

## HOUSE BILL No. 2687

By Committee on Financial Institutions

2-14

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1 AN ACT concerning the distribution of unclaimed property act; relating to  
2 hearings; amending K.S.A. 58-3963 and 58-3967 and repealing the  
3 existing sections.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 58-3963 is hereby amended to read as follows: 58-  
7 3963. (a) The administrator may require any person who has not filed a  
8 report to file a verified report stating whether or not the person is holding  
9 any unclaimed property reportable or deliverable under this act.

10 (b) The administrator, at reasonable times and upon reasonable  
11 notice, may examine the records of any person to determine whether the  
12 person has complied with the provisions of this act. The provisions of this  
13 section shall not apply to any supervised commercial bank, trust company,  
14 savings and loan association, savings bank, credit union, or insurance  
15 company which provides a letter from an independent certified public  
16 accountant or a resolution of its board of directors certifying compliance  
17 with this act, unless there is notification of noncompliance by a  
18 supervising agency of such commercial bank, trust company, savings and  
19 loan association, savings bank, credit union, or insurance company.

20 (c) If a person is treated under K.S.A. 58-3945, and amendments  
21 thereto, as the holder of the property only insofar as the interest of the  
22 business association in the property is concerned, the administrator,  
23 pursuant to subsection (b), may examine the records of the person if the  
24 administrator has given the notice required by subsection (b) to both the  
25 person and the business association at least 90 days before the  
26 examination.

27 (d) If an examination of the records of a person results in the  
28 disclosure of property reportable and deliverable under this act, the  
29 administrator may assess the cost of the examination against the holder  
30 based upon the actual hourly salary rate for each examiner involved in the  
31 examination inclusive of travel to and from the place of the examination  
32 along with necessary and actual expenses for travel and subsistence as  
33 allowed under K.S.A. 75-3201 et seq., and amendments thereto, along  
34 with any consulting, data processing or other related expenses necessary to  
35 perform the examination. In no case may the examination charges exceed  
36 the value of the property found to be reportable and deliverable. The cost

1 of examination made pursuant to subsection (c) may be imposed only  
2 against the business association.

3 (e) If a holder fails after the effective date of this act to maintain the  
4 records required by K.S.A. 58-3964, and amendments thereto, and the  
5 records of the holder available for the periods subject to this act are  
6 insufficient to permit the preparation of a report, the administrator may  
7 require the holder to report and pay such amounts as may reasonably be  
8 estimated from any available records.

9 (f) *If there is a dispute in the results of the examination of the records*  
10 *regarding the disclosure of property reportable and deliverable pursuant*  
11 *to this act, the administrator may hold a hearing on the audit results in*  
12 *accordance with the provisions of the Kansas administrative procedure*  
13 *act. The presiding officer for the hearing shall be appointed by the office*  
14 *of administrative hearings pursuant to K.S.A. 77-561 et seq., and*  
15 *amendments thereto. Any decisions resulting from such hearings shall be*  
16 *public record.*

17 Sec. 2. K.S.A. 58-3967 is hereby amended to read as follows: 58-  
18 3967. (a) A person who willfully fails to present a report to the  
19 administrator when due or to perform any other duty required by this act,  
20 other than payment or delivery of unclaimed property as required by this  
21 act, shall pay a civil penalty of \$100 for each day the report is not  
22 presented or the duty is not performed, except the total civil penalty shall  
23 not exceed \$5,000.

24 (b) A person who willfully fails to send written notice as required in  
25 K.S.A. 58-3950, and amendments thereto, shall pay a civil penalty not to  
26 exceed \$5 for each failure to send written notice to an apparent owner.

27 (c) A person who willfully fails to pay or deliver to the administrator  
28 any unclaimed property as required by this act shall pay a civil penalty  
29 equal to 25% of the value of the property that should have been paid or  
30 delivered.

31 (d) A person who fails to pay or deliver unclaimed property to the  
32 administrator within the time period required by this act shall pay to the  
33 administrator interest at the annual rate of 10% above the annual rate of  
34 discount, in effect on the date the property should have been paid or  
35 delivered, for the most recent issue of ~~fifty-two-week~~ *52-week* United  
36 States treasury bills, calculated upon the value of the unclaimed property  
37 from the date that property should have been paid or delivered. If the  
38 property remains unpaid or undelivered for more than one year after  
39 becoming payable or deliverable, the interest rate for each succeeding year  
40 shall be calculated at an annual rate of 10% above the discount rate on  
41 each succeeding anniversary of the date that the unclaimed property was  
42 payable or distributable. For the purposes of assessing and calculating the  
43 penalties and interest on unclaimed property that was discovered during an

1 examination or audit and that was not paid or distributed, as required, the  
2 date upon which the unclaimed property should have been paid or  
3 delivered shall be used as the date upon or from which penalties and  
4 interest are assessed and calculated.

5 ~~(e) A person who willfully refuses after written demand by the~~  
6 ~~administrator to pay or deliver property to the administrator as required~~  
7 ~~under this act is guilty of a class B misdemeanor.~~

8 (f) The administrator shall have discretion to waive or reduce the  
9 payment of penalties and interest in an appropriate circumstance.

10 Sec. 3. K.S.A. 58-3963 and 58-3967 are hereby repealed.

11 Sec. 4. This act shall take effect and be in force from and after its  
12 publication in the statute book.