

No. 22O145 & 22O146, Original (Consolidated)

**IN THE
SUPREME COURT OF THE UNITED STATES**

DELAWARE,
Plaintiff,

v.

PENNSYLVANIA AND WISCONSIN,
Defendants.

ARKANSAS, ET AL.,
Plaintiffs,

v.

DELAWARE,
Defendants.

**RESPONSE OF THE COMMONWEALTH OF PENNSYLVANIA
TO PLAINTIFF STATE OF DELAWARE'S OBJECTIONS TO
THE SPECIAL MASTER'S DRAFT FIRST INTERIM REPORT**

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A Congressional Record, 91st Congress, Second Session, Volume
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Senate Report No. 93-505, 93rd Congress, 1st Sess. (Nov. 15, 1973) . 6, 7

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I. INTRODUCTION

Pennsylvania has no objections to the Draft Interim Special Master's Report (the Interim Report). Further, Pennsylvania joins the brief submitted this day by the other Defendant States. Pennsylvania writes separately to raise just three points in response to Delaware's objections.

First, even if the Uniform Commercial Code (UCC), which is heavily relied upon by Delaware in its objections, provides the basis for defining what is a "money order" under the Federal Disposition Act (FDA), the UCC's limited treatment of such instruments fully supports the conclusions of the Interim Report.

Second, despite Delaware's continued reliance in its objections on the UCC as the primary external source for giving meaning to the FDA, legislative history supports using the Uniform Unclaimed Property Act instead.

Third, the Interim Report has correctly defined the phrase "third party bank check," and Delaware's objection ignores the legislative history.

II. ARGUMENT

A. The Interim Report's definition of "money order" is not overbroad.

Relying chiefly on the UCC, Delaware objects to the definition of "money order" in the Interim Report primarily because, Delaware incorrectly claims, the definition "sweeps into the definition" too many types of prepaid instruments. *See* DE obj. at 3; *see also id.* at 4-8 (citing UCC). Yet, left out by Delaware is that the UCC itself—to the extent it applies or matters to the FDA, *see infra* § II.B—does not define the term "money order" at all, and what it does supply is a description inclusive of *multiple types of instruments*.

In fact, observe the following definition from the State of Delaware's own codification of the UCC: "Check' means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank or (ii) a cashier's check or teller's check. *An instrument may be a check even though it is described on its face by another term, such as 'money order.'*" 6 Del.C. § 3-104(f); *see also* 13 Pa.C.S. § 3104(f) (stating same); 12 C.F.R. § 229.2(k) (Regulation CC, note to definition of "check," stating "A draft may be a check even though it is described on its face by another term, such as money order."). Observe also the UCC

Official Comments, which further underscore that a money order can be multiple types of instruments:

“Money orders” are sold both by banks and non-banks. *They vary in form and their form determines how they are treated in Article 3.* The most common form of money order sold by banks is that of an ordinary check drawn by the purchaser except that the amount is machine impressed. That kind of money order is a check under Article 3 and is subject to a stop order by the purchaser-drawer as in the case of ordinary checks. The seller bank is the drawee and has no obligation to a holder to pay the money order. If a money order falls within the definition of a teller’s check, the rules applicable to teller’s checks apply. Postal money orders are subject to federal law.

UCC § 3-104, Official Comment 4 (emphasis added).

In sum, based on the very source Delaware uses to support its claim—the UCC—its objection (that the Interim Report’s definition of “money order” is faulty because it permits multiple types of instruments to fall under its umbrella) should be overruled.

B. The Uniform Unclaimed Property Act, and not the UCC, is the most relevant external source for giving the FDA meaning.

Despite Delaware’s continued reliance in its objections on the UCC as the sole external wellspring for finding meaning of terms in the FDA, *see* DE obj. at 3-8, legislative history supports using the Uniform Unclaimed Property Act instead. By way of new support for this point

not already stated in prior briefs, the Court need look no further than Congress's *own use* of the Uniform Unclaimed Property Act *prior to* its introduction of the FDA in May 1973 and its enactment a year later.

Indeed, on May 13, 1970, the U.S. Senate considered bill S. 3011. *See* Congressional Record, 91st Congress, Second Session, Volume 116, Part 11, at 15354-15358 (attached as Exhibit A).¹ Title II of S. 3011 proposed an unclaimed property statute for the District of Columbia. *Id.* at 15355.² The Congressional Record expressly states that the language of Title II was modeled on the 1966 Uniform Unclaimed Property Act:

Title II, to be cited as the District of Columbia Unclaimed Property Act, would make the government of the District of Columbia custodian of unclaimed intangible property in the District. The provisions of this title are consistent with those adopted by the National Conference of Commissioners on Uniform State laws in 1966, and enacted in 18 States.

¹ Available at <https://www.congress.gov/91/crecb/1970/05/13/GPO-CRECB-1970-pt11-6.pdf>; *see also* <https://www.congress.gov/bound-congressional-record/1970/05/13>. *See generally* *Hadley v. Kellogg Sales Co.*, 243 F. Supp. 3d 1074, 1087 (N.D. Cal. 2017) (“Similarly, courts regularly take judicial notice of congressional records.”).

² Of the 100 Senators in 91st Congress on May 13, 1970, over 70 of them were still there on May 29, 1973 when the FDA was first introduced by Senator Hugh Scott (PA) in the 93rd Congress, including Senator Scott himself. *See* United States Senate, *Senators of the United States, 1789-present*, at 68-69, available at <https://www.senate.gov/artandhistory/history/resources/pdf/chronlist.pdf>; *see also* <https://www.senate.gov/senators/Senators1789toPresent.htm>.

Id. at 15357; *see also id.* at 15358 (additional reference to Uniform Disposition of Unclaimed Property Act). Notably, Section 203(c) of Title II stated, in relevant part, as follows:

The following property held or owing by a banking or financial organization or by a business association is presumed abandoned:

....

Any sum payable on checks certified in the District or on written instruments issued in the District on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and travelers checks, that, with the exception of travelers checks, has been outstanding for more than seven years from the date it was payable or from the date of its issuance if payable on demand[.]

Id. at 15355. In other words, Congress plainly was aware of the Uniform Unclaimed Property Act at the time it introduced and enacted the FDA and was plainly relying on that model law to give the FDA shape and meaning.

Thus, Delaware's continued insistence that the Court should rely exclusively or primarily on the UCC to assist in interpreting the FDA is without support.

C. Delaware’s preferred definition of “third party bank check” ignores the legislative history.

Delaware suggests the adopted definition for “third party bank check” in the Interim Report makes such a check “not a similar written instrument to money orders and traveler’s checks”; yet that position is contrary to the views of the United States Treasury expressed to Congress in 1973. *See* Senate Report No. 93-505, 93rd Congress, 1st Session, at 5 (Nov. 15, 1973).

In fact, when Treasury urged the Committee on Banking, Housing and Urban Affairs to modify the then-pending bill, it did so because it was concerned that the law would inadvertently sweep in instruments that were similar in kind (in that they were “instruments for the transmission of money,” *see id.* at 5), but not similar in terms of escheatment concerns. *See id.* The similarity of so-called “ordinary checks,” *see* DE obj. at 13, and money orders and travelers checks is even more obvious when the Court considers that at the time Treasury submitted its letter on November 1, 1973, the then-pending bill still spoke in terms of instruments that were “issued” and not in terms of ones that were “purchased.” That change occurred in Committee *after* Treasury submitted its letter and after the Committee reviewed the

separate letter from the Federal Reserve Board, which underscored concerns with the use of the word “issued.” *See id.* at 3-4, 6. In other words, so-called ordinary checks are and were instruments for the transmission of money that were “issued,” and Treasury, rightly, pointed out that Congress should not use language that “is broader than intended” and thereby sweep in such instruments. *See id.* at 5.

Finally, and persuasively (though certainly not dispositive), Delaware’s suggestion that the adopted meaning of “third party bank check” is not consistent with “the ordinary meaning of the words” of the FDA is belied by the statutory enactment of at least one state shortly after the enactment of the FDA. *See DE obj.* at 14. Specifically, in 1983, the State of Washington passed its version of the Uniform Unclaimed Property Act of 1983. *See Washington 1983 Session Laws, ch. 179.*³ In the enactment, Washington supplied a definition for “Third party bank check,” which stated as follows: “Third party bank check’ means any instrument drawn against a customer’s account with a banking organization or financial organization on which the banking

³ *Available at* <https://leg.wa.gov/CodeReviser/documents/sessionlaw/1983c179.pdf>; *see also* <https://leg.wa.gov/CodeReviser/Pages/SessionLaw/1983%20Session%20Laws.aspx>.

organization or financial organization is only secondarily liable.” *See id.* at § 1(15), *presently codified at* Wash. Rev. Code § 63.29.010(17). In other words, in addition to the Special Master, at least the House, Senate, and Governor of Washington found correct that a “third party bank check” is simply an “ordinary check.”

In conclusion, Delaware’s objections regarding the Interim Report’s definition of “third party bank check” should be overruled.

III. CONCLUSION

The Interim Report correctly concludes that Delaware has wrongfully received custody of sums—several hundred million dollars—that should have rightfully been submitted to the respective Defendant States under the FDA. Accordingly, Pennsylvania respectfully urges the Special Master to overrule the objections of Delaware. It further respectfully requests that the Special Master submit to the Supreme Court a report identical to, or substantially identical to, the present Interim Report.

Respectfully submitted,

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Dated: June 18, 2021

Exhibit A

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. HUGHES) laid before the Senate a message from the President of the United States submitting the nomination of Hugh F. Owens, of Oklahoma, to be a member of the Securities and Exchange Commission, which was referred to the Committee on Banking and Currency.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 12, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ACCOMMODATION TO SENATORS WHO WISH TO SPEAK FOR A LONGER PERIOD THAN 3 MINUTES

Mr. MANSFIELD. Mr. President, if Senators wish to speak at any length beyond the 3-minute limitation, I would suggest that they kindly contact the joint leadership, because we are always willing to have the Senate meet earlier than the usual convening hour to accommodate them by giving them the time they desire.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10:30 O'CLOCK TOMORROW MORNING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HUGHES OF IOWA TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that tomorrow, at the conclusion of the prayer, the distinguished Senator from Iowa (Mr. HUGHES) be recognized for not to exceed one-half hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PERCY OF ILLINOIS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, following the speech by the distinguished Senator from Iowa (Mr. HUGHES) tomorrow, the distinguished Senator from Illinois (Mr. PERCY) be recognized for not to exceed 45 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR TALMADGE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, following the speech by the distinguished Senator from Illinois (Mr. PERCY) tomorrow, the distinguished Senator from Georgia (Mr. TALMADGE) be recognized for not to exceed 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISTRICT OF COLUMBIA HOUSING REVOLVING FUND ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 855 and 858.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The first measure will be stated.

The LEGISLATIVE CLERK. S. 3011, to establish a revolving fund for the development of housing for low- and moderate-income persons and families in the District of Columbia, to provide for the disposition of unclaimed property in the District of Columbia, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the District of Columbia with amendments, on page 4, line 6, after the word "Columbia", strike out "Disposition of"; in line 13, after the word "Columbia", strike out "Disposition of"; in line 16, after the word "the", strike out "Disposition of" and insert "District of Columbia"; and on page 8, line 23, after the word "deposit"; strike out "or presented the pass book or other similar evidence of the deposit for the crediting of interest"; so as to make the bill read:

TITLE I—DISTRICT OF COLUMBIA HOUSING REVOLVING FUND ACT

SEC. 101. This title may be cited as the "District of Columbia Housing Revolving Fund Act".

DEFINITIONS

SEC. 102. As used in this title, the term—
(a) "Commissioner" means the Commissioner of the District of Columbia, or his delegate.

(b) "Preconstruction costs" means the costs approved by the Commissioner for the necessary expenses, prior to construction, in planning, and obtaining financing for, the rehabilitation or construction of housing for low-income or moderate-income persons, including but not limited to: (1) expenses for surveys as to need and for market analysis; (2) fees for preliminary feasi-

bility studies, and advances for planning, engineering, and architectural work; (3) site acquisition costs; (4) necessary application and other fees to Federal and District agencies; and (5) such other expenses incurred by the nonprofit sponsor as the Commissioner may deem appropriate to effectuate the purposes of this title.

(c) "District" means the District of Columbia.

(d) "Federally aided mortgage" means any mortgage with respect to which financial assistance of any kind is provided under one or more of the several Federal programs for housing for families of individuals of low or moderate income.

(e) "Fund" means the District of Columbia housing revolving fund created by this title.

(f) "Housing project" means a specific work or improvement financed by a federally aided mortgage or privately financed and undertaken by a nonprofit sponsor to provide dwelling accommodations for low-income or moderate-income persons in the District of Columbia, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements, and such social, recreational, community, or other nonhousing facilities as may be incidental or appurtenant thereto.

(g) "Low-income or moderate-income persons" means those persons and families having an annual income in such an amount as to make them eligible, by reason of regulations promulgated by the Secretary of Housing and Urban Development, or his delegate, for occupancy of dwelling units within any housing project assisted by a federally aided mortgage. Such term shall also mean those persons and families made eligible, by reason of regulations promulgated by the District of Columbia Council, for occupancy of dwellings in any housing project assisted by private financing.

(h) "Nonprofit sponsor" means any nonprofit corporation, association, cooperative, or other organization.

HOUSING REVOLVING FUND

SEC. 103. (a) There is hereby created and established in the Treasury a revolving fund to be known as the District of Columbia housing revolving fund.

(b) There shall be paid into the fund (1) any moneys appropriated pursuant to the authorization contained in this title; (2) any moneys which the Commissioner may receive in repayment of advances made by him pursuant to this title; and (3) any other moneys which may be made available to the Commissioner from any other source or sources for the purpose of the fund.

(c) Notwithstanding any other provision of law, the Commissioner is authorized to deposit in the fund moneys received by him pursuant to the District of Columbia Unclaimed Property Act other than the moneys deposited into the separate trust fund established pursuant to such Act. The Commissioner is further authorized from time to time to transfer to such trust fund moneys held in the housing revolving fund whenever the trust fund contains insufficient moneys to satisfy any claim or claims duly allowed pursuant to the District of Columbia Unclaimed Property Act. If from time to time the amount in the housing revolving fund or in the trust fund established pursuant to the District of Columbia Unclaimed Property Act is insufficient to satisfy such claim or claims, then in such event there is hereby authorized to be appropriated for deposit in the latter fund such amount as may be necessary to meet any such deficiency.

ADVANCES FOR HOUSING

SEC. 104. (a) The Commissioner is hereby authorized to use the moneys held in the fund to make non-interest-bearing short-term advances, in accordance with the provisions of this title, to nonprofit sponsors for

housing projects owned or to be owned by such sponsors.

(b) No such advance shall be made unless the Commissioner determines that there is need for the housing project and that the development of the housing project for low-income or moderate-income persons is feasible.

(c) Moneys of the funds advanced by the Commissioner to a nonprofit sponsor shall be used only to defray the preconstruction costs of the housing project. Each advance shall be repaid in full to the Commissioner by the nonprofit sponsor under such terms and conditions as may be required by regulations promulgated by the District of Columbia Council. Such repayment shall be made upon completion of the housing project or sooner. The Commissioner may cancel any part or all of a loan as he may determine cannot be recovered from the proceeds of any permanent loan made to finance the rehabilitation or construction of the housing project.

DELEGATIONS OF AUTHORITY

SEC. 105. (a) The District of Columbia Council is hereby authorized to make such rules, regulations, and orders as it may deem necessary to effectuate the purposes of this title. Such rules and regulations may require any nonprofit sponsor, as a condition precedent to receiving an advance from the fund, to enter into an agreement with the Commissioner regulating the operation of the housing project with respect to (1) the maximum rental charges, (2) the eligibility of tenants, (3) the disposal of any property or accumulated profits of the nonprofit sponsor, (4) the dissolution of the nonprofit sponsor, (5) the examination of the records and accounts of the nonprofit sponsor or of any housing project owned by the nonprofit sponsor, and (6) any other matter relating to the operation, maintenance, or function of the housing project or the nonprofit sponsor.

(b) The Commissioner is hereby authorized to delegate to any officer, employee, or agency of the District government, except the courts thereof, any function authorized by this title.

APPROPRIATIONS AUTHORIZED

SEC. 106. Appropriations are hereby authorized to carry out the purposes of this title.

TITLE II—DISTRICT OF COLUMBIA UNCLAIMED PROPERTY ACT

SEC. 201. This title may be cited as the "District of Columbia Unclaimed Property Act".

DEFINITIONS

SEC. 202. As used in this title, unless the context otherwise requires:

(a) "Banking organization" means any bank, trust company, saving banks, or a private banker engaged in business in the District of Columbia.

(b) "Business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals.

(c) "Commissioner" means the Commissioner of the District or his delegate.

(d) "District" means the District of Columbia.

(e) "Financial organization" means any savings and loan association, building and loan association, credit union, or investment company, engaged in business in the District.

(f) "Holder" means any person in possession of property subject to this title belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this title.

(g) "Life insurance corporation" means any association or corporation transacting within the District the business of insurance on the

lives of persons or insurance appertaining thereto, including, without limitation, endowments and annuities.

(h) "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 this legal representative.

(i) "Person" means any individual, business association, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

(j) "Utility" means any person who owns or operates within the District, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing or electricity, water, steam, or gas.

PROPERTY HELD BY BANKING OR FINANCIAL ORGANIZATIONS OR BY BUSINESS ASSOCIATIONS

SEC. 203. The following property held or owing by a banking or financial organization or by a business association is presumed abandoned:

(a) Any demand, savings, or matured time deposit made in the District with a banking organization, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, unless the owner has, within seven years:

(1) Increased or decreased the amount of the deposit; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.

(b) Any funds paid in the District toward the purchase of shares or other interest in a financial organization or any deposit made therewith in the District, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within seven years:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.

(c) Any sum payable on checks certified in the District or on written instruments issued in the District on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and travelers checks, that, with the exception of travelers checks, has been outstanding for more than seven years from the date it was payable or from the date of its issuance if payable on demand, or, in the case of travelers checks, that has been outstanding for more than fifteen years from the date of its issuance, unless the owner has within seven years, or within fifteen years in the case of travelers checks, corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association.

(d) Any funds or other personal property, tangible or intangible, removed from a safe deposit or any other safekeeping repository in the District on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed

by the owner for more than seven years from the date on which the lease or rental period expired.

UNCLAIMED FUNDS HELD BY LIFE INSURANCE CORPORATIONS

SEC. 204. (a) Unclaimed funds, as defined in this section, held and owing by a life insurance corporation, shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within the District. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation.

(b) "Unclaimed funds", as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than seven years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or any annuitant contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding seven years (1) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or (2) corresponded in writing with the life insurance corporation concerning the policy. Moneys, otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

DEPOSITS AND REFUNDS HELD BY UTILITIES

SEC. 205. The following funds held or owing by any utility are presumed abandoned:

(a) Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in the District, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than seven years after the termination of the services for which the deposit or advanced payment was made.

(b) Any sum which a utility has been ordered to refund and which was received for utility services rendered in the District, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than seven years after the date it became payable in accordance with the final determination or order providing for the refund.

UNDISTRIBUTED DIVIDENDS AND DISTRIBUTIONS OF BUSINESS ASSOCIATIONS

SEC. 206. Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponding in writing with the business association concerning it, within seven years after the date prescribed for payment or delivery, is presumed abandoned if—

(a) it is held or owing by a business association organized under the laws of or created in the District; or

(b) It is held or owing by a business association doing business in the District, but not organized under the laws of or created in the District, and the records of the business association indicate that the last known address of the person entitled thereto is in the District.

PROPERTY OF BUSINESS ASSOCIATIONS AND BANKING OR FINANCIAL ORGANIZATIONS HELD IN COURSE OF DISSOLUTION

SEC. 207. All intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization organized under the laws of or created in the District, that is unclaimed by the owner within two years after the date for final distribution, is presumed abandoned.

PROPERTY HELD BY FIDUCIARIES

SEC. 208. All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within seven years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(a) If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in the District; or

(b) If it is held by a business association, doing business in the District, but not organized under the laws of or created in the District, and the records of the business association indicate that the last known address of the person entitled thereto is in the District; or

(c) If it is held in the District by any other person.

PROPERTY HELD BY THE COURTS AND PUBLIC OFFICERS AND AGENCIES

SEC. 209. All intangible personal property held for the owner by any court, public corporation, public authority, or public officer of the District, that has remained unclaimed by the owner for more than seven years is presumed abandoned.

MISCELLANEOUS PERSONAL PROPERTY HELD FOR ANOTHER PERSON

SEC. 210. All intangible personal property, not otherwise covered by this title, including any income or increment thereon and deducting any lawful charges, that is held or owing in the District in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years after it became payable or distributable is presumed abandoned.

RECIPROcity FOR PROPERTY PRESUMED ABANDONED OR ESCHEATED UNDER THE LAWS OF A STATE

SEC. 211. If specific property which is subject to the provisions of sections 203, 206, 207, 208, and 210 is held for or owed or distributed to an owner whose last known address is in a State by a holder who is subject to the jurisdiction of that State, the specific property is not presumed abandoned in the District and subject to this title if:

(a) It may be claimed as abandoned or escheated under the laws of such State; and

(b) The laws of such State make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such State when held for or owned or distributable to an owner whose last known address is within the District by a holder who is subject to the jurisdiction of the District.

REPORT OF ABANDONED PROPERTY

SEC. 212. (a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this title shall report to the Commissioner with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include;

(1) except with respect to travelers 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 such value as the District of Columbia Council shall by rule prescribe, or more, presumed abandoned under this title;

(2) in case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(3) 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 \$3 each may be reported in aggregate;

(4) 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; and

(5) other information which the District of Columbia Council may prescribe by rule as necessary for the administration of this title.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The Commissioner may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this 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 annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

(f) 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.

(g) The initial report filed under this title shall include all items of property that would have been presumed abandoned if this title had been in effect during the ten-year period preceding its effective date.

NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY

SEC. 213. (a) Within one hundred and twenty days from the filing of the report required by section 212, the Commissioner shall cause notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in the District.

(b) The published notice shall be entitled "Notice of Names of Persons Appearing To Be Owners of Abandoned Property", and shall contain:

(1) The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice as hereinbefore specified.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the Commissioner.

(3) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within sixty-five days from the date of the

second published notice, the abandoned property will be placed not later than eighty-five days after such publication date in the custody of the Commissioner to whom all further claims must thereafter be directed.

(c) The Commissioner is not required to publish in such notice any item of less than \$25 unless he deems such publication to be in the public interest.

(d) Within one hundred and twenty days from the receipt of the report required by section 212, the Commissioner shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of \$25 or more presumed abandoned under this title.

(e) The mailed notice shall contain:

(1) A statement that, according to a report filed with the Commissioner, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the Commissioner to whom all further claims must be directed.

(f) This section is not applicable to sums payable on travelers checks or money orders presumed abandoned under section 103.

PAYMENT OR DELIVERY OF ABANDONED PROPERTY

SEC. 214. Every person who has filed a report under section 212, within twenty days after the time specified in section 213 for claiming the property from the holder, or in the case of sums payable on travelers checks or money orders presumed abandoned under section 203 within twenty days after the filing of the report, shall pay or deliver to the Commissioner all abandoned property specified in the report, except that if the owner within the time specified in section 213 establishes his right to receive the abandoned property to the satisfaction of the holder, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the Commissioner, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

RELIEF FROM LIABILITY BY PAYMENT OR DELIVERY

SEC. 215. Upon the payment or delivery of abandoned property to the Commissioner, the District shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the Commissioner under this title is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property. Any holder who has paid moneys to the Commissioner pursuant to this title may make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the Commissioner shall forthwith reimburse the holder for the payment.

INCOME ACCRUING AFTER PAYMENT OR DELIVERY

SEC. 216. When property is paid or delivered to the Commissioner under this title, the owner is not entitled to receive income or other increments accruing thereafter.

PERIODS OF LIMITATION NOT A BAR

SEC. 217. The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim of money or recovery of property,

shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this title or to pay or deliver abandoned property to the Commissioner.

SALE OF ABANDONED PROPERTY

SEC. 218. (a) All abandoned property other than money delivered to the Commissioner under this title shall within one year after the delivery be sold by him to the highest bidder at public sale. The Commissioner may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) Any sale held under this section shall be preceded by at least a single publication of notice thereof, at least three weeks in advance of sale in an English language newspaper of general circulation in the District.

(c) The purchaser at any sale conducted by the Commissioner pursuant to this title shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The Commissioner shall execute all documents necessary to complete the transfer of title.

DEPOSIT OF FUNDS

SEC. 219. (a) All funds received under this title, including the proceeds from the sale of abandoned property under section 218, shall forthwith be deposited by the Commissioner in the general fund of the District, except that the Commissioner shall retain in a separate trust fund an amount not exceeding \$25,000 from which he shall make prompt payment of claims duly allowed by him as hereinafter provided. Before making the deposit the Commissioner shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

(b) Before making any deposit to the credit of the general fund of the District, the Commissioner may deduct: (1) any costs in connection with the sale of abandoned property, (2) any costs of mailing and publication in connection with any abandoned property, and (3) reasonable service charges.

CLAIM FOR ABANDONED PROPERTY PAID OR DELIVERED

SEC. 220. Any person claiming an interest in any property delivered to the District under this title may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the Commissioner.

DETERMINATION OF CLAIMS

SEC. 221. (a) The Commissioner shall consider any claim filed under this title and may hold a hearing and receive evidence concerning it. If a hearing is held, the Commissioner shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.

(b) If the claim is allowed, the Commissioner shall make payment forthwith. The claim shall be paid without deduction for costs of notices or sale or for service charges.

JUDICIAL ACTION UPON DETERMINATION

SEC. 222. Any person aggrieved by a decision of the Commissioner or as to whose claim the Commissioner has failed to act within ninety days after the filing of the claim, may commence an action in the District of Columbia Court of General Sessions to establish his claim. The proceeding shall be brought within ninety days after the de-

cision of the Commissioner or within one hundred and eighty days from the filing of the claim if the Commissioner fails to act. The action shall be tried de novo without a jury.

ELECTION TO TAKE PAYMENT OR DELIVERY

SEC. 223. The Commissioner, after receiving reports of property deemed abandoned pursuant to this title, may decline to receive any property reported which he deems to have a value less than the cost of giving notice and holding sale, or he may, if he deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within one hundred and twenty days after filing the report required under section 212, the Commissioner shall be deemed to have elected to receive the custody of the property.

EXAMINATION OF RECORDS

SEC. 224. The Commissioner may at reasonable times and upon reasonable notice examine the records of any person if he has reason to believe that such person has failed to report property that should have been reported pursuant to this title.

PROCEEDING TO COMPEL DELIVERY OF ABANDONED PROPERTY

SEC. 225. If any person refuses to deliver property to the Commissioner as required under this title, he may bring an action in the District of Columbia Court of General Sessions to enforce such delivery.

PENALTIES

SEC. 226. (a) Any person who willfully fails to render any report or perform any other duty required under this title shall be punished by a fine of not more than \$100 for each day such report is withheld or for each day he refuses to perform the required duty, but not more than \$1,000.

(b) Any person who willfully refuses to pay or deliver abandoned property to the Commissioner as required under this title shall be punished by a fine of not more than \$300 or imprisonment for not more than ninety days, or both.

(c) All prosecutions for violations of this title, or regulations made pursuant thereto, shall be conducted in the name of the District of Columbia by the Corporation Counsel or any of his assistants.

RULES AND REGULATIONS

SEC. 227. The District of Columbia Council is authorized to make such rules, regulations, and orders as may be necessary in order to effectuate the purposes of this title. Such rules, regulations, and orders may specify, without limitation, the kinds and character of property which may be excluded from the coverage of this title, and may authorize the Commissioner to join with the appropriate official of a State in equitably apportioning, between the District and such State, all amounts which are presumed, under this title, to be abandoned in the District and subject to this title and also are presumed, under a corresponding law of such State, to be abandoned in such State and subject to its said law.

DELEGATION OF AUTHORITY

SEC. 228. (a) The Council is hereby authorized to delegate to the Commissioner or, subject to the concurrence of the Commissioner, to any officer, employee, or agency of the District government except the courts thereof any function authorized by this title.

(b) The Commissioner is hereby authorized to delegate to any officer, employee, or agency of the District government except the courts thereof any function authorized by this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 229. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

EFFECT OF LAWS OF ANY STATE

SEC. 230. This title shall not apply to any property that has been presumed abandoned or escheated under the laws of any State prior to the effective date of this title.

SEVERABILITY

SEC. 231. If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the title which can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-854), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of S. 3011 is to establish in the District of Columbia a revolving fund for planning housing for low- and moderate-income families to help the critical housing shortage in the Nation's Capital.

Title I, to be cited as the District of Columbia Housing Revolving Fund Act, establishes a fund within the District government consisting of appropriated moneys and sums from any other source, including the unclaimed intangible property in the custody of the District of Columbia government. From this fund, noninterest bearing short-term advances could be made to nonprofit housing developers for planning purposes only. No money from this fund could be loaned for actual housing construction.

Title II, to be cited as the District of Columbia Unclaimed Property Act, would make the government of the District of Columbia custodian of unclaimed intangible property in the District. The provisions of this title are consistent with those adopted by the National Conference of Commissioners on Uniform State Laws in 1966, and enacted in 18 States.

COMMITTEE AMENDMENTS

Committee amendments on page 4 are technical in nature to conform certain language on that page to the context of the language in the rest of the bill.

The amendment on page 8 was recommended by the District of Columbia Bankers' Association, which suggested that passbooks are falling into increasing disuse and hence the language deleted might soon be obsolete.

NEED FOR LEGISLATION

District of Columbia Housing Revolving Fund Act

One of the most pressing problems now facing the District of Columbia is the need for decent, safe, and sanitary housing for persons of low or moderate income. An approach to providing such housing showing significant promise for alleviating the housing shortage for those most in need is through existing federally aided mortgage programs which enable nonprofit organizations to enter the housing development field. To some extent there has been encouraging activity in the District of Columbia on the part of nonprofit groups which indicates that through private initiative much can be accomplished in meeting these needs. Nevertheless, there is clearly an urgent demand for many additional housing units to be developed under the sponsorship of nonprofit organizations.

It has been estimated that approximately 51,600 households in the District consists of

low- or moderate-income families that would qualify for housing constructed under existing federally aided programs. However, the difficulty that has been encountered in attempts to develop additional housing units for low- or moderate-income families, under the existing Federal mortgage programs, has been the inability of potential nonprofit sponsors of such housing to obtain needed funds prior to construction so that such organizations can move forward with worthwhile housing plans. This inability to obtain so-called seed money frequently frustrates attempts to develop this vitally needed housing.

The housing crisis in the District cannot be overstated, and the development of new housing nonprofit sponsors under existing federally aided mortgage programs could make a large contribution toward alleviating the distressing conditions of low- and moderate-income persons and families. By establishing the proposed revolving fund to provide the preconstruction capital for such sponsors, a major step would be achieved in the direction of meeting these urgent needs.

DISTRICT OF COLUMBIA UNCLAIMED PROPERTY ACT

Enactment for the District of Columbia, as proposed by this bill, of the 1966 revision of the Uniform Disposition of Unclaimed Property Act approved in 1955 by the National Conference of Commissioners on Uniform State Laws, and by the American Bar Association, already in effect in 18 States, would provide a fair and adequate basis for dealing with the problem of unclaimed intangible property.

Under provisions of this title intangible property would include dormant bank accounts, unclaimed funds held by life insurance companies, deposits and refunds held by utilities, undistributed dividends and distributions of business associations, property of business associations and banking or financial organizations held in the course of dissolution, property held by fiduciaries, property held by the courts and by public officers and agencies, and miscellaneous personal property held for another person. This title also deals with the matter of multiple liability on the part of a holder of unclaimed property over which two or more jurisdictions seek to assert a claim. Finally, the title makes it possible for those persons who have unclaimed property in their possession to close out the account relating to it, thereby relieving themselves from maintaining a current record of the property.

The owner of any such property would be deprived of his rights in it. The Uniform Disposition of Unclaimed Property Act is custodial in its nature, and its operation does not result in the loss of the property rights of the owner of the unclaimed property which is made subject to the provisions of the act. Under title II, the District of Columbia would, after a specified period of time, take custody of the property and remain the custodian in perpetuity. This means, of course, that the District would have to keep a record of the property on a permanent basis, so that if the owner of the unclaimed property should present a claim for it, his claim would be honored. In this respect, the proposed legislation differs from the escheat type of statute, under which the right of the owner of the property is foreclosed.

The District of Columbia Unclaimed Property Act, if enacted, will serve to protect the interest of owners; relieve the holders of such property from annoyance, expense, and liability; preclude multiple liability on the part of the holders of such property; and give the District the use of considerable sums of money that otherwise will remain dormant and unproductive.

HISTORY OF THE LEGISLATION

S. 3011 was introduced on January 20, 1970, at the request of the District of Columbia government. During public hearings held February 12, 1970, by the full committee, the bill was endorsed by the Deputy Mayor-Commissioner of the District, the Vice Chairman of the District of Columbia City Council, the Mayor's special assistant for housing, the Washington Board of Realtors, the Mortgage Bankers Association of the District of Columbia, the Washington Real Estate Brokers Association, the District of Columbia Chamber of Commerce, and the United Planning Organization.

The bill was ordered favorably reported by the committee March 18, 1970.

FEASIBILITY AND DESIRABILITY OF A NATIONAL LAKESHORE ON LAKE TAHOE, STATE OF NEVADA

The Senate proceeded to consider the bill, S. 2208, to authorize the Secretary of the Interior to study the feasibility and desirability of a national lakeshore on Lake Tahoe in the State of Nevada, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, line 3, after the word "preserving", strike out "all or"; in line 5, after the word "waters", strike out "in Nevada"; on page 2, line 2, after the word "the", insert "Tahoe Regional Planning Agency and other"; in line 7, after the word "Basin," insert "Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study."; and in line 13, after the word "within", strike out "2 years" and insert "one year"; so as to make the bill read:

S. 2208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to consider preserving appropriate segments of the lakeshore of Lake Tahoe and adjoining lands and waters in their natural condition for public outdoor recreation, the Secretary of the Interior (hereafter referred to as the "Secretary") shall study, investigate and formulate recommendations on the feasibility and desirability of establishing such areas as a national lakeshore. The Secretary shall consult with the Secretary of Agriculture; the Chief of Engineers, Department of the Army; and any other interested Federal agencies, as well as the Tahoe Regional Planning Agency and other State and local bodies and officials involved; and shall coordinate the study with applicable outdoor recreation plans, pollution control plans, highway plans, and other planning activities relating to the Lake Tahoe Basin. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study.

SEC. 2. The Secretary shall submit to the Congress, within one year after the date of this Act, a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

(a) the scenic, scientific, historic, outdoor recreation, and natural values of the water, lakeshore, and related upland resources involved, including their use for driving for

pleasure, walking, hiking, riding, bicycling, boating, swimming, picnicking, camping, forest management, fish and wildlife management, scenic and historic site preservation, hunting, fishing, and winter sports;

(b) the potential alternative beneficial uses of the water, lakeshore, and related upland resources involved, taking into consideration appropriate uses of the land for residential, commercial, industrial, agricultural, and transportation purposes, and for public services;

(c) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified; and

(d) the relationship of any recommended national lakeshore to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire Lake Tahoe Basin.

SEC. 3. Pending submission of the report of the Secretary to the Congress, the heads of Federal agencies having administrative jurisdiction over the Federal lands within the area referred to in section 1 of this Act shall, consistent with the purposes for which the lands were acquired or set aside by the United States and to the extent authorized by law, encourage and provide maximum opportunities for the types of recreation use of such lands referred to in section 2(a) of this Act.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. BIBLE. Mr. President, Lake Tahoe, the subject of the bill before us, is synonymous with scenic beauty. The pristine clarity of its waters is legendary. The majesty of its mountain setting high in the Sierra is unsurpassed in North America. But this priceless—and fragile—scenic treasure is threatened by massive urban development that has sprung up in recent years. There is a very real and very urgent need for decisive action to preserve and protect this resource now—before it is too late.

The States of California and Nevada which share the Lake Tahoe Basin, recognized the value of this resource and the urgency of the need to protect it by adopting the Tahoe regional planning compact. This compact, granted the consent of Congress last year, provides coordinated regional authority for controlling land and water use and for conserving the basin's resources. My bill to authorize a Federal study into the feasibility of establishing a national lakeshore or similar program for public recreation and conservation is the logical second step toward the goal of saving Lake Tahoe's remaining unspoiled scenic reaches. Senators may recall that a third step—providing broader Federal land acquisition authority at the lake—has already been approved by this body and now awaits action in the House of Representatives. It has been my honor and my privilege to introduce the legislation to implement these three important steps, and I urge the Senate to act promptly on the bill before us so that this entire program can become a reality before the year is out.

Considerable planning is already underway at Lake Tahoe. The Tahoe Regional Planning Agency created by the California-Nevada compact is scheduled to adopt within 18 months a basinwide plan for land use controls, transporta-

CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2021, I served by email Pennsylvania's Response to Plaintiff State of Delaware's Objections to Special Master's Draft First Interim Report on all counsel listed in the Amended Service Lists of August 21, 2020 and March 1, 2021, as required by Case Management Order No. 5.

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