

## **Title 38: Treasurer**

### **Part 4: Uniform Disposition of Unclaimed Property Act**

#### **Part 4 Chapter 1: Introduction**

*Rule 1.1 Introduction.* Section 89-12-49 of the Mississippi Code of 1972 Annotated, as amended, authorizes the Mississippi State Treasurer to adopt necessary rules and regulations to carry out the provisions of the Uniform Disposition of Unclaimed Property Act. The following rules will serve to clarify certain provisions of the Uniform Disposition of Unclaimed Property Act. The Office of the Mississippi State Treasurer will adhere to the following rules when administering the Act. If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules.

Source: *Miss. Code Ann. Section 89-12-49.*

*Rule 1.2 Definitions.* As used in this regulation, unless the context otherwise requires:

- A. “Act” means the Uniform Disposition of Unclaimed Property Act per Miss. Code Ann. Section 89-12-1 et seq.
- B. “Activity” means any action taken by an owner with respect to his or her property which indicates that the owner intends for the property not to be presumed unclaimed.
- C. “Aggrieved party” includes any claimant, owner, holder, or other person that asserts a grievance regarding any decision or action taken by the Unclaimed Property Division.
- D. “Apparent owner” means the person who appears from the records of the holder to be entitled to property held by the holder.
- E. “Banking organization” means any national or state bank, trust company, savings bank, land bank, private banker, or any similar organization which is engaged in business in this state.
- F. “Business association” means any corporation, joint stock company, business trust, partnership, or any association for business purposes of TWO (2) or more individuals, whether organized for profit or nonprofit, including, but not limited to, a banking organization, financial organization, life insurance corporation and utility.
- G. “Claim” means the demand with the necessary supporting ownership documents made by any person who has or appears to have an interest in unclaimed property or the proceeds from the sale of unclaimed property.
- H. “Claimant” means any person or entity making a claim who has stated his or her interest in unclaimed property or the proceeds from the sale of unclaimed property.

- I. "Date of last transaction" means the last date of owner contact or owner generated activity, or the date when property became due or payable.
- J. "Division" means the employees within the Office of the Mississippi State Treasurer designated to administer the Act.
- K. "Documentation" means information supplied to the Treasurer by the claimant and/or the holder, which is used as a basis to determine ownership of property which has been deemed to be abandoned or unclaimed.
- L. "Financial organization" means any federal or state savings and loan association, building and loan association, credit union, cooperative bank or investment company, or any similar organization which is engaged in business in this state.
- M. "Hearing" means an administrative review of a decision or action carried out by the Treasurer or the Division, held before a hearing officer designated by the Treasurer, to resolve a formal protest filed by a holder or a claimant against the decision or action carried out by the Division. After the review of the evidence and based upon the recommendations of the hearing officer, the Treasurer issues a final order stating her decision.
- N. "Holder" means any person in possession of property subject to the provisions of the Act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to the provisions of this Act.
- O. "Insurance corporation" means any association or corporation transacting in this state the business of insurance involving in any manner a person or property.
- P. "Intangible personal property" includes, but is not limited to:
  - 1. Monies, checks, drafts, deposits, interest, dividends, and income;
  - 2. Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;
  - 3. Monies deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;
  - 4. Amounts due and payable under the terms of insurance policies;
  - 5. Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits;
  - 6. Shares of corporate stock and other intangible ownership interests in business associations; and
  - 7. Bonds, notes and other debt obligations.
- Q. "Last known address" means the address of an apparent owner of unclaimed property as

shown on the records of the holder for the purpose of delivery of mail.

- R. “Legal representative of the owner” means a person, other than the original owner, claiming property on behalf of the original owner and having such authority under Mississippi law.
- S. “Negative report” means an unclaimed property report filed by a holder in which the holder affirms that it has no unclaimed property that is reportable to the Division.
- T. “Owner” means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to the provisions of the Act, or his or her legal representative.
- U. “Person” means any individual, business association, government or political subdivision or agency, corporation, public authority, estate, trust, TWO (2) or more persons having a joint or common interest, or any other legal or commercial entity whether such person is acting in his or her own right or in a representative capacity.
- V. “Treasurer” means the State Treasurer of the State of Mississippi.
- W. “Trust” means a legal arrangement whereby control of an account or property is transferred to a person or organization for the benefit of another person.
- X. “Utility” means any person who owns or operates in this state for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam or gas.

Source: *Miss. Code Ann. Sections 89-12-3, 89-12-49.*

#### **Part 4 Chapter 2: Presumed Abandonment**

*Rule 2.1 Certificates of Deposit.* Subject to the provisions of the Act, the following property held or owing by a banking or financial organization shall be presumed abandoned:

- A. Any matured certificate of deposit made in this state, upon maturity, if such certificate of deposit had a maturity term equal to or greater than TEN (10) years, together with any interest thereon, excluding any charges that may have accrued, unless the owner has, within FIVE (5) consecutive years prior to maturity:
  - 1. Increased or decreased the amount of the certificate of deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest;
  - 2. Corresponded in writing with the banking organization or financial organization concerning the certificate of deposit; or
  - 3. Otherwise indicated an interest in the certificate of deposit as evidenced by a

memorandum on file with the banking organization or financial organization.

- B. Any matured certificate of deposit made in this state, five years after maturity, if such certificate of deposit had a maturity term less than TEN (10) years, together with any interest thereon, excluding any charges that may have accrued, unless within the previous FIVE (5) consecutive years:
1. The certificate of deposit had not yet matured;
  2. The owner increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest;
  3. The owner corresponded in writing with the banking organization or financial organization concerning the deposit; or
  4. The owner otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization or financial organization.

Source: *Miss. Code Ann. Sections 89-12-5, 89-12-49.*

*Rule 2.2 Intangible Assets Held in Safe Deposit Boxes.* Any intangible assets contained by safe deposit boxes shall be presumed abandoned if such assets would otherwise be presumed abandoned based on the provisions of the Act.

Source: *Miss. Code Ann. Sections 89-12-5, 89-12-14, 89-12-19, 89-12-49.*

*Rule 2.3 Unpaid Wages.* Subject to the provisions of the Act, any unpaid wages shall be presumed abandoned if, for longer than FIVE (5) years, the existence and location of the person to whom the wages are owed is unknown to the holder of the wages, and according to the knowledge and records of the holder of the wages, a claim to the wages has not been asserted or an act of ownership of the wages has not been exercised.

Source: *Miss. Code Ann. Sections 89-12-14, 89-12-17, 89-12-49.*

### **Part 4 Chapter 3: Holder Reporting**

*Rule 3.1 Reporting Requirements for Holders of Unclaimed Property.* Every person holding funds or other intangible personal property presumed abandoned under the provisions of the Act shall report to the Treasurer with respect to the property as hereinafter provided.

- A. The report shall be verified, and shall include:
1. Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of more than ONE HUNDRED dollars (\$100.00) presumed abandoned under the provisions of the Act;
  2. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under ONE HUNDRED dollars (\$100.00) each may be reported in aggregate;

3. In the case of banking organizations, the owner's account number;
4. In case of unclaimed funds of life insurance corporations, the owner's date of birth, policy number, and the social security number of all beneficiaries listed on the policy according to the life insurance corporation's records;
5. In the case of securities, confirmation of transfer by a Depository Trust Company ("DTC") to the Division (DTC instructions available at the Division website), or, in the case of non-DTC eligible securities, confirmation of direct delivery or transmittal to the Division;
6. In the case of mutual funds or dividend reinvest accounts, a transfer confirmation statement from the transferor;
7. Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property;
8. In the case of a holder reporting property for TEN (10) or more owners, an electronic copy of the report in the file format currently approved by the Treasurer and the National Association of Unclaimed Property Administrators ("NAUPA");
9. In the case of a holder reporting property in electronic format, the NAUPA approved property code for each property submitted; and
10. Other information which the Treasurer prescribes by regulation as necessary for the administration of the Act.

B. Reports of unclaimed property submitted to the Treasurer will be returned to the holder for correction if the holder:

1. Fails to report on forms prescribed or approved by the Treasurer;
2. Fails to identify the NAUPA unclaimed property category(ies) contained in an electronically submitted report;
3. Fails to provide the date of the last transaction or first payable date for property reported; or
4. Fails to include any other information on the report as required under the Act or this regulation.

C. If the person holding property presumed abandoned under the provisions of the Act, or this regulation, is a successor to other persons who previously held the property for the owner, or if the holder has changed his or her name while holding the property, he or she shall file with his or her report all prior-known names and addresses of each holder of the property.

D. Reports shall be filed every third year as required by Miss. Code Ann. Section 89-12-23. The report shall be filed before November 1 of each year in which a report is required as of June 30 next preceding. The Treasurer may postpone the reporting date upon written request by any person required to file a report.

E. Every banking organization in this state that has no reportable property is required to file a negative report in accordance with the Act and this regulation.

- F. Every person who is requested in writing by the Treasurer shall file a report stating that such person is not holding any abandoned property which is reportable pursuant to the provisions of the Act or this regulation.
- G. If the holder of property presumed abandoned under the provisions of the Act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the required report, endeavor to communicate with the owner and take reasonable steps to prevent abandonment from being presumed. The mailing of notice to the last-known address of the owner by the holder shall constitute compliance with the Act and no further act on the part of the holder shall be necessary.
- H. Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.
- I. The initial report filed under the Act shall include all items of property that would have been presumed abandoned if the Act had been in effect since July 1, 1969, and all such property shall be subject to the provisions of the Act.

Source: *Miss. Code Ann. Sections 89-12-23, 89-12-49*

*Rule 3.2 Submittal of Property to the Treasurer.* Except as otherwise provided in the Act, a person who is required to file a report under the provisions of the Act shall pay or deliver to the Treasurer all abandoned property together with the report.

- A. Submittals of monetary property in hardcopy form must be made by certified check or money order made payable to the Mississippi Treasury Department.
- B. Submittals of monetary property in electronic form must be made by Electronic Funds Transfer ("EFT") or Automatic Clearing House ("ACH") in accordance with instructions available at the Division website.
- C. Submittals of shares of corporate stock and other intangible ownership interests in business associations shall be made by transfer of such property to the master custodian of the Division in accordance with instructions available at the Division website.

Source: *Miss. Code Ann. Sections 89-12-29, 89-12-31, 89-12-49*

#### **Part 4 Chapter 4: Claims**

*Rule 4.1 Qualifications for Claimants.* Any person claiming an interest in any property delivered to the state under the provisions of the Act must file a claim on the form prescribed by the Treasurer. A claimant must be one of the following in order to be declared as having a valid interest in the property:

- A. The original owner or an officer of a corporation or business which is an original owner

- or legal successor;
- B. The legal representative of the original owner.

Source: *Miss. Code Ann. Sections 89-12-39, 89-12-49*

*Rule 4.2 Required Documentation for Claim Processing.* Claimants must complete and deliver to the Division claim forms and supporting documentation required by the Act and this regulation before the Division will approve a claim.

- A. The following documentation is required to be presented to the Division in order to validate a claim of ownership.
  - 1. Completed, signed, and notarized claim form as prescribed by the Treasurer;
  - 2. Copy of photo identification (examples include: driver's license, passport, military identification card, and official identification card);
  - 3. Copy of proof of residence during the year cited as the date of last transaction in the holder's report (examples include: utility bill, school records, bank statement, and cancelled check);
  - 4. Documentation of claimant's name change if a different name appears on the claim form;
  - 5. If the claimant and owner are not the same person, but both living:
    - a. Copy of claimant's social security card or birth certificate and owner's social security card or birth certificate;
    - b. Notarized copy of agreement establishing claimant as the legal representative of the owner;
  - 6. If the owner is deceased:
    - a. Copy of owner's death certificate;
    - b. Copy of filed will or obituary if no filed will exists;
  - 7. If the claimant is a business:
    - a. Copy of photo identification of the corporate officer or owner submitting the claim (examples include: business picture identification, driver's license, passport, military identification card, and official identification card);
    - b. Employer Identification Number ("EIN");
    - c. Documentation of claimant's position and authority to make the claim (examples include: business card and executed authorization letter on company letterhead);
    - b. Copy of proof of residence during the year cited as the date of last transaction in the holder's report (examples include: utility bill, business records, bank statement, and cancelled check).
- B. The Division will consider all documents submitted in making a reasonable assessment of whether a valid claim of ownership exists. The Division may request and require additional documentation in order to validate ownership. Such documentation includes, but is not limited to, the following by property type:
  - 1. Checking accounts:
    - a. Check (blank or cancelled) showing the account number for that bank;

- b. Account statement which contains the account number.
- 2. Savings accounts:
  - a. Copy of passbook;
  - b. Copy of a deposit slip;
  - c. Account statement which contains the account number;
  - d. "1099 INT" Form issued by the bank, showing the account number.
- 3. Wages:
  - a. Copy of W-2 Form;
  - b. Copy of 1099 Form;
  - c. Copy of state income tax return;
  - d. Copy of federal income tax return;
  - e. Previous pay stub.
- 4. Stock and/or dividends:
  - a. Copy of stock certificate;
  - b. Correspondence or statement from broker showing purchase or sale of the stock.
- 5. Bearer bonds and certificates of deposit:
  - a. Copy of the record of purchase.
- 6. Insurance policies:
  - a. Copy of policy;
  - b. Correspondence with insurance company related to and referencing the policy by policy number.
- 7. Court clerk funds:
  - a. Copy of the court decree or court order for the case that was the source of the funds (examples include probate, condemnation, quiet title, divorce, child support, appearance bond, etc.).
- 8. Vendor checks:
  - a. Copy of accounts receivable billing;
  - b. Invoices;
  - c. Bills of lading.
- 9. Property held for deceased owners:
  - a. Affirmation that there has been no probate of the estate of the deceased owner;
  - b. Affirmation that no such probate is contemplated; and
  - c. Affirmation that claimant will indemnify the State of Mississippi for any loss, including attorney fees, should another claimant assert a prior right to the property.

Source: *Miss. Code Ann. Section 89-12-49*

*Rule 4.3 Payment of Claims.*

- A. Disbursement of Monies. Payment vouchers for claim payments shall be made in the name of, and mailed to, the claimant determined to have a valid ownership interest in the claimed property in accordance with the provisions of the Act.

- B. Disbursement of Securities. In the case of securities, claim approval shall result in a letter being sent to a third-party agent, instructing the agent to transfer the securities from the unclaimed property custodial account to an account registered in the name of and specified by the claimant.
- C. If evidence is brought to light that causes the Treasurer to determine that property was improperly released to a claimant, the Treasurer shall suspend such payment, if possible. If payment cannot be suspended, the Treasurer shall issue a demand notice to the claimant. The demand notice may include, but not be limited to, the following:
1. The facts and circumstances supporting Treasurer's conclusion that the property was improperly released;
  2. The amount of property that was improperly released;
  3. A request for refund of the property that was improperly released;
  4. Notification that the refund is due upon receipt of the demand notice; and
  5. Notification that the Treasurer may pursue collection through appropriate court action.
- D. Disputes between Apparent Owners. When one claimant has been paid the full amount of unclaimed property held by the Division, there is no requirement that the Treasurer subsequently pay additional claimants for the property unless the additional claimants provide evidence to the Treasurer that the original claimant was not entitled to part or all of the distributed property in accordance with the provisions of the Act. In such case, the Treasurer shall suspend payment, if possible, to the initial payee until the conflicting claims are resolved. The Treasurer will notify the initial payee that:
1. Another claimant has filed for a portion or all of the property and appears to be a valid owner;
  2. He or she is requested to refund the property received from the Division;
  3. The Treasurer may pursue collection through appropriate court action.
  4. He or she has the right to present evidence to the Treasurer if he or she has a prior claim and a more fully documented proof of ownership;
  5. The Treasurer may require a hearing before a hearing officer, designated by the Treasurer, to determine or verify ownership;
  6. If it is determined that the second claimant is a valid owner, the all or part of the property will be distributed to the second claimant.

Source: *Miss. Code Ann. Section 89-12-49*

#### **Part 4 Chapter 5: Examinations**

*Rule 5.1 Overview.* The Treasurer may at reasonable times examine the records of any person to determine if such person has complied with the provisions of the Act. The Treasurer may designate the Commissioner of Banking and Consumer Finance, Commissioner of Insurance, or other appropriate regulatory authority to examine the records of institutions of regulated industries to determine if such institutions have complied with the provisions of the Act. The Treasurer also may contract with any other qualified person to carry out the examination.

- A. The process for unclaimed property examinations carried out by another state agency on behalf of the Treasurer shall be consistent with such agency's standard audit policies and procedures.
- B. Holders shall maintain records containing the information required to be included in the holder report for a minimum of SEVEN (7) years after the date of the holder's report.
- C. In the case of a holder that has met the annual reporting requirement of the Act, but where the holder does not meet the records retention requirements prescribed herein, the Treasurer, or her agent, may employ such estimation techniques in the conduct of the audit as are customary and reasonable in the area of regulatory compliance and enforcement to fairly and accurately estimate the liability for property category types that may not have been reported or fully reported by the holder.

Source: *Miss. Code Ann. Sections 89-12-45, 89-12-49*

*Rule 5.2 Initiation of Examination.* The Treasurer may conduct an examination, at her discretion, in accordance with the Act and this regulation. If any person refuses to permit an examination, as required under the provisions of the Act, and this regulation, the Treasurer shall bring an action in a court of appropriate jurisdiction to compel compliance with such examination.

- A. Events that prompt an examination may include, but not be limited to:
  - 1. Failure to report;
  - 2. Failure to report property types normally reported by like holders;
  - 3. Amounts reported and/or remitted are not comparable to reports received from like holders;
  - 4. Failure to substantiate differences between reported property and remitted property; or
  - 5. Errors identified during previous audits.
- B. Excluding any state-authorized multi-state unclaimed property audit/examination, all examinations undertaken by the Treasurer shall be conducted in the following order of priority, unless otherwise directed by the Treasurer:
  - 1. First Priority. Holders who have never reported unclaimed property to the Division.
  - 2. Second Priority. Holders who have previously reported unclaimed property to the Division, but who have not recently filed a report.
  - 3. Third Priority. Holders whose current reporting levels appear deficient.
- C. Performance of an examination does not preclude the Treasurer from performing any subsequent examination.

Source: *Miss. Code Ann. Sections 89-12-45, 89-12-49.*

*Rule 5.3 Examination Process.* Except as otherwise provided herein, unclaimed property examinations carried out by the Treasurer, or her agent, shall include, but not be limited to,

the following procedures:

- A. A written notice of intent shall be issued to the holder. The notice will state the Treasurer's intent to commence an examination and the holder's obligation to provide certain records to facilitate the examination.
- B. An opening conference will be held with the holder to explain the overall process for examination and to answer any questions the holder may have regarding the examination. During the opening conference, a list of requests for supporting documentation will be provided to the holder.
- C. The Treasurer, or her agent, will review supporting documentation as well as the holder's procedures around recording and reporting unclaimed property. Any follow up inquiries or requests will be carried out at this time.

Source: *Miss. Code Ann. Sections 89-12-45, 89-12-49.*

*Rule 5.4 Examination Findings.*

- A. Upon completion of the examination process, the Treasurer, or her agent, will provide to the holder a draft report and letter of demand, if necessary. The holder will review such drafts and have a reasonable opportunity to resolve any issues or concerns the holder has with the examination findings.
- B. The Treasurer, or her agent, will then schedule an exit conference with the holder during which time the holder will be presented with the final report. The final report shall detail the results of the examination and shall be accompanied by a letter of demand, if necessary. The letter of demand will express to the holder the terms and conditions under which any previously unreported property is required to be reported and submitted to the Division.
- C. The letter of demand shall outline the holder's right to protest any findings or demands resulting from the examination. If the holder does not file a written protest in accordance with the Act, and this regulation, the examination findings, without further action of the Treasurer, will be presumed valid, and the holder shall immediately transmit to the Treasurer the demandable property as set out in the demand notice. If any person refuses to deliver property to the Treasurer as required under the provisions of the Act, and this regulation, the Treasurer shall bring an action in a court of appropriate jurisdiction to enforce such delivery.
- D. If, in connection with an examination, property which should have been reported pursuant to the provisions of the Act is discovered:
  - 1. The holder shall pay a per diem rate equal to the cost of conducting the examination at the standard daily rate for each examiner, or a greater amount that is reasonable and was incurred; in addition, the holder may also incur penalties and interest pursuant to the provisions of Act.

2. If the holder had previously submitted a report to the Division, the holder shall submit an amended report including documentation of the reason for the amendment(s). Documentation accompanying the amended report shall include but not limited to support for the following:
  - a. Change of owner name;
  - b. Change of owner last known address;
  - c. Change of date of last transaction;
  - d. Change of legal description of property; or
  - e. Change in original amount reported.
3. The Treasurer may, at her discretion, waive the per diem, interest or penalties provided by the Act and by Rule 5.4 D.1. if a holder has failed to remit unclaimed property due to misinterpretation of the law or the facts, or if a holder is unable to pay interest or penalty due to insolvency.

E. An examination shall be deemed closed when all:

1. Property identified as unclaimed property in the final report is remitted to the Division in the reporting format prescribed by the Act and this regulation;
2. Penalties assessed as a result of the examination findings, in accordance with the Act are remitted to the Division; and
3. Adjustments made by the holder during the review period are confirmed by the Treasurer or her agent.

Source: *Miss. Code Ann. Sections 89-12-45, 89-12-49*

#### **Part 4 Chapter 6: Protests**

*Rule 6.1 Written Protests.* Any aggrieved party, as defined in these rules, may file with the Treasurer, a written protest, under oath, signed by the aggrieved party or his or her duly authorized agent. As part of a written protest, an aggrieved party may request an administrative hearing. In the event an administrative hearing is not requested, the Treasurer shall proceed without further notice to review the protest and available evidence.

A. A written protest shall include the following:

1. All information identifying the holder report, examination report, claim request or any other subject matter documentation relevant to the protest and the amount of property protested or in controversy;
2. A clear and concise assignment of each error alleged to have been committed by the Division;
3. The argument and legal authority upon which each assignment of error is made; and
4. A statement of relief or adjustment sought by the aggrieved party.

B. Hearing Officer. The Treasurer may designate a hearing officer to review a written protest or administrative hearing, and available evidence. At the conclusion of the hearing officer's review, the hearing officer shall submit to the Treasurer all evidence along with the hearing officer's findings of fact and conclusions of law. Upon review of the hearing

officer's findings and conclusions, the Treasurer may accept, modify, or reject, in whole or in part, such findings and conclusions. The Treasurer shall thereafter issue a final order and promptly send a copy of such, via certified mail with return receipt requested, to the aggrieved party.

- C. Time Limitations. If any holder aggrieved by the examination findings of the Treasurer fails to file a written protest within SIXTY (60) days of the Treasurer's mailing of a demand notice, the examination findings, without further action of the Treasurer, will be presumed valid and final. The Treasurer may extend the time period for filing a protest for any period of time, at her discretion.
- D. Payments Made under Protest. If a holder files a written protest of examination findings with the Treasurer, the holder may pay the amount specified in the examination findings and designate the payment as being made under protest. Such payment shall stop the accrual of interest, if any, upon the amount paid. If the Treasurer sustains the protest, in whole or in part, the amount determined by the Treasurer not to be due shall be refunded to the holder, with interest, in accordance with the Act.

Source: *Miss. Code Ann. Sections 89-12-39, 89-12-49*

*Rule 6.2 Administrative Hearings*. The Treasurer, or her designated hearing officer, may grant an administrative hearing to any aggrieved party that has submitted a request for such in accordance with these rules.

- A. Notice of Administrative Hearing. The Treasurer shall provide written notice of the hearing to the aggrieved party no more than THIRTY (30) days from the Treasurer's receipt of the request. Such notice, delivered by certified mail with return receipt requested, shall set forth the date, time, and place for the administrative hearing and shall also designate a hearing officer.
- B. Witnesses. Any party that wishes to appear or to introduce evidence or other testimony at the hearing shall, at least FOURTEEN (14) days prior to the hearing date, file with the hearing officer a list of exhibits to be introduced and any witnesses intended to be called to testify or to otherwise provide evidence. A true and correct copy of such list shall be forwarded to all parties no later than FOURTEEN (14) days prior to the hearing date. The list shall contain for each witness:
  - 1. Name;
  - 2. Current residential and business addresses and telephone numbers, if known;
  - 3. A statement indicating whether such person is to testify in person or by affidavit.
- C. Documents. Upon request by any party to the hearing, any documents, papers or tangible things to be introduced by any other party to the hearing shall be made available for inspection and copying by the requesting party no later than FOURTEEN (14) days prior to the hearing date. This shall include written reports prepared by any expert retained by any party to testify at the hearing.

- D. Conduct of Hearing. The hearing officer shall have the authority to administer oaths and affirmations. Each party may be represented by an attorney or other authorized representative. The hearing officer may clear the hearing room of any witnesses not directly subject to the examination. The hearing officer shall have the authority to maintain the decorum of the hearing and shall take reasonable steps to do so when necessary, including clearing the hearing room of any person who is disruptive.
- E. Evidence. All witnesses who appear and testify under oath shall be subject to cross examination. A witness who does not appear may testify by affidavit provided the party presenting the particular witness' affidavit has complied with the requirements of this regulation, thereby affording any other party an opportunity to contact said witness and obtain an affidavit on its own behalf. The hearing officer shall have the authority to admit into the record any evidence which, in his or her judgment, has a reasonable degree of probative value and trustworthiness. The hearing officer shall have the authority to exclude evidence which is irrelevant, immaterial, lacking in probative value, untrustworthy or unduly cumulative. Documents received into evidence by the hearing officer shall be marked by him or her, or under his or her direction, and filed for the record of the appeal. Rebuttal and surrebuttal evidence may be heard at the discretion of the hearing officer. Arguments summarizing the evidence and the law may be heard at the discretion of the hearing officer.
- F. Order of Proof: Burden of Proof. At the hearing, the aggrieved party shall be the first to present evidence. The aggrieved party shall have the burden of proving its allegations by a preponderance of the evidence.
- G. Preservation and Transcription of Record of Hearing. A record of testimony at the hearing may be made by stenographic or other means, in which event notice shall be given to all parties designating the manner of recording and preserving the testimony. It shall be the responsibility of any party desiring to preserve by stenographic or other means a record of testimony at the hearing to:
1. Arrange for a court reporter to make stenographic recording of the hearing;
  2. Pay all fees and expenses for such recording and transcription directly to the court reporter;
  3. Make available to any other party requesting such, a true and correct copy of said recording, provided such party agrees to pay the expense of such copy.
- H. Order to be Filed upon Completion of Hearing. After all evidence is heard or received and the hearing is completed, the hearing officer shall, within a reasonable time thereafter, prepare and file proposed written findings of fact and conclusions of law and a proposed decision and final order based thereon. The Treasurer shall review the findings and conclusions, and may accept, modify, or reject, in whole or in part, the findings and conclusions. The Treasurer shall thereafter issue a final order, a copy of which shall be sent promptly, via certified mail, return receipt requested, to all parties who appeared at the administrative hearing, or to their attorney(s) or authorized representative(s).

- I. Continuances. Continuances requested by any party shall be granted within the discretion of the hearing officer only for good cause shown.
- J. Computation of Time. In computing any period of time not specifically prescribed under these rules, the hearing officer shall be guided by the Mississippi Rules of Civil Procedure.

Source: *Miss. Code Ann. Section 89-12-49*

*Rule 6.3 Judicial Review*. Any party aggrieved by the final order of the Treasurer, with regard to a written protest or administrative hearing, may commence an action in the Circuit Court of the First Judicial District of Hinds County, Mississippi. Except as otherwise provided by law, the Attorney General shall, in person or by his assistant, act as counsel for any of the state officers in suits brought by, or against, them in their official capacity, touching any official duty or trust.

Source: *Miss. Code Ann. Sections 7-5-39, 89-12-41, 89-12-49*

#### **Part 4 Chapter 7: Confidentiality**

*Rule 7.1 Confidentiality of Reports, Records and Files in the Administration of the Act.*

- A. The Treasurer shall consider confidential any documents submitted by claimants, information discovered by Treasurer concerning claims and claimants, reports filed by holders, records and files of holders, and information secured therefrom, created by, received by, or coming into the custody of the Treasurer as a result of any audit.
- B. Confidential information relating to a particular item of property may be disclosed to a claimant provided that such claimant has demonstrated probable entitlement to the property.

Source: *Miss. Code Ann. Sections 25-61-1 et seq., 89-12-27, 89-12-49*

*Rule 7.2 Disclosure of Certain Information, Reports, and Records; Mississippi Public Records Act of 1983.*

- A. The Treasurer may disclose statistical information gathered from confidential information, provided that no such information is attributable to any one claimant.
- B. Confidential information, obtained as required for proper administration of the Act or this regulation, may be disclosed to:
  - 1. Any employee of the Treasurer whose official duties involve unclaimed property;
  - 2. The State Auditor, or his duly authorized agent, in connection with any audit of the Treasurer; or

3. The Office of the Attorney General for its use in providing counsel relating to unclaimed property administration or in preparation for any proceeding involving unclaimed property before any agency or board of this state or before any grand jury or any state or federal court.

C. Nothing in these rules shall be construed to prevent the disclosure of information in accordance with the Mississippi Public Records Act of 1983.

Source: *Miss. Code Ann. Sections 25-61-1 et seq., 89-12-27, 89-12-49*