed by any holder, unclaimed for three years from the date payable or distributable;

(M)(1) Subject to division (M)(2) of this section, any funds constituting rents or lease payments due, any deposit made to secure payment of rents or leases, or any sum paid in advance for rents, leases, possible damage to property, unused services, performance requirements, or any other purpose, held or owed by a holder unclaimed for one year;

(2) Any escrow funds, security deposits, or other moneys that are received by a licensed broker in a fiduciary capacity and that, pursuant to division (A)(26) of section [4735.18](#) of the Revised Code, are required to be deposited into and maintained in a special or trust, noninterest-bearing bank account separate and distinct from any personal or other account of the licensed broker, held or owed by the licensed broker unclaimed for two years.

(N) Any sum greater than fifty dollars payable as wages, any sum payable as salaries or commissions, any sum payable for services rendered, funds owed or held as royalties, oil and mineral proceeds, funds held for or owed to suppliers, and moneys owed under pension and profit-sharing plans, held or owed by any holder unclaimed for one year from date payable or distributable, and all other credits held or owed, or to be refunded to a retail customer, by any holder unclaimed for three years from date payable or distributable;

(O) Amounts held in respect of or represented by lay-aways sold after January 1, 1972, less any lawful claims, when such lay-aways are unclaimed for three years after the sale of them;

(P) All moneys, rights to moneys, and other intangible property not otherwise constituted as unclaimed funds by this section, including any income or increment on them, less any lawful claims, which are held or owed by any holder, other than a holder which holds a permit issued pursuant to Chapter 3769. of the Revised Code, and which have remained unclaimed for three years after becoming payable or distributable;

(Q) All moneys that arise out of a sale held pursuant to section [5322.03](#) of the Revised Code, that are held by a holder for delivery on demand to the appropriate person pursuant to division (I) of that section, and that are unclaimed for two years after the date of the sale.

(R)(1) Any funds that are subject to an agreement between the holder and owner providing for automatic reinvestment and that constitute dividends, distributions, or other sums held or owed by a holder in connection with a security as defined in section [1707.01](#) of the Revised Code, an ownership interest in an investment company registered under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or a certificate of deposit, unclaimed for a period of five years.

(2) The five-year period under division (R)(1) of this section commences from the date a second shareholder notification or communication mailing to the owner of the funds is returned to the holder as undeliverable by the United States postal service or other carrier. The notification or communication mailing by the holder shall be no less frequent than quarterly.

All moneys in a personal allowance account, as defined by rules adopted by the director of job and family services, up to and including the maximum resource limitation, of a medicaid patient who has died after receiving care in a long-term care facility, and for whom there is no identifiable heir or sponsor, are not subject to this chapter.

Effective Date: 08-29-2002

169.03 Report of unclaimed funds.

(A)(1) Every holder of unclaimed funds and, when requested, every person that could be the holder of unclaimed funds, under this chapter shall report to the director of commerce with respect to the unclaimed funds as provided in this section. The report shall be verified.

(2) With respect to items of unclaimed funds each having a value of fifty dollars or more, the report required under division (A)(1) of this section shall include the following:

(a) The full name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of unclaimed funds under this chapter;

(b) In the case of unclaimed funds reported by holders providing life insurance coverage, the full name of the insured or annuitant and beneficiary, if any, and their last known addresses according to the holder's records;

(c) The nature and identifying number, if any, or description of the funds and the amount appearing from the records to be due;

(d) The date when the funds became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the funds;

(e) Subject to division (I) of this section, the social security number of the owner of the unclaimed funds, if it is available;

(f) If the item of unclaimed funds has a value of one thousand dollars or more and the holder has verified that the last known address as shown by the records of the holder is not accurate as provided in division (D) of this section, a statement that efforts were undertaken by the holder to verify that the address is not accurate. Any verifying documentation shall be maintained by the holder for five years from the date of the report and shall be available upon request to the director or the director's designee.

(g) Other information that the director prescribes as necessary for the administration of this chapter.

(3) With respect to items of unclaimed funds each having a value of less than fifty dollars, the report required under division (A)(1) of this section shall include the following:

(a) Each category of items of unclaimed funds as described in section [169.02](#) of the Revised Code;

(b) The number of items of unclaimed funds within each category;

(c) The aggregated value of the items of unclaimed funds within each category.

(B) If the holder of unclaimed funds is a successor to other organizations that previously held the funds for the owner, or if the holder has changed its name while holding the funds, it shall file with the report all prior known names and addresses and date and state of incorporation or formation of each holder of the funds.

(C) The report shall be filed before the first day of November of each year as of the preceding thirtieth day of June, but the report of holders providing life insurance coverage shall be filed before the first day of May of each year as of the preceding thirty-first day of December. The director may postpone, for good cause shown, the reporting date upon written request by any holder required to file a report.

(D) The holder of unclaimed funds under this chapter shall send notice to each owner of each item of unclaimed funds having a value of fifty dollars or more at the last known address of the owner as shown by the records of the holder before filing the annual report. In case of holders providing life insurance coverage, this notice shall also be mailed to each beneficiary at the last known address of the beneficiary as shown by the records of the holder, except that the notice to beneficiaries shall not be mailed if that address is the same as that of the insured and the surname of the beneficiary is the same as that of the insured. The holder shall not report an item of unclaimed funds earlier than the thirtieth day after the mailing of notice required by this division.

The notice required by this division shall set forth the nature and identifying number, if any, or description of the funds and the amount appearing on the records of the holder to be due the owner or beneficiary, and shall inform the owner or beneficiary that the funds will, thirty days after the mailing of the notice, be reported as unclaimed funds under this chapter. A self-addressed, stamped envelope shall be included with the notice, with instructions that the owner or beneficiary may use the envelope to inform the holder of the owner's or beneficiary's continued interest in the funds, and, if so informed before the date for making the report to the director, the holder shall not report the funds to the director. The notice shall be mailed by first class mail if the item of unclaimed funds has a value of fifty dollars or more but less than one thousand dollars and by certified mail, return receipt requested, if the item of unclaimed funds has a value of one thousand dollars or more, unless the holder has verified that the last known address of the owner or beneficiary as shown by the records of the holder is not accurate. For purposes of this section, a holder has verified that the last known address of the owner or beneficiary is not accurate by documenting at least two of the following:

(1) The owner or beneficiary failed to respond to a first class mail notice sent to the last known address of the owner or beneficiary.

(2) A first class mail notice sent by the holder to the last known address of the owner or beneficiary was returned as undeliverable.

(3) An electronic or manual search of available public records failed to confirm that the last known address of the owner or beneficiary is accurate. The holder shall maintain documentation of its search efforts. If a search of public records or databases identifies a more recent address for the owner or beneficiary than the address in the holder's records, the holder shall send notice to the owner or beneficiary at that more recent address in accordance with this section.

A holder that sends a notice by certified mail, return receipt requested, may charge the item of unclaimed funds up to twenty dollars for providing that notice.

If there is no address of record for the owner or beneficiary, the holder is relieved of any responsibility of sending notice, attempting to notify, or notifying the owner or beneficiary. The mailing of notice pursuant to this section shall discharge the holder from any further responsibility to give notice.

(E) Verification of the report and of the mailing of notice, where required, shall be executed by an officer of the reporting holder.

(F)(1) The director may, at reasonable times and upon reasonable notice, examine or cause to be examined, by auditors of supervisory departments or divisions of the state, the records of any holder to determine compliance with this chapter.

(2) Holders shall retain records, designated by the director as applicable to unclaimed funds, for five years beyond the relevant time period provided in section [169.02](#) of the Revised Code, or until completion of an audit conducted pursuant to division (F) of this section, whichever occurs first. An audit conducted pursuant to division (F) of this section shall not require a holder to make records available for a period of time exceeding the records retention period set forth in division (F) of this section, except for records pertaining to instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, or pertaining to debt of a publicly traded corporation. Any holder that is audited pursuant to division (F) of this section shall only be required to make available those records that are relevant to an unclaimed funds audit of that holder as prescribed by the director.

(3) The director may enter into contracts, pursuant to procedures prescribed by the director, with persons for the sole purpose of examining the records of holders, determining compliance with this chapter, and collecting, taking possession of, and remitting to the department's division of unclaimed funds, in a timely manner, the amounts found and defined as unclaimed. The director shall not enter into such a contract with a person unless the person does all of the following:

(a) Agrees to maintain the confidentiality of the records examined, as required under division (F)(4) of this section;

(b) Agrees to conduct the audit in accordance with rules adopted under section [169.09](#) of the Revised Code;

(c) Obtains a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the director and in the penal sum determined by the director. The bond shall be for the benefit of any holder of unclaimed

funds that is audited by the principal and is injured by the principal's failure to comply with division (F)(3)(a) or (b) of this section.

(4) Records audited pursuant to division (F) of this section are confidential, and shall not be disclosed except as required by section [169.06](#) of the Revised Code or as the director considers necessary in the proper administration of this chapter.

(5) If a person with whom the director has entered into a contract pursuant to division (F)(3) of this section intends to conduct, in conjunction with an unclaimed funds audit under this section, an unclaimed funds audit for the purpose of administering another state's unclaimed or abandoned property laws, the person, prior to commencing the audit, shall provide written notice to the director of the person's intent to conduct such an audit, along with documentation evidencing the person's express authorization from the other state to conduct the audit on behalf of that state.

(6) Prior to the commencement of an audit conducted pursuant to division (F) of this section, the director shall notify the holder of unclaimed funds of the director's intent to audit the holder's records. If the audit will be conducted in conjunction with an audit for one or more other states, the director shall provide the holder with the name or names of those states.

(7) Any holder of unclaimed funds may appeal the findings of an audit conducted pursuant to division (F) of this section to the director. Pursuant to the authority granted by section [169.09](#) of the Revised Code, the director shall adopt rules establishing procedures for considering such an appeal.

(G) All holders shall make sufficient investigation of their records to ensure that the funds reported to the director are unclaimed as set forth in division (B) of section [169.01](#) and section [169.02](#) of the Revised Code.

(H) The expiration of any period of limitations on or after March 1, 1968, within which a person entitled to any moneys, rights to moneys, or intangible property could have commenced an action or proceeding to obtain these items shall not prevent these items from becoming unclaimed funds or relieve the holder of them of any duty to report and give notice as provided in this section and deliver them in the manner provided in section [169.05](#) of the Revised Code, provided that the holder may comply with this section and section [169.05](#) of the Revised Code with respect to any moneys, rights to moneys, or intangible property as to which the applicable statute of limitations has run prior to March 1, 1968, and in that event the holder shall be entitled to the protective provisions of section [169.07](#) of the Revised Code.

(I) No social security number contained in a report made pursuant to this section shall be used by the department of commerce for any purpose other than to enable the division of unclaimed funds to carry out the purposes of this chapter and for child support purposes in response to a request made by the office of child support in the department of job and family services made pursuant to section [3123.88](#) of the Revised Code.

Effective Date: 10-21-2003

[169.04 Jurisdiction of other states.](#)

(A) If funds otherwise subject to Chapter 169. of the Revised Code are held for or owed or distributable to an owner whose last known address is in another state by a holder who is subject to the jurisdiction of that state, the funds will not be unclaimed funds in this state and

subject to Chapter 169. of the Revised Code if they may be claimed as unclaimed, abandoned, or escheated funds under the laws of such other state.

(B) If funds otherwise subject to Chapter 169. of the Revised Code are held for or distributable to an owner as to whom the records of the holder show no address, the director of commerce shall take custody of such funds, but such funds shall be subject to the claim of the proper escheat or custodial officer of another state upon proof to the director of commerce that the last known address of the owner of such funds is in such other state, provided, the director of commerce shall not turn over any funds to an escheat or custodial officer of another state unless such other state agrees to hold this state and the former holder of such funds harmless from any and all liabilities for any claim which then exists or which thereafter may arise or be made in respect to such funds. The director of commerce may enter into such agreements as he determines necessary to obtain funds held by escheat or custodial officers of other states which should properly be held by him under this chapter.

Effective Date: 12-11-1967

169.041 Recovering unclaimed funds in possession, custody or control of another state.

Nothing in section [169.04](#) or [169.05](#) of the Revised Code or in any other provision of this chapter shall be construed to diminish the authority of this state to recover one hundred per cent of funds that are or are presumed to be subject to the jurisdiction of this state under this chapter and that have been claimed as unclaimed, abandoned, or escheated funds under the laws of another state and are in the possession, custody, or control of that state. If the funds covered by this chapter have been claimed as unclaimed, abandoned, or escheated funds under the laws of another state and are in the possession, custody, or control of that state, no additional period of possession, custody, or control beyond the period established in the other state shall be imposed or in any manner required in this state for the funds subject to this chapter to be or presumed to be unclaimed funds under this chapter.

This section applies to all funds that are or are presumed to be subject to the jurisdiction of this state under this chapter and that have been claimed as unclaimed, abandoned, or escheated funds under the laws of another state and are in the possession, custody, or control of that state, whether, prior to or on or after the effective date of this section, the funds are or are presumed to be unclaimed, abandoned, or escheated under this chapter or the laws of that state.

Effective Date: 07-22-1994

169.05 Unclaimed funds trust fund.

(A) Every holder required to file a report under section [169.03](#) of the Revised Code shall, at the time of filing, pay to the director of commerce ten per cent of the aggregate amount of unclaimed funds as shown on the report, except for aggregate amounts of fifty dollars or less in which case one hundred per cent shall be paid. The funds may be deposited by the director in the state treasury to the credit of the unclaimed funds trust fund, which is hereby created, or placed with a financial organization. Any interest earned on money in the trust fund shall be credited to the trust fund. The remainder of the aggregate amount of unclaimed funds as shown on the report, plus earnings accrued to date of payment to the director, shall, at the option of the director, be retained by the holder or paid to the director for deposit as agent for the mortgage funds with a financial organization as defined in section [169.01](#) of the Revised Code, with the funds to be in income-bearing accounts to the credit of the mortgage funds, or the holder may enter into an agreement with the director specifying the obligations of the United

States in which funds are to be invested, and agree to pay the interest on the obligations to the state. Holders retaining any funds not in obligations of the United States shall enter into an agreement with the director specifying the classification of income-bearing account in which the funds will be held and pay the state interest on the funds at a rate equal to the prevailing market rate for similar funds. Moneys that the holder is required to pay to the director rather than to retain may be deposited with the treasurer of state, or placed with a financial organization.

Securities and other intangible property transferred to the director shall, within a reasonable time, be converted to cash and the proceeds deposited as provided for other funds.

One-half of the funds evidenced by agreements, in income-bearing accounts, or on deposit with the treasurer of state shall be allocated on the records of the director to the mortgage insurance fund created by section [122.561](#) of the Revised Code. Out of the remaining half, after allocation of sufficient moneys to the minority business bonding fund to meet the provisions of division (B) of this section, the remainder shall be allocated on the records of the director to the housing development fund created by division (A) of section [175.11](#) of the Revised Code.

(B) The director shall serve as agent for the director of development and as agent for the Ohio housing finance agency in making deposits and withdrawals and maintaining records pertaining to the minority business bonding fund created by section [122.88](#) of the Revised Code, the mortgage insurance fund, and the housing development fund created by section [175.11](#) of the Revised Code. Funds from the mortgage insurance fund are available to the director of development when those funds are to be disbursed to prevent or cure, or upon the occurrence of, a default of a mortgage insured pursuant to section [122.451](#) of the Revised Code. Funds from the housing development fund are available upon request to the Ohio housing finance agency, in an amount not to exceed the funds allocated on the records of the director, for the purposes of section [175.05](#) of the Revised Code. Funds from the minority business bonding fund are available to the director of development upon request to pay obligations on bonds the director writes pursuant to section [122.88](#) of the Revised Code; except that, unless the general assembly authorizes additional amounts, the total maximum amount of moneys that may be allocated to the minority business bonding fund under this division is ten million dollars.

When funds are to be disbursed, the appropriate agency shall call upon the director to transfer the necessary funds to it. The director shall first withdraw the funds paid by the holders and deposited with the treasurer of state or in a financial institution as agent for the funds. Whenever these funds are inadequate to meet the request, the director shall provide for a withdrawal of funds, within a reasonable time and in the amount necessary to meet the request, from financial institutions in which the funds were retained or placed by a holder and from other holders who have retained funds, in an equitable manner as the director prescribes. In the event that the amount to be withdrawn from any one holder is less than five hundred dollars, the amount to be withdrawn is at the director's discretion. The director shall then transfer to the agency the amount of funds requested.

Funds deposited in the unclaimed funds trust fund are subject to call by the director when necessary to pay claims the director allows under section [169.08](#) of the Revised Code, in accordance with the director's rules, to defray the necessary costs of making publications this chapter requires and to pay other operating and administrative expenses the department of commerce incurs in the administration and enforcement of this chapter.

The unclaimed funds trust fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures the director of commerce prescribes and the director of budget and management approves. The assessment shall be paid from the unclaimed funds trust fund to the division of administration fund.

(C) Earnings on the accounts in financial organizations to the credit of the mortgage funds shall, at the option of the financial organization, be credited to the accounts at times and at rates as earnings are paid on other accounts of the same classification held in the financial organization or paid to the director. The director shall be notified annually, and at other times as the director may request, of the amount of the earnings credited to the accounts. Interest on unclaimed funds a holder retains shall be paid to the director or credited as specified in the agreement under which the organization retains the funds. Interest payable to the director under an agreement to invest unclaimed funds and obligations of the United States shall be paid annually by the holder to the director. Any earnings or interest the director receives under this division shall be deposited in and credited to the mortgage funds.

Effective Date: 06-30-1997; 07-01-2005

169.06 Publishing notice of unclaimed funds.

(A) Before the first day of November of each year immediately following the calendar year in which the filing of reports is required by section [169.03](#) of the Revised Code, the director of commerce shall cause notice to be published once in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice required by this section. If no address is listed, the notice shall be published in the county in which the holder of the unclaimed funds has its principal place of business within this state; or if the holder has no principal place of business within this state, publication shall be made as the director determines most effective. If the address is outside this state, notice shall be published in a newspaper of general circulation in the county or parish of any state in the United States in which such last known address is located. If the last known address is in a foreign country, publication shall be made as the director determines most effective.

If the name of the owner is not available, the director may publish notice by class, identifying number, or as the director determines most effective.

(B) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Unclaimed Funds," and shall contain:

(1) The names in alphabetical order and last known addresses, if any, of each person appearing from the records of the holder to be the owner of unclaimed funds of a value of fifty dollars or more and entitled to notice as specified in division (A) of this section;

(2) A statement that information concerning the amount of the funds and any necessary information concerning the presentment of a claim therefor may be obtained by any persons possessing a property interest in the unclaimed funds by addressing an inquiry to the director.

(C) With respect to items of unclaimed funds each having a value of ten dollars or more, the director shall have available in his office during business hours an alphabetical list of owners and where a holder is a person providing life insurance coverage, beneficiaries, and their last known addresses, if any, whose funds are being held by the state pursuant to this chapter.

(D) The director may give any additional notice he deems necessary to inform the owner of the whereabouts of his funds.

Effective Date: 06-18-1991

169.07 Holder of unclaimed funds held harmless.

(A) Upon the payment of unclaimed funds to the director of commerce under section [169.05](#) of the Revised Code the holder will be relieved of further responsibility for the safekeeping thereof and will be held harmless by the state from any and all liabilities for any claim arising out of the transfer of such funds to the state.

(B) If legal proceedings are instituted against a holder which has paid unclaimed funds to the director or entered into an agreement as provided in section [169.05](#) of the Revised Code in respect to such funds, such holder shall notify the director in writing of the pendency of such proceedings and the director shall intervene and assume the defense of such proceedings. Failure to give such notice shall absolve the state from any and all liability which it may have with regard to such funds. If judgment is entered against such holder, the director shall, upon proof of satisfaction of such judgment, forthwith reimburse such organization for the amount of the judgment or enter into an agreement modified to reflect the satisfaction of such judgment, if the holder retained such funds, and shall reimburse such holder for any legal fees, costs and other expenses incurred in such proceedings in the manner provided for the payment of claims under division (D) of section [169.08](#) of the Revised Code.

Effective Date: 10-16-1972

169.08 Filing claim for refund.

(A) Any person claiming a property interest in unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code, including the office of child support in the department of job and family services, pursuant to section [3123.88](#) of the Revised Code, may file a claim thereto on the form prescribed by the director of commerce.

(B) The director shall consider matters relevant to any claim filed under division (A) of this section and shall hold a formal hearing if requested or considered necessary and receive evidence concerning such claim. A finding and decision in writing on each claim filed shall be prepared, stating the substance of any evidence received or heard and the reasons for allowance or disallowance of the claim. The evidence and decision shall be a public record. No statute of limitations shall bar the allowance of a claim.

(C) For the purpose of conducting any hearing, the director may require the attendance of such witnesses and the production of such books, records, and papers as the director desires, and the director may take the depositions of witnesses residing within or without this state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the director may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section [119.094](#) of the Revised Code. Fees and mileage shall be paid from the unclaimed funds trust fund.

(D) Interest is not payable to claimants of unclaimed funds held by the state. Claims shall be paid from the trust fund. If the amount available in the trust fund is not sufficient to pay pending claims, or other amounts disburseable from the trust fund, the treasurer of state shall certify such fact to the director, who shall then withdraw such amount of funds from the mortgage accounts as the director determines necessary to reestablish the trust fund to a level required to pay anticipated claims but not more than ten per cent of the net unclaimed funds reported to date.

The director may withdraw the funds paid to the director by the holders and deposited by the director with the treasurer of state or in a financial institution as agent for such funds. Whenever these funds are inadequate to meet the requirements for the trust fund, the director shall provide for a withdrawal of funds, within a reasonable time, in such amount as is necessary to meet the requirements, from financial institutions in which such funds were retained or placed by a holder and from other holders who have retained funds, in an equitable manner as prescribed by the director. In the event that the amount to be withdrawn from any one such holder is less than five hundred dollars, the amount to be withdrawn shall be at the discretion of the director. Such funds may be reimbursed in the amounts withdrawn when the trust fund has a surplus over the amount required to pay anticipated claims. Whenever the trust fund has a surplus over the amount required to pay anticipated claims, the director may transfer such surplus to the mortgage accounts.

(E) If a claim which is allowed under this section relates to funds which have been retained by the reporting holder, and if the funds, on deposit with the treasurer of state pursuant to this chapter, are insufficient to pay claims, the director may notify such holder in writing of the payment of the claim and such holder shall immediately reimburse the state in the amount of such claim. The reimbursement shall be credited to the unclaimed funds trust fund.

(F) Any person, including the office of child support, adversely affected by a decision of the director may appeal such decision in the manner provided in Chapter 119. of the Revised Code.

In the event the claimant prevails, the claimant shall be reimbursed for reasonable attorney's fees and costs.

(G) Notwithstanding anything to the contrary in this chapter, any holder who has paid moneys to or entered into an agreement with the director pursuant to section [169.05](#) of the Revised Code on certified checks, cashiers' checks, bills of exchange, letters of credit, drafts, money orders, or travelers' checks, may make payment to any person entitled thereto, including the office of child support, and upon surrender of the document, except in the case of travelers' checks, and proof of such payment, the director shall reimburse the holder for such payment without interest.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 03-22-2001; 2008 HB525 07-01-2009

169.09 Administrative rules.

The director of commerce shall make, in accordance with Chapter 119. of the Revised Code, necessary rules that prescribe uniform methods for conducting unclaimed funds audits under section [169.03](#) of the Revised Code and for determining when such an audit is appropriate, and may make necessary rules to carry out any other duty imposed upon the director by this chapter.

Effective Date: 09-29-1999

169.10 Prohibited acts.

(A) No person or holder shall knowingly fail to render any report or perform other duties required under Chapter 169. of the Revised Code.

(B) No person or holder shall knowingly refuse to pay or deliver unclaimed funds to or enter into an agreement with the director of commerce as required under section [169.05](#) of the Revised Code.

Effective Date: 12-11-1967

169.11 Early report of unclaimed funds.

Any holder who has possession, custody, or control of moneys, rights to moneys, or other intangible property which he has reason to believe will be reportable in the future as unclaimed funds may report such items as unclaimed funds prior to the date required for such reporting, in accordance with section [169.03](#) of the Revised Code, and then is relieved of responsibility as provided in section [169.07](#) of the Revised Code.

Effective Date: 10-16-1972

169.12 Failure to report or file report.

(A) Whoever knowingly violates section [169.03](#) of the Revised Code by failure to report unclaimed funds by the date prescribed therefor may be subject to a civil penalty of one hundred dollars per day.

(B) Whoever violates section [169.03](#) of the Revised Code by failure to file an unclaimed funds report upon request within four months of the date of such request shall be subject to a civil penalty of one hundred dollars per day, which may be in addition to the other civil penalties provided for in this section.

(C) Unclaimed funds not paid or made the subject of an agreement with the director of commerce as provided in sections [169.03](#) and [169.05](#) of the Revised Code either because they were not reported or they were underreported or when reported were not paid or not made the subject of the required agreement shall have added thereto interest from the date prescribed for such payment or agreement until the date settlement is made. Such interest shall, if the holder is a financial institution, be the best available, nonnegotiable, retail time deposit base rate offered by that financial institution in the calendar year previous to the date of discovery of the violation, or if the holder is not a financial institution, be the best available six-month treasury bill rate offered in the calendar year previous to the date of discovery of violation. In addition, a civil penalty of one per cent of the amount of unclaimed funds not reported, underreported, or on which settlement has not been made shall be imposed for each month from the date prescribed for such reporting and payment or agreement until such required settlement is made, except that such penalty shall not be imposed for more than twenty-five months.

(D) In determining interest and penalties due in respect to intangible property, such property will be valued at the market value as of the date prescribed for reporting and payment in sections [169.03](#) and [169.05](#) of the Revised Code. If no market value is determinable such property shall be valued as of the same date on the basis used by the department of taxation.

(E) If any person refuses to report or settle with the director as required under this chapter, the director may bring an action in the court having jurisdiction in the county where the holder resides or has his principal place of business or is engaged in business, to enforce such reporting or settlement requirements and to recover interest and penalties due.

The director may waive part or all of the civil penalties provided for in this section for good cause shown and shall waive such civil penalties upon a showing that a holder had reasonable grounds for not complying with this chapter.

Effective Date: 09-20-1984

169.13 Agreements to pay fee, compensation, commission, or other remuneration to locate, deliver, recover, or assist in recovery of unclaimed funds.

(A)(1) All agreements to pay a fee, compensation, commission, or other remuneration to locate, deliver, recover, or assist in the recovery of unclaimed funds reported under section [169.03](#) of the Revised Code, entered into within two years immediately after the date a report is filed under division (C) of section [169.03](#) of the Revised Code, are invalid.

(2) A person interested in entering into an agreement to locate, deliver, recover, or assist in the recovery of unclaimed funds for remuneration shall not initiate any contact with an owner during the two-year period immediately after the date a report is filed under division (C) of section [169.03](#) of the Revised Code. Failure to comply with this requirement is grounds for the invalidation of any such agreement between the person and the owner.

(B) An agreement entered into any time after such two-year period is valid only if all of the following conditions are met:

(1) The aggregate fee, compensation, commission, or other remuneration agreed upon is not in excess of ten per cent of the amount recovered and paid to the owner by the director of budget and management;

(2) The agreement is in writing, signed by the owner, and notarized and discloses all of the following items:

(a) The name, address, and telephone number of the owner, as shown by the records of the person or entity in possession of the unclaimed funds or contents of a safe deposit box;

(b) The name, address, and telephone number of the owner if the owner's name, address, or telephone number are different from the name, address, or telephone number of the owner as shown by the records of the person or entity in possession of the unclaimed funds or contents of a safe deposit box;

(c) The nature and value of the unclaimed funds or contents of a safe deposit box;

(d) The amount the owner will receive after the fee or compensation has been subtracted;

(e) The name and address of the person or entity in possession of the unclaimed funds or contents of a safe deposit box;

(f) That the auditor of state will pay the unclaimed funds directly to the owner or the director shall deliver the contents of a safe deposit box directly to the owner;

(g) That the person agreeing to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box is not an employee or agent of the director of commerce;

(h) That the director is not a party to the agreement;

(i) That the person agreeing to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box holds a valid certificate of registration issued by the director under section [169.16](#) of the Revised Code;

(j) The number designated on that certificate of registration and the date the certificate of registration expires.

(3) No agreement described in division (B)(2) of this section shall include a power of attorney for the payment of the unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner of the unclaimed funds or contents of a safe deposit box.

(4) If the agreement involves recovery of the contents of a safe deposit box, the agreement stipulates that the person receiving any fee, compensation, commission, or other remuneration for engaging in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on behalf of any other person shall do all of the following:

(a) Make arrangements to have an appraiser and the director of commerce view the contents of the safe deposit box together, at a time mutually agreeable to the appraiser and director;

(b) State that the value of the property in the safe deposit box is the amount established by the appraiser who viewed the safe deposit box contents;

(c) Base the fee, compensation, commission, or other remuneration for locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on the appraised value established by the appraiser who viewed the safe deposit box contents.

(C) No person shall receive a fee, compensation, commission, or other remuneration, or engage in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or contents of a safe deposit box, under an agreement that is invalid under this section.

(D) A person who receives any fee, compensation, commission, or other remuneration for engaging in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on behalf of any other person cannot function as an appraiser of the contents of the safe deposit box for purposes of division (B)(4) of this section.

(E) The director shall not recognize or make any delivery and the auditor of state shall not make any payment pursuant to any power of attorney between an owner of the unclaimed funds or contents of a safe deposit box and the person with whom the owner entered into an agreement pursuant to division (B)(2) of this section to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box if that power of attorney is entered into on or after the effective date of this amendment and that power of attorney specifically provides for the payment of unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner of the unclaimed funds or contents of a safe deposit box. Nothing in this

section shall be construed as prohibiting the payment of unclaimed funds or delivery of the contents of a safe deposit box to the legal representative of the owner of the unclaimed funds or contents of the safe deposit box. Notwithstanding the definition of "owner" specified in division (C) of section [169.01](#) of the Revised Code, for purposes of the payment of unclaimed funds or delivery of the contents of the safe deposit box, a person with whom an owner entered into an agreement under division (B)(2) of this section is not a legal representative.

Effective Date: 07-01-1996; 2006 SB223 03-23-2007; 2006 HB699 03-29-2007

169.14 RC 169.13 claim to include registration certificate number.

(A) Each person that files a claim with the director of commerce, pursuant to an agreement entered into under section [169.13](#) of the Revised Code, shall include with that claim the number designated on the certificate of registration that is issued to the person under section [169.16](#) of the Revised Code.

(B) The division of unclaimed funds shall not process any claim described in division (A) of this section that does not include the required certificate of registration number.

Effective Date: 2006 SB223 05-22-2007

169.16 Certificate of registration required.

(A) No person, on behalf of any other person, shall engage in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or contents of a safe deposit box, and receive a fee, compensation, commission, or other remuneration for such activity, without first having obtained a certificate of registration from the director of commerce in accordance with this section.

(B) An application for a certificate of registration shall be in writing and in the form prescribed by the director. The application shall be accompanied by a recent full-face color photograph of the applicant and notarized character reference letters from two reputable character witnesses. The application shall, at a minimum, provide all of the following:

- (1) The applicant's full name, home address, and work address;
- (2) The name, address, and telephone number of the two character witnesses who have provided the character reference letters;
- (3) A statement that the applicant has not, during the ten-year period immediately preceding the submission of the application, violated division (A) of this section on or after the effective date of this section, or division (C) of section [169.13](#) of the Revised Code, or been convicted of, or pleaded guilty to, any felony or any offense involving moral turpitude, including theft, attempted theft, falsification, tampering with records, securing writings by deception, fraud, forgery, and perjury;
- (4) The notarized signature of the applicant immediately following an acknowledgment that any false or perjured statement subjects the applicant to criminal liability under section [2921.13](#) of the Revised Code.

(C) Upon the filing of the application with the division of unclaimed funds, the division may investigate the applicant to verify the information provided in the application and to determine the applicant's eligibility for a certificate of registration under this section. False information on an application is grounds for the denial or revocation of the applicant's certificate of registration.

(D) The director shall issue a certificate of registration to an applicant if the director finds that the following conditions are met:

(1) The applicant has not, during the ten-year period immediately preceding the submission of the application, violated division (A) of this section on or after the effective date of this section, or division (C) of section [169.13](#) of the Revised Code, or been convicted of, or pleaded guilty to, any felony or any offense involving moral turpitude, including theft, attempted theft, falsification, tampering with records, securing writings by deception, fraud, forgery, and perjury.

(2) The applicant's character and general fitness command the confidence of the public and warrant the belief that the applicant's business will be conducted honestly and fairly.

(E) The certificate of registration issued pursuant to division (D) of this section may be renewed annually if the director finds that the following conditions are met:

(1) The applicant submits a renewal application form prescribed by the director.

(2) The applicant meets the conditions set forth in division (D) of this section.

(3) The applicant's certificate of registration is not subject to an order of revocation by the director.

Effective Date: 2006 SB223 03-23-2007

169.17 Revocation or refusal to issue or renew certificate.

(A) After notice and an opportunity for a hearing conducted in accordance with Chapter 119. of the Revised Code, the director of commerce shall revoke or refuse to issue or renew a certificate of registration if the director finds either of the following:

(1) During the immediately preceding ten-year period, the person violated division (A) of section [169.16](#) on or after the effective date of this section, or division (C) of section [169.13](#) of the Revised Code, or has been convicted of, or pleaded guilty to, any felony or any offense involving moral turpitude, including theft, attempted theft, falsification, tampering with records, securing writings by deception, fraud, forgery, and perjury.

(2) The person's character and general fitness do not command the confidence of the public or warrant the belief that the person's business will be conducted honestly and fairly.

(B) The director may investigate alleged violations of division (C) of section [169.13](#) or division (A) of section [169.16](#) of the Revised Code or complaints concerning any such violation. The director may make application to the court of common pleas for an order enjoining any such violation and, upon a showing by the director that a person has committed or is about to commit such a violation, the court shall grant an injunction, restraining order, or other appropriate relief.

(C) In conducting any investigation pursuant to this section, the director may compel, by subpoena, witnesses to testify in relation to any matter over which the director has jurisdiction

and may require the production of any book, record, or other document pertaining to that matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the director, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

(D) If the director determines that a person is engaged in or is believed to be engaged in activities that may constitute a violation of division (C) of section [169.13](#) or division (A) of section [169.16](#) of the Revised Code, the director, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, may issue a cease and desist order. Such an order shall be enforceable in the court of common pleas.

Effective Date: 2006 SB223 03-23-2007

[169.99 Penalty.](#)

(A) Whoever violates section [169.10](#) of the Revised Code shall be fined not more than five hundred dollars. Each day of continuance of such violation is a separate offense.

(B) Whoever violates division (C) of section [169.13](#) or division (A) of section [169.16](#) of the Revised Code is guilty of a misdemeanor of the first degree for a first offense and of a felony of the fifth degree for any subsequent offense.

Effective Date: 12-11-1967; 2006 SB223 03-23-2007

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