

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-SIX

—  
H.P. 1313 - L.D. 1969

**An Act to Amend the Maine Revised Unclaimed Property Act and Clarify the Definition of "Virtual Currency"**

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 33 MRSA §2052, sub-§23-A** is enacted to read:

**23-A. Private key.** "Private key" means a unique element of cryptographic data used for signing transactions on a blockchain, as defined in Title 32, section 6164, subsection 1, that is known to the owner of the element.

**Sec. 2. 33 MRSA §2052, sub-§24, ¶B,** as amended by PL 2019, c. 571, §3, is further amended by amending subparagraph (1) to read:

(1) Money, virtual currency, interest or a dividend, check, draft, deposit or payroll card;

**Sec. 3. 33 MRSA §2052, sub-§32-A** is enacted to read:

**32-A. Virtual currency.** "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account or store of value, which is not legal tender, regardless of whether or not it is denominated in legal tender. "Virtual currency" does not include:

A. A loyalty card, including a transaction in which a merchant grants as part of an affinity or rewards program value that cannot be taken from or exchanged with the merchant for legal tender, bank or credit union credit or a digital financial asset; or

B. Game-related digital content consisting of a digital representation of value issued by or on behalf of a publisher and used solely within an online game, gaming platform or family of games sold by the publisher or offered on the same gaming platform.

**Sec. 4. 33 MRSA §2061, sub-§5,** as enacted by PL 2019, c. 498, §22, is amended to read:

**5. Payroll card or demand, savings or time deposit.** A payroll card or demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the later of maturity, if applicable, of the card or deposit and the apparent owner's last indication of interest in the card or deposit, except that a deposit that is automatically

renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;

**Sec. 5. 33 MRSA §2061, sub-§14**, as enacted by PL 2019, c. 498, §22, is amended to read:

**14. Nonactivated stored-value obligation or electronic payment medium.** Funds represented by a nonactivated stored-value obligation or other nonactivated electronic payment medium that require activation for use, one year after the funds would have otherwise first been available to the owner; ~~and~~

**Sec. 6. 33 MRSA §2061, sub-§14-A** is enacted to read:

**14-A. Terminated retirement plan.** Funds from the termination of a defined contribution plan or other retirement plan, one year after the date of plan termination; and

**Sec. 7. 33 MRSA §2062**, as enacted by PL 2019, c. 498, §22, is amended to read:

**§2062. When tax-deferred or tax-exempt retirement account presumed abandoned**

**1. Presumed abandoned after 3 years.** Subject to section 2070, property held in a pension account or retirement account that qualifies for tax deferral or in a retirement account that is tax-exempt under the income tax laws of the United States is presumed abandoned if it is unclaimed by the apparent owner 3 years after the later of:

A. The later of the following dates:

(1) Except as in subparagraph (2), the date a communication sent by the holder by first class United States mail to the apparent owner is returned to the holder as undeliverable by the United States Postal Service; and

(2) If the returned communication is resent within 30 days, the date the resent communication was returned as undeliverable by the United States Postal Service; and

B. ~~The earlier of the following dates:~~ date a distribution is required under the United States Internal Revenue Code of 1986 in order to avoid a tax penalty, including situations in which the apparent owner is deceased.

~~(1) The date the apparent owner becomes 70 1/2 years of age; and~~

~~(2) If the federal Internal Revenue Code of 1986, as amended, requires distribution to avoid a tax penalty, the date the holder:~~

~~(a) Receives confirmation of the death of the apparent owner in the ordinary course of its business; or~~

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

**2. Confirmation of death of apparent owner.** If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner ~~and subsection 1, paragraph B applies~~, the holder shall attempt not later than 90 days after receipt of the notice or indication to confirm whether the apparent owner is deceased.

~~**3. Confirmation of apparent owner's interest.** If the holder does not send communications to the apparent owner of an account described in subsection 1 by first class United States mail on at least an annual basis, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an e-mail not later~~

than 2 years after the apparent owner's last indication of interest in the property. However, the holder promptly shall attempt to contact the apparent owner by first class United States mail if:

A. ~~The holder does not have information needed to send the apparent owner an e-mail or the holder believes that the apparent owner's e-mail address in the holder's records is not valid;~~

B. ~~The holder receives notification that the e-mail was not received; or~~

C. ~~The apparent owner does not respond to the e-mail within 30 days after the e-mail was sent.~~

**Sec. 8. 33 MRSA §2063, sub-§2**, as enacted by PL 2019, c. 498, §22, is repealed.

**Sec. 9. 33 MRSA §2064, sub-§1**, as enacted by PL 2019, c. 498, §22, is amended to read:

**1. Presumed abandoned after 3 years.** Subject to section 2070, ~~and except as provided in subsection 3,~~ property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act, if it is unclaimed by or on behalf of the minor on whose behalf the account was opened, is presumed abandoned 3 years after ~~the later of:~~ the date on which the custodian is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened in accordance with the provisions of section 2068 for securities and section 2061, subsection 5 for a payroll card or demand, savings or time deposit.

A. ~~The date a communication sent by the holder by first class United States mail to the custodian of the minor on whose behalf the account was opened is returned as undeliverable to the holder by the United States Postal Service or, if the communication is resent within 30 days after the date the first communication is returned as undeliverable, the date the first communication was returned as undeliverable; and~~

B. ~~The date on which the custodian is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened.~~

**Sec. 10. 33 MRSA §2064, sub-§2**, as enacted by PL 2019, c. 498, §22, is repealed.

**Sec. 11. 33 MRSA §2064, sub-§3**, as corrected by RR 2019, c. 2, Pt. A, §31, is repealed.

**Sec. 12. 33 MRSA §2066, sub-§1, ¶A**, as enacted by PL 2019, c. 498, §22, is amended to read:

A. ~~December 31st~~ June 30th of the year in which the obligation is issued or additional funds are deposited into it;

**Sec. 13. 33 MRSA §2067-A** is enacted to read:

**§2067-A. When virtual currency presumed abandoned; liquidation by holder**

**1. Presumed abandoned after 5 years.** Subject to subsection 2, virtual currency is presumed abandoned 5 years after the last indication of interest by the apparent owner. If communication is sent by first class United States mail during the regular course of

business, the virtual currency is presumed abandoned 5 years after the date that a communication sent by the holder by first class United States mail to the apparent owner is returned to the holder as undeliverable by the United States Postal Service.

**2. Remitting virtual currency.** If a holder of virtual currency has private keys, credentials or other information necessary to effectuate a transfer of virtual currency that is presumed abandoned, the holder shall report in a record to the administrator in accordance with section 2091 and shall deliver the virtual currency within 30 days before filing the report in native form to the custody of the administrator in accordance with any directions from the administrator.

**3. Holder unable to transfer virtual currency.** If a holder does not have sufficient information to effectuate a transfer of the virtual currency, the holder shall maintain possession of the virtual currency until the holder acquires the information necessary to effectuate a transfer.

**4. Determination of value; exempt from reporting or liquidation.** The administrator may decline to accept virtual currency that is presumed abandoned if the administrator, in the administrator's discretion, determines that the virtual currency is not freely transferable, is of nominal value or has value that is less than the estimated expenses of maintenance, notice or sale of the property. The administrator may also prescribe by rule classes or types of virtual currency exempt from reporting or liquidation.

**5. Liquidation of unclaimed virtual currency; transfer to state-owned account.** The administrator, at the administrator's discretion, may direct a holder of unclaimed virtual currency to liquidate the virtual currency. The liquidation must occur within 30 days prior to the filing of a report under section 2091. The holder may transfer virtual currency to a state-owned account held by the holder before liquidation.

**6. Liquidation not possible.** If a holder of unclaimed virtual currency reasonably believes that the holder cannot liquidate the virtual currency and cannot otherwise cause the virtual currency to be liquidated, the holder shall promptly notify the administrator in writing and explain the reasons why the virtual currency cannot be liquidated as otherwise required under subsection 5. The administrator shall then direct the holder concerning an alternate disposition of the virtual currency.

**7. Administrator, State and holder held harmless.** An apparent owner does not have recourse against the administrator, the State or a holder of unclaimed virtual currency to recover any gain in value that occurs after the liquidation of the virtual currency under subsection 5 or pursuant to section 2132, subsection 3. Consistent with section 2114, subsection 2, the administrator shall defend and indemnify a holder against liability on any such claim, as long as the holder has acted in good faith and substantially complied with sections 2101 and 2102.

**Sec. 14. 33 MRSA §2070, sub-§2, ¶C,** as enacted by PL 2019, c. 498, §22, is amended to read:

C. Presentment by the apparent owner of a check or other instrument of payment of a dividend, interest payment or other distribution, ~~or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security or interest in a business association;~~

**Sec. 15. 33 MRSA §2070, sub-§2, ¶E**, as amended by PL 2021, c. 41, §2, is further amended to read:

E. A deposit into or withdrawal from an account at a ~~financial organization~~ business association by the apparent owner, ~~including an automatic withdrawal except for a recurring automated clearing house debit or credit previously authorized but not including by the apparent owner or an automatic reinvestment of dividends or interest or an automatic withdrawal of disclosed fees;~~

**Sec. 16. 33 MRSA §2071**, as enacted by PL 2019, c. 498, §22, is amended to read:

**§2071. Deposit account for proceeds of insurance policy or annuity**

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check-writing or draft-writing privileges for the beneficiary of the policy or contract and, under a supplementary contract not involving annuity benefits other than death benefits, the proceeds are retained by the insurance company or the financial organization where the account is held, the policy or contract includes the assets in the account, and the account proceeds are presumed abandoned 3 years after the beneficiary's last indication of interest in the account.

**Sec. 17. 33 MRSA §2081, sub-§5** is enacted to read:

**5. Other beneficiary.** The address of the apparent owner of other property for which ownership vests in a beneficiary upon the death of the owner is presumed to be the address of the deceased owner if the address of the beneficiary is not known by the holder and cannot be determined under section 2082.

**Sec. 18. 33 MRSA §2093, sub-§2**, as enacted by PL 2019, c. 498, §22, is amended to read:

**2. May 1st.** Subject to subsection 3, a report under section 2091 containing information about life insurance policies, ~~gift obligations and stored value obligations~~ must be filed before May 1st of each year for the immediately preceding calendar year.

**Sec. 19. 33 MRSA §2101, sub-§3**, as enacted by PL 2019, c. 498, §22, is amended to read:

**3. Notice; tax deferred account ~~or~~ security or virtual currency.** The holder of securities presumed abandoned under section 2062, 2063 or 2068 or virtual currency presumed abandoned under section 2067-A shall send to the apparent owner notice by certified United States mail that complies with section 2102 in a format acceptable to the administrator not less than 60 days before filing the report under section 2091 if:

A. The holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and that is sufficient to direct the delivery of United States mail to the apparent owner; and

B. The value of the property is \$1,000 or more.

**Sec. 20. 33 MRSA §2102, sub-§2, ¶D**, as enacted by PL 2019, c. 498, §22, is amended to read:

D. State With respect to securities presumed abandoned under section 2062, 2063 or 2068 or safe deposit box contents presumed abandoned under section 2065, state that

~~the property that is not legal tender of the United States may be sold by the administrator~~ subject to liquidation if the apparent owner does not respond to the notice; and

**Sec. 21. 33 MRSA §2102, sub-§2, ¶E**, as enacted by PL 2019, c. 498, §22, is amended to read:

E. Provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the administrator or selling the property.

**Sec. 22. 33 MRSA §2112**, as enacted by PL 2019, c. 498, §22, is amended by amending the section headnote to read:

**§2112. Dormancy charge; escheat fee prohibited**

**Sec. 23. 33 MRSA §2112, sub-§3** is enacted to read:

**3. Prohibition on escheat fees.** A holder may not deduct an escheat fee, unclaimed property reporting fee or other similar charge imposed solely by virtue of the property becoming subject to reporting under this Act.

**Sec. 24. 33 MRSA §2120, sub-§4** is enacted to read:

**4. Commencement of action; tolling.** The commencement of an action, proceeding or examination by the administrator or the administrator's agent tolls the running of the period of limitation under subsection 3.

**Sec. 25. 33 MRSA §2121** is enacted to read:

**§2121. Property held in trust**

A holder that, on May 1st for insurance property and November 1st for all other property types, holds property presumed abandoned under subchapter 2 holds the property in trust for the benefit of the State on behalf of the missing owner and is liable to the State for the full value of the property, plus any accrued interest and penalty as defined in section 2194. A holder is not required by this section to segregate or establish trust accounts for the property as long as the property is timely delivered to the administrator in accordance with section 2113.

**Sec. 26. 33 MRSA §2132**, as enacted by PL 2019, c. 498, §22, is amended to read:

**§2132. Disposal of securities or virtual currency**

**1. Sell or liquidate security securities or virtual currency after one year.** Except as provided in section 2155, subsection 1, or unless in the discretion of the administrator it is determined to be in the best interest of the State otherwise, the administrator may not sell or otherwise liquidate a security or virtual currency until one year after the ~~administrator~~ receives the security or virtual currency is placed in the administrator's custody.

**2. Price of security or virtual currency.** The administrator may not sell a security or virtual currency listed on an established ~~stock~~ exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security or virtual currency not listed on an established exchange by any commercially reasonable method.

**3. Claim after securities or virtual currency sold.** A person making a claim under this Act after a security or virtual currency has been sold is entitled only to the net proceeds received from the sale.

**Sec. 27. 33 MRSA §2133**, as enacted by PL 2019, c. 498, §22, is amended to read:

**§2133. Recovery of securities, virtual currency or value by owner**

**1. Claim for securities or virtual currency sold before one year after delivery.** If securities or virtual currency are sold by the administrator before the expiration of one year after their delivery of the securities or virtual currency to the administrator, a person making a claim under this Act before the end of the one-year period is entitled to the proceeds of the sale of the securities or virtual currency or the market value of the securities or virtual currency at the time the claim is made, whichever is greater, plus dividends, interest and other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this Act after the expiration of the one-year period is entitled to receive the securities or virtual currency delivered to the administrator by the holder, if the securities or virtual currency remain in the custody of the administrator, or the net proceeds received from sale and is not entitled to receive any appreciation in the value of the property occurring after delivery to the administrator, except in a case of intentional misconduct or malfeasance by the administrator.

**2. Claim for securities of a single issue.** Notwithstanding this section, the administrator may sell the securities of any single issue for which custodial costs are likely to exceed value 90 days or more after the securities have been published pursuant to section 2103. A person making a claim under this Act after the securities have been sold is entitled only to the net proceeds received from the sale.

**Sec. 28. 33 MRSA §2136** is enacted to read:

**§2136. Liquidation of virtual currency**

Liquidation of presumed abandoned virtual currency must be undertaken in accordance with section 2067-A.

**Sec. 29. 33 MRSA §2153, sub-§1**, as enacted by PL 2019, c. 498, §22, is amended to read:

**1. Claim for property.** A person claiming to be the owner of property held under this Act by the administrator may file a claim at any time for the property on a form prescribed by the administrator. The claimant must verify the claim as to its completeness and accuracy.

**Sec. 30. 33 MRSA §2164, first ¶**, as enacted by PL 2019, c. 498, §22, is amended to read:

Records obtained and records compiled, including work papers, by the administrator or the administrator's agent in the course of conducting an examination under section 2162:

**Sec. 31. 33 MRSA §2165, sub-§4**, as enacted by PL 2019, c. 498, §22, is repealed.

**Sec. 32. 33 MRSA §2166**, as enacted by PL 2019, c. 498, §22, is amended to read:

**§2166. Failure of person examined to retain records**

If a person subject to examination under section 2162 does not retain the records as required by section 2094, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under and in accordance with section 2163. A payment made based on estimation under this section does not relieve a person from the obligation to retain records as required by section 2094.

**Sec. 33. 33 MRSA §2211**, as enacted by PL 2019, c. 498, §22, is amended by amending the section headnote to read:

**§2211. Definitions; applicability; confidentiality and use of documents and working papers**

**Sec. 34. 33 MRSA §2211, sub-§3** is enacted to read:

**3. Confidentiality and use of documents and working papers.** Information derived from annual reports from holders or otherwise communicated to the administrator or the administrator's agents concerning presumed abandoned property that is unclaimed is confidential and not available for public inspection to the extent the administrator finds it necessary to protect the interests of the holder, the owner, the State and the public welfare. Documents and working papers obtained or compiled by the administrator or the administrator's agents, employees or designated representatives in the course of conducting an examination are confidential and are not public records, but the documents and papers may be:

- A. Used by the administrator in the course of an action to collect unclaimed property or otherwise enforce this Act;
- B. Used in joint examinations conducted with or pursuant to an agreement with another state, the Federal Government or any other governmental subdivision, agency or instrumentality;
- C. Produced pursuant to subpoena or court order; or
- D. Disclosed to the abandoned or unclaimed property office of another state for that state's use in circumstances equivalent to those described in this subsection, if the other state is bound to keep the documents and papers confidential.

**Sec. 35. 33 MRSA §2212, sub-§1**, as enacted by PL 2019, c. 498, §22, is amended to read:

**1. Confidential.** Except as otherwise provided in this Act, the following are confidential and exempt from public inspection and disclosure:

- A. Records of the administrator and the administrator's agent related to the administration of this Act;
- B. Reports and records of a holder in the possession of the administrator or the administrator's agent, as long as such reports and records are not otherwise available in the public domain;
- C. Personal information and other information derived or otherwise obtained by or communicated to the administrator or the administrator's agent from an examination under this Act of the records of a person; ~~and~~

D. The identity of a person subject to an examination under section 2162-; and

E. Records, including work papers, monthly work-in-progress updates and other examination records, compiled by the administrator or the administrator's agent in the course of conducting examinations authorized under this Act.

**Sec. 36. 33 MRSA §2213, sub-§1, ¶D**, as enacted by PL 2019, c. 498, §22, is amended to read:

D. The person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator and if the other state is required to maintain the confidentiality and security of obtained information in a manner substantially equivalent to that under this subchapter; ~~or~~

**Sec. 37. 33 MRSA §2213, sub-§1, ¶E**, as enacted by PL 2019, c. 498, §22, is amended to read:

E. Pursuant to section 2164, subsection 6, the person subject to an examination-; or

**Sec. 38. 33 MRSA §2213, sub-§1, ¶F** is enacted to read:

F. The administrator's agent's predecessor or successor.

**Sec. 39. 33 MRSA §2214**, as enacted by PL 2019, c. 498, §22, is amended to read:

**§2214. Confidentiality agreement**

A person to be examined under section 2162 may require, as a condition of disclosure of the records of the person to be examined, that the administrator or the administrator's agent execute and deliver to the person to be examined a confidentiality agreement that:

**1. Form.** Is in a standard form ~~that is reasonably satisfactory to~~ approved for use by the administrator; and

**2. Compliance with subchapter.** Requires the person having access to the records to comply with the provisions of this subchapter applicable to the person.

If the person to be examined elects not to execute a confidentiality agreement that has been approved for use by the administrator, and the person to be examined is unable to reach agreement on the terms of a confidentiality agreement within 90 days of the administrator's authorization of the examination, the examination must proceed without a confidentiality agreement in place and the person to be examined must rely upon the confidentiality provisions of this subchapter.