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Business and Professions; Uniform Disposition of Unclaimed Property Act

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4. Id. §22 (adding to NRS Ch. 600).
5. See Sutton, California "Model Trademark Act; A Comparison with Federal Law, 2 U.S.F.L.R. 198, 199 (1968).
6. Ch. 357 §§12, 14 (adding to NRS Ch. 600).
7. Id. §13 ¶1 (adding to NRS Ch. 600).
8. Hot Shoppes, Inc. v. Hot Shoppe, Inc., 203 F. Supp. 777, 781-82 (D.N.C. 1962); Abner's Beef House Corp. v. Abner's Int'l, Inc., 227 So. 2d 865, 867 (Sup. Ct. Fla. 1969).
9. Ch. 357 §16 (adding to NRS Ch. 600).
10. Compare 15 U.S.C. §§1065 to 1115 (1946) (incontestable and conclusive evidence) with Ch. 357 §13 ¶2 (adding to NRS Ch. 600) (disputable presumption).
11. Compare 15 U.S.C. §§1058, 1059 (1946) (twenty years registration period) with Ch. 357 §14 (adding to NRS Ch. 600) (ten year registration period).
12. Ch. 357 §15 (adding to NRS Ch. 600).
13. Id.
14. Id. §17 (adding to NRS Ch. 600).
15. Id. §11 (adding to NRS Ch. 600).
16. Wells Fargo & Co. v. Wells Fargo Express Co., 358 F. Supp. 1065, 1077 (D. Nev. 1973).
17. Compare 15 U.S.C. §1114(1) (1946) (remedies for infringement) with Ch. 357 §§19, 20 (adding to NRS Ch. 600).
18. Ch. 357 §22 (adding to NRS Ch. 600).

BUSINESS AND PROFESSIONS; UNIFORM DISPOSITION OF
UNCLAIMED PROPERTY ACT

Adds to NRS Title 10

Amends NRS 32.020 and 607.170

Repeals NRS 78.292, 645A.180, 673.339, 678.660, 689.395, 697A.010 to 697A.130, inclusive

AB 85 (Robinson, May and Barengo); STATS 1979, Ch 682

(Effective January 1, 1980)

Chapter 682 enacts, with some modifications, the Revised Uniform Disposition of Unclaimed Property Act.¹ This Chapter is experimental and unless extended will

expire by limitation on July 1, 1983.² The objective of the Unclaimed Property Act is to protect unknown owners by locating them and returning their property, and to give the state, rather than the holders of the unclaimed property, the benefit of its use.³

Chapter 682 requires that the holder of property presumed to be abandoned make a verified report to the Department of Commerce (hereinafter "department") with respect to the property.⁴ Except for traveler's checks and money orders, if the value of the property is \$25 or more, then the holder's report must include the name, if known, and the last known address of the owner.⁵ Similar requirements are established for insurance companies holding money belonging to an insured or annuitant.⁶ Additional reporting requirements concern the time when property became returnable to owner, information about prior holders, the time for filing annual reports and verification requirements.⁷ Any person who willfully fails to make a report or perform any duty required by the chapter is guilty of a misdemeanor and each day that the report is withheld constitutes a separate offense.⁸

Within 180 days after receiving a report the director of the department of commerce (hereinafter the "director") shall mail notice to each person listed therein who appears to be the owner of property of a value of \$25 or more.⁹ The notice shall inform the owner that the property is being held, state the name and address of the holder, and state that if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, as provided in Section 30 of this chapter, then the property will be placed in the custody of the department to which all further claims must be made.¹⁰ Section 30 requires that the director publish notice at least once a week for two successive weeks in a local newspaper of general circulation. The published notice must name persons listed in the report.¹¹ He is not required to publish notice with respect to property of less than \$25 value, however, unless he deems such publication in the public interest.¹² This published notice must notify the named person that he may obtain the name and address of the holder from the department and that he must make a claim within sixty days after the second published notice or the abandoned property will be placed in the custody of the department.¹³

Additionally, if the holder of the property knows or is reasonably able to locate an owner whose claim is not barred by the statute of limitations, he must, prior to filing an annual report, communicate with the owner and take steps to protect the property from the presumption of abandonment.¹⁴

Under Chapter 682, the following property is presumed abandoned: (a) any demand deposit unless the owner has within five years increased or decreased the amount on deposit or has corresponded with the bank;¹⁵ (b) any savings deposit unless the owner has within ten years increased or decreased the amount on deposit or has corresponded with the bank;¹⁶ (c) any money paid towards the purchase of shares, deposit, or other interest in a financial organization unless the owner has within ten years increased or decreased the amount on deposit or has corresponded with the institution;¹⁷ (d) any certified check, certificate of deposit, draft or money order which has been outstanding for more than ten years;¹⁸ or (e) traveler's checks which have been outstanding for more than fifteen years.¹⁹ In addition, the following property is presumed to be abandoned if unclaimed for seven years: (a) any property found in a safe-deposit box when the rental period has expired;²⁰ (b) all money owing by any life insurance corporation to a person whose last known address is within Nevada;²¹ (c) money deposited by a subscriber with a utility to secure payment for or to pay in advance for utility services;²² (d) any stock or other certificate of ownership or money owed by a business association to a shareholder;²³ (e) all intangible personal property distributable in the course of a business association's voluntary dissolution;²⁴ (f) all intangible property and any income held in a fiduciary capacity for the benefit of another which has become payable and the owner has not accepted payment or corresponded in writing concerning the property;²⁵ (g) all intangible personal property held for the owner by any court, public corporation, public authority or public officer, except refunds by the public service commission for excessive rates which the commission will retain for two years and then will escheat to the state;²⁶ and (h) all other intangible personal property not otherwise covered by specific provisions of this chapter.²⁷

If no valid claim of ownership is made directly to the holder, Chapter 682 requires that the abandoned property be paid or delivered over to the department.²⁸ All abandoned property, other than money, is to be sold at public auction within one year²⁹ and the money from the auction is to be deposited in the abandoned property trust fund created by Chapter 682.³⁰ At the end of each fiscal year, the amount in the abandoned property trust fund in excess of \$25,000 is to be deposited in the state general fund.³¹ For ten years after the expiration of this act by limitation any person may make a claim for his property against the abandoned property trust fund.³² On July 30, 1994, all amounts remaining in the abandoned property trust fund escheat to the state for credit to the state permanent school fund.³³

The possibility of multiple liability being imposed upon the holder of unclaimed property who is subject to the jurisdiction of two or more states is addressed by making the jurisdictional test that of the last known address of the owner of the property.³⁴ The director may enter into an agreement to provide information needed to enable other states to determine the existence of unclaimed property in Nevada if they agree to provide similar information to Nevada.³⁵ The attorney general of Nevada may bring an action in the name of the other state to obtain the unclaimed property and may request an officer of the other state to bring an action in the name of Nevada to enforce the provisions of this chapter.³⁶ This reciprocal provision addresses the problems discussed by the United States Supreme Court in Connecticut Mutual Insurance Co. v. Moore³⁷ and Standard Oil Co. v. New Jersey³⁸ In Connecticut, the Supreme Court left unsettled the problem of an insurance company having to pay unclaimed policy proceeds to multiple states claiming custody.³⁹ In Standard Oil, the Supreme Court stated that the full faith and credit clause allows the first state that obtains a valid judgment to retain the property to the exclusion of all other states having claims to the property.⁴⁰

Chapter 682 amends NRS 32.020, 607.170⁴¹ and repeals NRS 78.292, 645A.180, 673.339, 678.660, 689.395 and 697A.010 to 697A.130, inclusive,⁴² in order to bring NRS into conformity with this chapter.

Don H. Gallian

FOOTNOTES

1. The Revised Uniform Disposition of Unclaimed Property Act was approved by the National Conference of Commissioners on Uniform Laws and the American Bar Association in 1966. Commissioner's Prefatory note, Uniform Disposition of Property Act, 9A U.L.A. (1972).
2. 1979 Nev. Stats. ch. 682 (hereinafter "Ch. 682") §54.
3. Douglas Aircraft Co. v. Cranston, 58 Cal.2d 462, 463, 24 Cal.Rptr. 851, 853, 374 P.2d 819, 821 (1962).
4. Ch. 682 §27 ¶1 (adding to NRS Ch. 10).
5. Id. §27 ¶2(a) (adding to NRS Ch. 10).

6. Id. §27(2)(b) (adding to NRS Ch. 10).
7. Id. §27 ¶ 2(d), 3, 4, 5 (adding to NRS Ch. 10).
8. Id. §45 ¶1 (adding to NRS Ch. 10).
9. Id. §31 ¶1 (adding to NRS Ch. 10).
10. Id. §30 ¶1 (adding to NRS Ch. 10).
11. Id. §31 ¶ 2 (adding to NRS Ch. 10).
12. Id. §30 ¶ 3 (adding to NRS Ch. 10).
13. Id. §30 ¶ 2 (adding to NRS Ch. 10).
14. Id. §28 (adding to NRS Ch. 10).
15. Ch. 682 §16 ¶1 (adding to NRS Ch. 10).
16. Id. Compare id. (ten years) with Uniform Disposition of Unclaimed Property Act §2, 9A U.L.A. (1972) (seven years).
17. Ch. 682 §16 ¶ 2 (adding to NRS Ch. 10). Compare id. (ten years) with Uniform Disposition of Unclaimed Property Act §2, 9A U.L.A. (1972) (seven years).
18. Ch. 682 §16 ¶ 3 (adding to NRS Ch. 10).
19. Id. Compare id. (traveler's checks) with Uniform Disposition of Unclaimed Property Act §2, 9A U.L.A. (1972) (no provision for traveler's checks).
20. Ch. 682 §16 ¶ 4 (adding to NRS Ch. 10).
21. Id. §18 (adding to NRS Ch. 10).
22. Id. §19 (adding to NRS Ch. 10).
23. Id. §20 (adding to NRS Ch. 10).
24. Id. §21 (adding to NRS Ch. 10).
25. Id. §22 (adding to NRS Ch. 10).
26. Id. §23 (adding to NRS Ch. 10). See also NRS 704.550 and 706.711.
27. Ch. 682 §24 (adding to NRS Ch. 10).
28. Id. §32 (adding to NRS Ch. 10). See Comment, Escheat of Intangibles: The Conflicts Problem Remains, 34 U. OF PITTS. L. REV. 671, 678 (1972).
29. Id. §37 ¶1 (adding to NRS Ch. 10).
30. Id. §38 ¶ ¶1, 2 (adding to NRS Ch. 10).
31. Id. §38 ¶ 4 (adding to NRS Ch. 10).
32. Id. §51 ¶1.
33. Id. §51 ¶ 2
34. Id. §25 (adding to NRS Ch. 10).
35. Id. §26 ¶1 (adding to NRS Ch. 10).
36. Id. §26 ¶ ¶ 2, 3 (adding to NRS Ch. 10).
37. 333 U.S. 541 (1946).

38. 341 U.S. 428 (1951).
39. Connecticut Mutual Insurance Co. v. Moore, 333 U.S. at 548.
40. Standard Oil Co. v. New Jersey, 341 U.S. at 433.
41. Ch. 682 §§47, 48 (amending NRS 32.020, 607.170).
42. Id. §49.

BUSINESS AND PROFESSIONS; PLACE OF FILING
NOTICE OF SECURITY INTERESTS

Amends NRS 104.9401

SB 296 (Committee on Judiciary); STATS 1979, Ch 236

Chapter 236 amends NRS 104.9401(1) by eliminating the requirement for dual filing of financial statements to perfect a security interest.

In the official text there are three versions of U.C.C. §9-401(1); each provides for different places to file financial statements.¹ Chapter 236 changes NRS 104.9401(1) from the version requiring the most local filing to the version requiring central filing only in all but a few instances.²

Local filing is still required to perfect security interests in fixtures,³ consumer goods,⁴ farm related assets,⁵ timber,⁶ or minerals.⁷ Under Chapter 236, any other security interest is perfected by filing a financial statement with the secretary of state only.⁸ Previously, the other filings had to be with both the secretary of state and the county recorder in the county where he resided, if he had places of business in more than one county.⁹

Chapter 236 simplifies filing by eliminating the necessity of determining where the debtor has places of business or where he resides, and by eliminating the need for extra filings when there is uncertainty about which county to file in. However, there may still be uncertainty about the category of collateral involved and whether the simplified filing requirement applies. In those cases, to insure perfection of the interest, the creditor may still want to file both locally and with the secretary of state.

Darlynn Cassaday