

Consumer Action  
Consumer Federation of America  
Consumers Union, the policy and advocacy arm of Consumer Reports  
National Associate of Consumer Advocates  
National Consumer Law Center  
Public Citizen  
U.S. PIRG

October 7, 2015

Rex Blackburn, Co-Chair  
Michael Houghton, Co-Chair  
Charles A. Trost, Reporter & Draftsman  
Drafting Committee To Revise the Uniform Unclaimed Property Act  
c/o Katie Robinson  
Uniform Law Commission  
111 N. Wabash Avenue  
Suite 1010  
Chicago, IL 60602

Re: Concerns about proposed revisions to Uniform Unclaimed Property Act

Dear Drafting Committee Members:

We are writing to express our collective concern with the current draft of the revised Uniform Unclaimed Property Act (UUPA). The fundamental changes to state unclaimed property laws represented in the current draft would be harmful to consumers throughout the country, making it more likely that they will lose property that today would be found and reclaimed. In this letter we address several of our biggest concerns, which we urge you to reconsider in your final draft.

When the Uniform Law Commission last completed a revision to the UUPA in 1995, it described the purpose of the Act as follows:

*"[T]o prevent people, ordinary people for the most part, from losing their rights to property that is justifiably theirs. It is theirs because they earned it, inherited it, or were given it. Those entities and institutions that hold property are its custodians, not its owners. They benefit at the expense of others if there is no proper statute governing the custody of unclaimed property."*

We urge you to live up to this fair standard, and strengthen state unclaimed property laws, not weaken them. The proposed changes will significantly gut the ability of states to protect the interests of consumers who have lost touch with, or forgotten about, their property.

The following are examples of some of the detrimental proposed revisions to make to the UUPA:

- Eliminating the longstanding provision of the UUPA explicitly requiring that unclaimed property must be turned over to the states even though any time period established by contract or statute for the owner to claim the property directly from the company holding the property may have expired. Absent this requirement, companies will be able to insert standard provisions into contracts limiting the time by which property must be claimed, ensuring that if the property is forgotten about by its owner, it will never have to be turned over to the state.
- Despite the increasing popularity of gift cards in a variety of industries, and a corresponding increase in the amount of gift cards that go unclaimed every year, including a provision in the UUPA that would completely exempt gift cards from the scope of the Act.
- Notwithstanding the existence of readily accessible databases allowing companies to determine when one of their customers has died (which these companies routinely rely on for a variety of purposes), including provisions in the UUPA expressly absolving them of any obligation to take steps to determine whether property is required to be turned over to the state due to the death of a customer, unless the company has first received a certified copy of a death certificate from a claimant. Yet heirs often do not even know that the property exists.
- Notwithstanding the increasing prevalence of email as the preferred method for communicating with customers and the decreasing use of regular mail – and the push by many companies to eliminate regular mail in their own communications -- establishing a standard that would require financial institutions to receive two consecutive pieces of returned first class mail before they would even *begin* to track whether security accounts or retirement accounts might be unclaimed, regardless of how long the account has been inactive or even if the account holder is deceased. For many customers, no such mailings will be sent, thereby preventing the property from ever being considered unclaimed. Changes like this, if adopted, will relieve corporations of their obligation to identify billions of dollars in forgotten property, and prevent the rightful owners from ever being able to claim it.
- Prohibiting or significantly restricting the ability of states to rely on third-party professionals compensated on a “pay-for-performance” basis to assist them in enforcing the unclaimed laws, even though most states have little or no internal audit staff, are struggling to balance their budgets, and rely on use of these third-party contractors to help them ensure that unclaimed property is reported as required by large multi-state corporations.

Every year billions of dollars in unclaimed property is reunited with its owners, either directly by companies as a result of the outreach process they are required to undertake in complying with the unclaimed property laws, or by the states after the property has been remitted to their care and custody. This important consumer protection system is threatened by the ULC process currently underway. We urge you to change course, and strengthen protections for consumers, not weaken them.

Sincerely,

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Consumers Union, the policy and advocacy arm of Consumer Reports

National Associate of Consumer Advocates

National Consumer Law Center (on behalf of its low income clients)

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