



COMMONWEALTH OF KENTUCKY

OFFICE OF THE STATE TREASURER

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KENTUCKY STATE TREASURY, UNCLAIMED PROPERTY CLE

The following pages include summarized or condensed versions of the statutes referenced. For the exact language of the statute, please refer to KRS chapter 393A.

Important definitions: (KRS 393A.010)

"Administrator" means the Kentucky State Treasurer;

"Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder;

"Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter;

"Owner":

(a) Means a person that has a legal, beneficial, or equitable interest in property subject to this chapter or the person's legal representative when acting on behalf of the owner; and

(b) Includes:

1. A depositor, for a deposit;
2. A beneficiary, for a trust other than a deposit in trust;
3. A creditor, claimant, or payee, for other property; and
4. The lawful bearer of a record that may be used to obtain money, a reward, or a thing of value;

"Property":

(a) Means tangible property described in KRS 393A.080 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government, governmental subdivision, agency, or instrumentality;

(b) Includes all income from or increments to the property;

(c) Includes:

1. Money, virtual currency, interest, or a dividend, check, draft, deposit, or payroll card;
2. A credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;
3. A security, except for:
 - a. A worthless security; or
 - b. A security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;
4. A bond, debenture, note, or other evidence of indebtedness;
5. Money deposited to redeem a security, make a distribution, or pay a dividend;
6. An amount due and payable under an annuity contract or insurance policy; and





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7. An amount 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 a similar benefit; and

(d) Does not include:

1. Property held in a plan described in 26 U.S.C. sec. 529A, as amended;
2. Game-related digital content;
3. A loyalty card;
4. An in-store credit for returned merchandise; or
5. A gift card;

Inapplicability to foreign transaction. (KRS 393A.020)

This chapter shall not apply to:

- (1) Property held, due, and owing in a foreign country;
- (2) Money, funds, or any other intangible property held by or owing:
 - (a) To a nonprofit exempt under Section 501(c)(3);
 - (b) For any minerals or other raw materials capable of being used for fuel; or
 - (c) For any mineral proceeds;
- (3) Wages or salaries of fifty dollars (\$50) or less;
- (4) Moneys in inmate accounts and prisoner canteen accounts; or
- (5) Funds held in a lawyer IOLTA trust account.

When property presumed abandoned. (KRS 393A.040)

Property shall be presumed abandoned if it is unclaimed by the apparent owner during the period specified below:

- (1) A traveler's check, fifteen (15) years;
- (2) A money order, seven (7) years;
- (3) A state or municipal bond, bearer bond, or original-issue-discount bond, three (3) years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;
- (4) A debt of a business association, three (3) years;
- (5) A payroll card or demand, savings, or time deposit account, three (3) years after the maturity:
 - (a) Property held in an interest-bearing account shall, from the time it is presumed abandoned under this chapter, be placed by the holder in an interest-bearing account made assignable to the administrator;
 - (d) Property described in this subsection deposited and not claimed ten (10) years after it is presumed abandoned, shall be paid to the administrator;
- (6) Money or a credit owed to a customer as a result of a retail business transaction, three (3) years;
- (7) An amount owed by an insurance company on a life or endowment insurance policy, three (3) years;
- (8) Property distributable by a business association in the course of dissolution, one (1) year;
- (9) Property held by a court, one (1) year;
- (10) Property held by a government or governmental agency, one (1) year;
- (11) Property payable or distributable in the course of a demutualization of an insurance company, three (3) years;
- (12) Wages, commissions, bonuses, or reimbursements, one (1) year;
- (13) A deposit or refund owed to a subscriber by a utility, one (1) year;
- (14) All funds represented by unclaimed pari-mutual winning tickets held in this state, two (2) years; and





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(15) Property not specified in KRS 393A.050, 393A.060, 393A.070, 393A.080, 393A.090, or 393A.100, the earlier of three (3) years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

When tax deferred retirement account presumed abandoned (KRS 393A.050)

Property held in a pension account or retirement account shall be presumed abandoned if it is unclaimed by the apparent owner three (3) years after the later of:

(a) The following dates:

1. The date a second consecutive communication sent by the holder is returned to the holder undelivered; or
2. If the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or

(b) The earlier of the following dates:

1. The date the apparent owner becomes seventy and one-half (70 ½) years of age; or
2. Two (2) years after the date the holder:
 - a. Receives confirmation of the death of the apparent owner; or
 - b. Confirms the death of the apparent owner.

When other tax-deferred account presumed abandoned (KRS 393A.060)

Except for property described in KRS 393A.050, property held in an account or plan, including a health savings account, that qualifies for tax deferral shall be presumed abandoned three (3) years after the earlier of:

- (1) The date specified in the income-tax laws and regulations of the United States by which distribution of the property shall begin to avoid a tax penalty; or
- (2) Thirty (30) years after the date the account was opened.

When custodial account for minor presumed abandoned (KRS 393A.070)

Property held in an account established under KRS 385.012 to 385.242, shall be presumed abandoned three (3) years after the later of:

- (a) the date a second consecutive communication sent by the holder to the custodian is returned undelivered;
- (b) If the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or
- (c) The date on which the custodian is required to transfer the property to the minor in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act.

When contents of safe-deposit box presumed abandoned (KRS 393A.080)

Tangible property held in a safe-deposit box are presumed abandoned five (5) years after the earlier of the:

- (1) Expiration of the lease or rental period for the box; or
- (2) Earliest date when the lessor of the box is authorized to enter the box and remove the contents without consent or authorization of the lessee.





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When security presumed abandoned (KRS 393A.100)

A security shall be presumed abandoned three (3) years after:

- (a) The date a second consecutive communication sent by the holder is returned to the holder undelivered; or
- (b) If the second communication is made later than thirty (30) days after the first communication is returned, the date the first communication is returned undelivered.

If a holder under 393A.050, 070 or 100 does not send communications to the apparent owner of property, the holder shall attempt to confirm the apparent owner's interest by sending the apparent owner an electronic-mail communication not later than two (2) years after the apparent owner's last indication of interest in the property. However, the holder promptly shall attempt to contact the apparent owner by first-class United States mail if:

- (a) The holder does not have information needed to send the apparent owner an electronic-mail communication;
- (b) The holder receives notification that the electronic-mail communication was not received; or
- (c) The apparent owner does not respond to the electronic-mail communication within thirty (30) days.

Report required by holder (KRS 393A.220)

A holder shall report to the administrator concerning the property held. The holder shall be responsible:

- (a) To the administrator for the complete, accurate, and timely reporting of property presumed abandoned; and
- (b) For paying or delivering to the administrator property described in the report.

Content of Report (KRS 393A.230)

The report shall:

- (a) Be signed by the holder and verified as to its completeness;
- (b) If filed electronically, be in a secure format approved by the administrator;
- (c) Describe the property;
- (d) Contain the name, last-known address, and Social Security number or taxpayer identification number, if known or readily ascertainable, of the owner of property with a value of fifty dollars (\$50) or more;
- (e) For an amount held or owing under a life or endowment insurance policy or annuity contain the name and last-known address of the owner and of the beneficiary;
- (f) For a safe-deposit box, indicate the location of the property, where it may be inspected by the administrator, and any amounts owed to the holder under KRS 393A.360;
- (g) Contain the commencement date for determining abandonment;
- (h) State that the holder has complied with the notice requirements of KRS 393A.270;
- (i) Identify property that is a non-freely transferable security and explain why it is a non-freely transferable security; and

(4) If a holder has changed its name while holding property or is a successor to another person, the holder shall include in the report under KRS 393A.220 its former name or the name, and the known name and address of each previous holder of the property.

When report to be filed (KRS 393A.240)





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- (1) The report under KRS 393A.220 shall be filed before November 1 of each year and cover the twelve (12) months preceding July 1 of that year.
- (2) The report under KRS 393A.220 to be filed by an insurance company shall be filed before May 1 of each year for the immediately preceding calendar year.

Retention of records by holder (KRS 393A.250)

A holder shall retain records for ten (10) years after the later of the date the report was filed. The records shall contain:

- (1) The information required to be included in the report;
- (2) The date, place, and nature of the circumstances that gave rise to the property right;
- (3) The amount or value of the property;
- (4) The last address of the apparent owner, if known; and
- (5) If the holder sells, in this state traveler's checks, money orders, or similar instruments, a record of the instruments while they remain outstanding indicating the state and date of issue.

Property reportable and payable or deliverable absent owner demand (KRS 393A.260)

Property shall be reportable and payable or deliverable under this chapter even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

Notice of apparent owner by holder (KRS 393A.270)

- (1) The holder shall send to the owner notice by first-class mail that complies with KRS 393A.280 not more than one hundred eighty (180) days nor less than sixty (60) days before filing the report under KRS 393A.220 if:
 - (a) The holder has in its records an address for the apparent owner; and
 - (b) The value of the property is fifty dollars (\$50) or more.
- (2) If an owner has consented to receive electronic-mail, the holder shall send the notice section both by first-class United States mail and by electronic mail.

Contents of notice by holder (KRS 393A.280)

- (1) Notice under KRS 393A.270 shall contain a heading that reads substantially as follows: "Notice. The Commonwealth of Kentucky requires us to notify you that your property may be transferred to the custody of the Kentucky State Treasurer if you do not contact us before (insert date that is thirty (30) days after the date of this notice)."
- (2) The notice under KRS 393A.270 shall:
 - (a) Identify the nature and the value of the property;
 - (b) State that the property shall be turned over to the administrator;
 - (c) State that after the property is turned over to the administrator, an apparent owner that seeks return of the property shall file a claim with the administrator;
 - (d) State that property that is not legal tender of the United States may be sold by the administrator; and
 - (e) Provide instructions that the apparent owner shall follow to prevent the holder from reporting and paying or delivering the property to the administrator.

Definition of "Good Faith" (KRS 393A.310)





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Payment or delivery of property shall be made in good faith if a holder:

- (1) Had a reasonable basis for believing, based on the facts then known, that the property was required to be paid to the administrator; or
- (2) Made payment:
 - (a) In response to a demand by the administrator; or
 - (b) Under a guidance or ruling issued by the administrator.

Dormancy charge (KRS 393A.320)

- (1) A holder may deduct a dormancy charge from property required to be paid to the administrator if:
 - (a) A valid contract between the holder and the apparent owner authorizes imposition of the charge; and
 - (b) The holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge.
- (2) The amount of the deduction under subsection (1) of this section shall be limited to an amount that shall not be unconscionable considering all relevant factors.

Payment or delivery of property to administrator (KRS 393A.330)

- (1) On filing a report under KRS 393A.220, the holder shall deliver to the administrator the property described in the report.
- (2) If property in a report is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty no longer would result.
- (3) Tangible property in a safe-deposit box shall not be delivered to the administrator until one hundred twenty (120) days after filing the report under KRS 393A.220.
- (4) A holder shall not be liable to the apparent owner for, and shall be indemnified by the state against, a claim arising with respect to property after the property has been delivered to the administrator.
- (5) A holder shall not be required to deliver a security identified by the holder as a non-freely transferable security. The holder shall make a determination annually whether a security is no longer a non-freely transferable security and transfer it when its designation has changed.
- (6)
 - (a) If property reported to the administrator is virtual currency, the holder shall liquidate the virtual currency and remit the proceeds to the administrator.
 - (b) The liquidation shall occur anytime within ninety (90) days prior to the filing of the report under KRS 393A.220.
 - (c) The owner shall not have recourse against the holder to recover any gain in value that occurs after the liquidation.

Effect of payment or delivery of property to administrator (KRS 393A.340)

- (1) A holder that pays property to the administrator in good faith and substantially complies with KRS 393A.270 and 393A.280 shall be relieved of liability with respect to payment of the property to the administrator.
- (2) This state shall defend and indemnify a holder against liability.

Recovery of property by holder from administrator (KRS 393A.350)

- (1) A holder that pays money to the administrator may file a claim for reimbursement if the holder:
 - (a) Paid the money in error; or





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- (b) After paying the money to the administrator, paid money to a person the holder reasonably believed to be entitled to the money.
- (2) If a claim for return of property is made, the holder shall include with the claim evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the administrator in error.
- (3) If the administrator does not take action on a claim during the ninety (90) day period following the filing of a claim under KRS 393A.510(1), the claim shall be deemed denied.
- (4) The claimant may initiate a proceeding under KRS Chapter 13B for review of the administrator's decision relative to said claim or the deemed denial not later than:
 - (a) Thirty (30) days following receipt of the notice of the administrator's decision; or
 - (b) One hundred twenty (120) days following the filing of a claim under this section in the case of a deemed denial.
- (5) A final decision in an administrative proceeding shall be subject to judicial review under KRS Chapter 13B.

Property removed from safe-deposit box (KRS 393A.360)

Property removed from a safe-deposit box shall be subject to the holder's right to reimbursement for the cost of opening the box and a lien or contract providing reimbursement to the holder for unpaid rent charges for the box.

Claim for property by person claiming to be owner (KRS 393A.510)

A person claiming to be the owner of property held under this chapter by the administrator may file a claim for the property on a form prescribed by the administrator. The claimant shall verify the claim as to its completeness and accuracy.

When administrator must honor claim for property (KRS 393A.520)

- (1) The administrator shall pay or deliver property to a claimant if the administrator receives evidence sufficient to establish that the claimant is the owner of the property.
- (2) Not later than ninety (90) days after a claim is filed, the administrator shall allow or deny the claim and give the claimant notice in a record of the decision.
- (3) If the claim is denied under subsection (2) of this section:
 - (a) The administrator shall inform the claimant of the reason for the denial;
 - (b) The claimant may file an amended claim or request an administrative hearing; and
 - (c) The administrator shall consider an amended claim filed.
- (4) If the administrator does not take action on a claim during the ninety (90) day period following the filing of a claim under KRS 393A.510(1), the claim shall be deemed denied.

Allowance of claim for property (KRS 393A.530)

- (1) Not later than thirty (30) days after a claim is allowed, the administrator shall pay to the owner the property.
- (2) Property held by the administrator shall be subject to a claim for:
 - (a) Child-support arrearages;
 - (b) A civil or criminal fine or penalty, court costs, a surcharge, or restitution; or
 - (c) State or local taxes, penalties, and interest that have been determined to be delinquent.





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(3) The administrator may make periodic inquiries of state and local agencies in the absence of a claim filed under KRS 393A.510 to determine whether an apparent owner included in the unclaimed-property records of this state has enforceable debts described in subsection (2) of this section.

Verified report of property (KRS 393A.550)

If a person does not file a report or the administrator believes that a person may have filed an inaccurate report, the administrator may require the person to file a verified report. The verified report shall:

- (1) State whether the person is holding property reportable;
- (2) Describe property not previously reported or about which the administrator has inquired;
- (3) Specifically identify property described under subsection (2) of this section about which there is a dispute whether it is reportable under this chapter; and
- (4) State the amount or value of the property.

Examination of records to determine compliance (KRS 393A.560)

The administrator, at reasonable times and on reasonable notice, may:

- (1) Examine the records of a person;
- (2) Issue an administrative subpoena; and
- (3) Bring an action seeking judicial enforcement of the subpoena.

Evidence of unpaid debt or undischarged obligation (KRS 393A.590)

(1) A record of a putative holder showing an unpaid debt or undischarged obligation shall be *prima facie* evidence of the debt or obligation.

(2) A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.

(3) A putative holder may overcome *prima facie* evidence section by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:

- (a) Issued as an unaccepted offer in settlement;
- (b) Issued but later was replaced with another instrument;
- (c) Issued to a party affiliated with the issuer;
- (d) Paid, satisfied, or discharged;
- (e) Issued in error;
- (f) Issued without consideration;
- (g) Issued but there was a failure of consideration;
- (h) Voided not later than ninety (90) days after issuance for a valid business reason; or
- (i) Issued but not delivered to the third-party payee.

(4) In asserting a defense under this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice.

Failure to retain records by examined person (KRS 393A.600)

If a person subject to examination does not retain the records, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator.





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Report to person whose records were examined (KRS 393A.610)

At the conclusion of an examination, the administrator shall provide to the person whose records were examined a complete and unredacted examination report that specifies:

- (1) The work performed;
- (2) The property types reviewed;
- (3) The methodology of any estimation technique used in conducting the examination;
- (4) Each calculation showing the value of property determined to be due; and
- (5) The findings of the person conducting the examination.

Determination of liability for unreported reportable property. (KRS 393A.650)

If the administrator determines from an examination that a putative holder failed or refused to pay to the administrator property which is reportable, the administrator shall issue a determination of the putative holder's liability to pay and give notice to the putative holder

Informal conference (KRS 393A.660)

- (1) Not later than thirty (30) days after receipt of a notice, the putative holder may request an informal conference with the administrator to review the determination.
- (2) If a putative holder makes a timely request for an informal conference:
 - (a) Not later than twenty (20) days after the date of the request, the administrator shall set the time and place of the conference;
 - (b) The administrator shall give the putative holder notice of the time and place of the conference;
 - (c) The conference may be held in person, by telephone, or by electronic means;
 - (d) The request tolls the ninety (90) day period under KRS 393A.680 and 393A.690;
 - (e) The conference may be postponed, adjourned, and reconvened as the administrator determines appropriate;
 - (f) The administrator may modify a determination made under KRS 393A.650 or withdraw it; and
 - (g) The administrator shall issue a decision and provide a copy of the record to the putative holder not later than twenty (20) days after the conference ends.
- (3) A conference under subsection (2) of this section shall not be an administrative remedy. An oath shall not be required and rules of evidence shall not apply in the conference.
- (4) At a conference, the putative holder shall be given an opportunity to confer informally with the administrator to:
 - (a) Discuss the determination made under KRS 393A.650; and
 - (b) Present any issue concerning the validity of the determination.
- (5) If the administrator fails to act within the period, the failure shall not affect a right of the administrator, except that interest shall not accrue on the amount for which the putative holder was determined to be liable under KRS 393A.650 until the earlier of:
 - (a) The date the putative holder initiates administrative review or files an action under KRS 393A.690; or
 - (b) Ninety (90) days after the putative holder received notice of the administrator's determination under KRS 393A.680 if no review was initiated under KRS 393A.680 and no action was filed under KRS 393A.690.
- (7) Interest and penalties under KRS 393A.730 continue to accrue on property not reported, paid, or delivered as required by this chapter after the initiation, and during the pendency, of an informal conference under this section.





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Review of administrator's determination (KRS 393A.670)

A putative holder may seek relief from a determination under KRS 393A.650 by:

- (1) Administrative review under KRS 393A.680; or
- (2) Judicial review under KRS 393A.690.

Administrative review (KRS 33A.680)

- (1) Not later than ninety (90) days after receiving notice of the administrator's determination, a putative holder may initiate a proceeding under KRS Chapter 13B.
- (2) A final decision in an administrative proceeding shall be subject to judicial review under KRS Chapter 13B.

Judicial remedy (KRS 393A.690)

Not later than ninety (90) days after receiving notice of the administrator's determination under KRS 393A.650, the putative holder may:

- (a) File an action against the administrator in the appropriate court challenging the administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or
- (b) Pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than six (6) months after payment or delivery, file an action against the administrator in the appropriate court for a refund of all or part of the amount paid or return of all or part of the property delivered.

Judicial action to enforce liability (KRS 393A.700)

If a determination under KRS 393A.650 becomes final and not subject to administrative or judicial review, the administrator may commence an action in the court to enforce the determination and secure payment. The action shall be brought not later than one (1) year after the determination becomes final.

Interest and penalty for failure to act in timely manner (KRS 393A.730)

- (1) A holder that fails to report, pay, or deliver property within the time prescribed shall pay to the administrator interest at the tax interest rate determined under KRS 131.183 from the date the property should have been paid to the administrator until the date actually paid.
- (2) The administrator may require a holder that fails to pay property within the time prescribed to pay, a civil penalty of two hundred dollars (\$200) for each day the duty is not performed, up to a cumulative maximum amount of five thousand dollars (\$5,000).

Other Civil Penalties (KRS 393A.740)

- (1) If a holder evading this obligation or otherwise willfully fails to perform a duty imposed, the administrator may require the holder to pay the administrator, in addition to interest as provided in KRS 393A.730, a civil penalty of one thousand dollars (\$1,000) for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of twenty-five thousand dollars (\$25,000), plus twenty-five percent (25%) of the amount or value of property.





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(2) If a holder makes a fraudulent report under this chapter, the administrator may require the holder to pay to the administrator, in addition to interest under KRS 393A.730, a civil penalty of one thousand dollars (\$1,000) for each day from the date the report was made until corrected, up to a cumulative maximum of twenty five thousand dollars (\$25,000), plus twenty-five percent (25%) of the amount or value of the property.

Waiver of interest and penalty (KRS 393A.750)

The administrator:

- (1) May waive, in whole or in part, interest under KRS 393A.730(1) and penalties under KRS 393A.730(2) or 393A.740; and
- (2) Shall waive a penalty under KRS 393A.730(2) if the administrator determines that the holder acted in good faith and without negligence.

