

REFERENCE TITLE: **unclaimed property; virtual currency; security**

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2749

Introduced by
Representative Weninger

AN ACT

**AMENDING SECTIONS 44-301, 44-302, 44-308 AND 44-312, ARIZONA REVISED
STATUTES; RELATING TO UNCLAIMED PROPERTY.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-301, Arizona Revised Statutes, is amended to
3 read:

4 44-301. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Apparent owner" means a person whose name appears on the
7 records of a holder as the person entitled to property held, issued or
8 owing by the holder.

9 2. "Business association" means any corporation, joint stock
10 company, investment company, partnership, limited partnership, registered
11 limited liability partnership, unincorporated association, joint venture,
12 limited liability company, business trust, trust company, land bank, safe
13 deposit company, safekeeping depository, financial organization, insurance
14 company, mutual fund, utility or other business entity, whether for profit
15 or not for profit, that consists of one or more persons.

16 3. "De minimis property" means any account balances of business
17 associations of ~~fifty dollars~~ \$50 or less THAT IS payable to another
18 business association.

19 4. "Department" means the department of revenue.

20 5. "Director" means the director of the department of revenue.

21 6. "Domicile" means the state of incorporation of a corporation and
22 the state of the principal place of business of a holder other than a
23 corporation.

24 7. "Financial organization" means a savings and loan association,
25 building and loan association, savings bank, industrial bank, bank,
26 banking organization or credit union.

27 8. "Holder" means a person who is obligated to hold for the account
28 of or deliver or pay to the owner THE property that is subject to this
29 chapter.

30 9. "Insurance company" means an association, corporation or
31 fraternal or mutual benefit society or organization, whether for profit or
32 not for profit, that is engaged in the business of providing life
33 endowments, annuities or insurance, including accident, burial, casualty,
34 credit life, contract performance, dental, disability, fidelity, fire,
35 health, hospitalization, illness, life, malpractice, marine, mortgage,
36 surety, wage protection and workers' compensation insurance.

37 10. "Mineral" means gas, oil, coal, sand, gravel, road material,
38 building stone, chemical raw material, gemstone, fissionable and
39 nonfissionable ores, colloid and other clay, steam and other geothermal
40 resource or any other substance defined as a mineral in sections 27-231
41 and 27-901.

42 11. "Mineral proceeds" means the amounts payable for the
43 extraction, production or sale of minerals or, if those amounts are
44 abandoned, all payments that become payable after the abandonment.
45 Mineral proceeds include amounts payable:

(a) For the acquisitions and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals.

(b) For the extraction, production or sale of minerals, including net revenue interest, royalties, overriding royalties, extraction payments and production payments.

(c) Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm out agreement.

12. "Money order" includes an express money order and a personal money order on which the remitter is the purchaser. Money order does not include a bank money order or any other instrument that is sold by a financial organization if the seller has obtained the name and address of the payee.

13. "Owner" means a person who has a legal or equitable interest in property that is subject to this chapter or the person's legal representative. Owner includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust and a creditor, claimant or payee in the case of other property.

14. "Person" means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency or instrumentality or any other legal or commercial entity.

15. "Property":

(a) Means ANY OF THE FOLLOWING:

(i) Tangible property pursuant to section 44-303. ~~or~~

(ii) A fixed and certain interest in intangible property that is held, issued or owed in the course of a holder's business or by a government, governmental subdivision, agency or instrumentality and all income or increments from that property.

(iii) A SECURITY AS DEFINED IN SECTION 44-1801.

(iv) VIRTUAL CURRENCY AS DEFINED IN SECTION 43-1028.

(b) ~~Property~~ Does not include de minimis property, property of a person who is maintaining a current business relationship with the holder, monies collected pursuant to section 46-441 and property that is referred to or evidenced by gift certificates, electronic gift cards, nonrefundable tickets, certificates evidencing property denominated in value other than a currency, including prepaid phone cards, frequent flyer miles, stored value cards and merchandise points.

(c) ~~Property~~ Includes property that is referred to as or evidenced by any of the following:

~~(a)~~ (i) Money or any check, draft, deposit, interest or dividend.

~~(b)~~ (ii) Any credit balance, customer's overpayment, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds or unidentified remittance.

~~(c)~~ (iii) Any stock or other evidence of ownership of an interest in a business association or financial organization.

~~(d)~~ (iv) Any bond, debenture, note or other evidence of indebtedness.

~~(e)~~ (v) Money deposited to redeem stocks, bonds, coupons or other securities or to make distributions.

~~(f)~~ (vi) An amount due and payable under the terms of an annuity or insurance policy, including policies that provide life, property, casualty, workers' compensation, health or disability insurance.

~~(g)~~ (vii) An amount distributable from a trust or custodial fund that is established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings or supplemental unemployment insurance or similar benefits.

16. "Record" means information that is inscribed on a tangible medium or that is stored in any electronic or other medium and that is retrievable in a perceivable form.

17. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession that is subject to the jurisdiction of the United States.

18. "Utility" has the same meaning prescribed in section 40-491.

Sec. 2. Section 44-302, Arizona Revised Statutes, is amended to read:

44-302. Presumptions of abandonment

A. Property is presumed abandoned if it is unclaimed by the apparent owner according to the following schedule:

1. A traveler's check is presumed abandoned fifteen years after issuance.

2. A money order or similar written instrument, other than a ~~third party~~ THIRD-PARTY bank check, is presumed abandoned three years after issuance.

3. Any stock or other equity interest in a business association or financial organization, including a security entitlement under title 47, chapter 8, is presumed abandoned three years after any of the following, whichever occurs first:

(a) The date of the most recent dividend, stock split or other distribution that is unclaimed by the apparent owner.

(b) The date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable.

(c) The date the holder discontinued mailings, notifications or communications to the apparent owner.

4. The principal on debt, other than a bearer bond or an original issue discount bond, of a business association or financial organization is presumed abandoned three years after the maturity date and the interest on the debt is presumed abandoned three years after the payment date.

5. Except as otherwise provided in this paragraph, a demand, savings or time deposit, including a deposit that is automatically renewable, and any interest or dividends are presumed abandoned three years after maturity or the date of the last indication by the owner of interest in the property, whichever occurs first. A certificate of deposit and any interest are presumed abandoned three years after maturity. For the purposes of this paragraph, a deposit that is automatically renewable is deemed matured on its initial date of maturity, unless the owner has consented to a renewal at the time of the account opening or about the time of the renewal and the consent is in writing or is evidenced by the original account agreement or by any memorandum or other record on file with the holder.

6. Credits owed to a customer as a result of a retail business transaction are presumed abandoned three years after the obligation accrued.

7. An amount owed by an insurance company on a life or endowment insurance policy or an annuity that has matured or terminated is presumed abandoned three years after the obligation to pay arose or, in the case of a policy or annuity that is payable on proof of death, the amount is presumed abandoned one year after the insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based. For the purposes of this paragraph, all of the following conditions apply:

(a) If a person other than the insured or annuitant is entitled to the owed amount and the person's address is not known to the company or it is not definite and certain from the records of the company who is entitled to the amount, it is presumed that the last known address of the person who is entitled to the amount is the same as the last known address of the insured or annuitant according to the company's records.

(b) Notwithstanding any law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(c) Every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state shall request the following information:

(i) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class.

(ii) The address of each beneficiary.

(iii) The relationship of each beneficiary to the insured.

8. A life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the company's records is deemed matured and the proceeds are deemed due

1 and payable and are presumed abandoned after one year if all of the
2 following conditions apply:

3 (a) The insured has attained, or would have attained if the insured
4 were living, the limiting age under the mortality table on which the
5 reserve is based.

6 (b) The policy was in force at the time the insured attained or
7 would have attained the limiting age specified in subdivision (a) of this
8 paragraph.

9 (c) Neither the insured nor any other person who appears to have an
10 interest in the policy within the last year according to the company's
11 records has assigned, readjusted or paid premiums on the policy or
12 subjected the policy to a loan, corresponded in writing with the company
13 concerning the policy or otherwise indicated an interest as evidenced by a
14 memorandum or any other record on file with and prepared by an employee of
15 the company.

16 9. Property that is distributable by a business association or
17 financial organization in a course of dissolution is presumed abandoned
18 one year after the property becomes distributable.

19 10. Property that is received by a court as proceeds of a class
20 action and that is not distributed pursuant to the judgment is presumed
21 abandoned one year after the distribution date.

22 11. Property that is held by a court, government or governmental
23 subdivision, agency or instrumentality, except for support as defined in
24 section 25-500 or for spousal maintenance, is presumed abandoned two years
25 after the property becomes distributable. Monies held for the payment of
26 warrants by a state agency that remain unclaimed by the owner at the time
27 of the void date printed on the face of the warrant are presumed
28 abandoned. For the purposes of this paragraph, governmental subdivision
29 does not include a special taxing district as defined in section 48-241.

30 12. Wages or other compensation for personal services is presumed
31 abandoned one year after the compensation becomes payable.

32 13. Property in any individual retirement account, defined benefit
33 plan or other account or plan that qualifies for tax deferral under the
34 income tax laws of the United States is presumed abandoned two years after
35 any of the following, whichever occurs first:

36 (a) The date of the distribution or attempted distribution of the
37 property.

38 (b) The date of the required distribution as stated in the plan or
39 trust agreement that governs the plan.

40 (c) If determinable by the holder, the date specified in the income
41 tax laws of the United States by which distribution of the property must
42 begin in order to avoid a tax penalty.

43 14. Any amount that is payable on a check, draft or similar
44 instrument on which a financial organization or business association is
45 directly liable, including a cashier's check and a certified check, and

1 that has been outstanding for more than three years after the check, draft
 2 or similar instrument was payable or after issuance if payable on demand
 3 is presumed abandoned unless within three years the owner has communicated
 4 in writing with the financial organization or business association
 5 concerning the check, draft or similar instrument or otherwise indicated
 6 an interest as evidenced by a memorandum or any other record on file and
 7 prepared by an employee of the financial organization or business
 8 association.

9 15. ANY SECURITY OR VIRTUAL CURRENCY THAT CAN RIGHTFULLY BE CLAIMED
 10 IS PRESUMED ABANDONED THREE YEARS AFTER THE INITIAL DATE THE SECURITY OR
 11 VIRTUAL CURRENCY BECOMES CLAIMABLE. THE THREE-YEAR PRESUMPTION OF
 12 ABANDONMENT BEGINS WHEN A WRITTEN OR ELECTRONIC COMMUNICATION IS RETURNED
 13 TO THE OWNER AS UNDELIVERABLE BY THE UNITED STATES POSTAL SERVICE, OR
 14 EMAIL OR ANY OTHER ELECTRONIC MESSAGING METHOD, AS APPLICABLE. THE
 15 THREE-YEAR PRESUMPTION OF ABANDONMENT CEASES IMMEDIATELY ON THE EXERCISE
 16 OF AN ACT OF OWNERSHIP INTEREST IN THE SECURITY OR VIRTUAL CURRENCY OR BY
 17 A WRITTEN, ORAL OR ELECTRONIC COMMUNICATION WITH THE HOLDER OF THE
 18 SECURITY OR VIRTUAL CURRENCY AND THAT IS EVIDENCED BY A MEMORANDUM OR
 19 OTHER RECORD THAT IS ON FILE WITH THE HOLDER OR THE HOLDER'S AGENT. FOR
 20 THE PURPOSES OF THIS PARAGRAPH, "EXERCISE OF AN ACT OF OWNERSHIP INTEREST"
 21 INCLUDES ANY OF THE FOLLOWING:

22 (a) THE OWNER TAKING ACTION REGARDING THE SECURITY OR VIRTUAL
 23 CURRENCY.

24 (b) CONDUCTING A TRANSACTION REGARDING THE SECURITY OR VIRTUAL
 25 CURRENCY OR THE ACCOUNT IN WHICH THE SECURITY OR VIRTUAL CURRENCY IS HELD,
 26 INCLUDING DEPOSITING MONIES INTO OR WITHDRAWING MONIES FROM THE ACCOUNT,
 27 WHETHER BY A ONETIME TRANSACTION OR A RECURRING TRANSACTION THAT WAS
 28 PREVIOUSLY AUTHORIZED BY THE OWNER OTHER THAN AN AUTOMATIC REINVESTMENT OF
 29 DIVIDENDS OR INTEREST.

30 (c) ELECTRONICALLY ACCESSING THE ACCOUNT IN WHICH THE SECURITY OR
 31 VIRTUAL CURRENCY IS HELD.

32 (d) CONDUCTING ANY ACTIVITY WITH RESPECT TO ANOTHER ACCOUNT THAT IS
 33 OWNED BY THE OWNER AND HELD BY THE SAME HOLDER.

34 (e) TAKING ANY OTHER ACTION THAT REASONABLY DEMONSTRATES TO THE
 35 HOLDER THAT THE OWNER KNOWS THE PROPERTY EXISTS.

36 ~~15.~~ 16. All other property is presumed abandoned three years after
 37 the owner's rights to demand the property or after the obligation to pay
 38 or distribute the property arises, whichever occurs first.

39 ~~16.~~ 17. Excess proceeds deposited with the county treasurer
 40 pursuant to section 33-812 are presumed abandoned if the monies remain
 41 with the treasurer for at least two years from the date of deposit and
 42 there is no pending application for distribution.

43 ~~17.~~ 18. Any dividend, profit, distribution, interest, redemption,
 44 payment on principal or other sum held or owing by a business association
 45 for or to its shareholder, certificate holder, member, bondholder or other

1 security holder who has not claimed it, or corresponded in writing with
2 the business association concerning it, is presumed abandoned three years
3 after the date prescribed for payment or delivery.

4 B. At the time that an interest is presumed abandoned under
5 subsection A of this section, any other property right accrued or accruing
6 to the owner as a result of the interest, and not previously presumed
7 abandoned, is also presumed abandoned.

8 C. Property is unclaimed if, for the applicable period prescribed
9 in subsection A of this section, the apparent owner has not communicated
10 in writing with the holder or communicated by other means reflected in a
11 contemporaneous record that is prepared by or on behalf of the holder and
12 that concerns the property or the account or accounts in which the
13 property is held and has not otherwise indicated an interest in the
14 property and if the holder has not communicated in writing with regard to
15 the property that would otherwise be unclaimed. A communication with an
16 owner by a person other than the holder or the holder's representative who
17 has not identified the property in writing to the owner is not an
18 indication of interest in the property by the owner.

19 D. An indication of an owner's interest in property includes:

20 1. ~~The presentment of~~ PRESENTING any check or other instrument of
21 payment of any dividend or other distribution that is made with respect to
22 any account, underlying stock or other interest in a business association
23 or financial organization. If the distribution is made by electronic or
24 similar means, an indication of an owner's interest includes evidence that
25 the distribution has been received.

26 2. ~~Activity directed by~~ The owner DIRECTING ANY ACTIVITY in the
27 account in which the property is held, including a direction by the owner
28 to increase, decrease or change the amount or type of property held in the
29 account.

30 3. ~~The Making of~~ a deposit to or withdrawal from a bank account.

31 4. ~~The payment of~~ PAYING a premium with respect to a property
32 interest in an insurance policy. The application of an automatic premium
33 loan provision or any other nonforfeiture provision in an insurance policy
34 does not prevent a policy from maturing or terminating if the insured has
35 died or if the insured or the beneficiary of the policy has otherwise
36 become entitled to the proceeds before the depletion of the cash surrender
37 value of a policy by the application of those provisions.

38 E. Property is payable or distributable notwithstanding the owner's
39 failure to make demand or present an instrument or document otherwise
40 required to obtain payment.

41 Sec. 3. Section 44-308, Arizona Revised Statutes, is amended to
42 read:

43 44-308. Payment or delivery of abandoned property

44 A. On filing the report prescribed in section 44-307, the holder of
45 property that is presumed abandoned shall pay, deliver or cause to be paid

1 or delivered to the department the property described in the report as
 2 unclaimed. If the property is an automatically renewable deposit and a
 3 penalty or forfeiture in the payment of interest would result, the time
 4 for compliance is extended until a penalty or forfeiture would no longer
 5 result. The holder of tangible property held in a safe deposit box or any
 6 other safekeeping depository shall deliver the property to the department
 7 on filing the report prescribed in section 44-307.

8 B. If the property reported to the department is a security or
 9 security entitlement pursuant to title 47, chapter 8, the department may
 10 make an endorsement, instruction or entitlement order on behalf of the
 11 apparent owner to invoke the duty of the issuer or its transfer agent or
 12 the securities intermediary to transfer or dispose of the security or the
 13 security entitlement in accordance with title 47, chapter 8.

14 C. If the holder of property reported to the department is the
 15 issuer of a certificated security, the department has the right to obtain
 16 a replacement certificate pursuant to section 47-8405, but an indemnity
 17 bond is not required.

18 D. IF THE PROPERTY REPORTED TO THE DEPARTMENT IS VIRTUAL CURRENCY,
 19 THE HOLDER SHALL REPORT AND DELIVER THE VIRTUAL CURRENCY IN ITS NATIVE
 20 FORM TO THE DEPARTMENT OR THE DEPARTMENT'S DESIGNATED QUALIFIED CUSTODIAN
 21 WITHIN THIRTY DAYS AFTER REPORTING THE PROPERTY ABANDONED. IF THE HOLDER
 22 ONLY POSSESSES A PARTIAL PRIVATE KEY TO THE VIRTUAL CURRENCY OR IS UNABLE
 23 TO MOVE THE VIRTUAL CURRENCY, THE HOLDER SHALL MAINTAIN THE VIRTUAL
 24 CURRENCY UNTIL THE ADDITIONAL KEYS REQUIRED TO TRANSFER THE VIRTUAL
 25 CURRENCY BECOME AVAILABLE. FOR THE PURPOSES OF THIS SUBSECTION,
 26 "QUALIFIED CUSTODIAN" MEANS ANY OF THE FOLLOWING THAT IS LICENSED IN THIS
 27 STATE TO SELL VIRTUAL CURRENCY AND OFFER CUSTODY SERVICES TO CUSTOMERS:

- 28 1. A COMPANY.
- 29 2. A FEDERAL OR STATE CHARTERED BANK.
- 30 3. A TRUST COMPANY.
- 31 4. A SPECIAL PURPOSE DEPOSITORY INSTITUTION.

32 ~~D.~~ E. An issuer, the holder and any transfer agent or other person
 33 who acts pursuant to the instructions and on behalf of the issuer or
 34 holder in accordance with this section are not liable to the apparent
 35 owner and are indemnified against all claims of any person in accordance
 36 with section 44-310.

37 ~~E.~~ F. Each month a holder of property reported pursuant to section
 38 44-307, subsection H shall remit the property with the report of property
 39 presumed abandoned or other form prescribed by the department.

40 Sec. 4. Section 44-312, Arizona Revised Statutes, is amended to
 41 read:

42 44-312. Public sale of abandoned property; prohibition

43 A. Except as otherwise provided in this section, within three years
 44 after receiving abandoned property the department shall sell the property
 45 to the highest bidder at a public sale at a location in this state that in

1 the judgment of the department affords the most favorable market for the
2 property. The department may decline the highest bid and reoffer the
3 property for sale if the department considers the bid to be insufficient.
4 The department is not required to offer the property for sale if the
5 department determines that the probable cost of the sale will exceed the
6 proceeds from the sale. Before conducting a sale pursuant to this
7 section, the department shall cause a notice to be published at least
8 three weeks before the sale in a newspaper of general circulation in the
9 county in which the sale will occur.

10 B. The department shall sell securities that are listed on an
11 established stock exchange at prices prevailing on the exchange at the
12 time of the sale. The department may sell other securities over the
13 counter at prices prevailing at the time of the sale or by any reasonable
14 method selected by the department.

15 C. THE DEPARTMENT MAY NOT SELL A SECURITY OR VIRTUAL CURRENCY
16 LISTED ON AN ESTABLISHED STOCK OR A VIRTUAL CURRENCY EXCHANGE FOR LESS
17 THAN THE PREVAILING PRICE THAT IS LISTED ON THE EXCHANGE AT THE TIME OF
18 SALE. THE DEPARTMENT MAY SELL A SECURITY OR VIRTUAL CURRENCY NOT LISTED
19 ON AN ESTABLISHED EXCHANGE BY ANY COMMERCIALY REASONABLE METHOD.

20 ~~C.~~ D. A person who makes a claim pursuant to this chapter for
21 securities is entitled to receive from the department the securities that
22 the holder delivered to the department if the securities remain in the
23 department's custody or the person is entitled to receive the net proceeds
24 of the sale. Except in a case of intentional misconduct or malfeasance by
25 the department, the person is not entitled to receive any appreciation in
26 the value of the property that occurred after the delivery to the
27 department.

28 ~~D.~~ E. A purchaser of property at a sale conducted by the
29 department pursuant to this chapter takes the property free of all claims
30 of the owner or previous holder and of all persons claiming through or
31 under the owner or previous holder. The department shall execute all
32 documents necessary to complete the transfer of ownership.