The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty.

AN ACT TO PROVIDE FOR THE DISPOSITION OF ABANDONED PROPERTY.

1 Whereas, The deferred operation of this act would tend to defeat its purpose, which is, in part, to recover abandoned property by the commonwealth, therefore it is hereby declared to be an emergency law necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after chapter 200, as appearing in the Tercentenary Edition, the following new chapter: —

Chapter 200A.

Abandoned Property.

Section 1. The following words when used in this chapter, unless the context otherwise requires, shall have the following meanings: —
9  (a) "Property", all tangible or intangible personal
10 property.
11  (b) "Abandoned property", property shall be
12 presumed abandoned to which there has been no
13 valid claim or evidence of ownership within a period
14 of fourteen years.
15  (c) "Claim", demand for payment or surrender of
16 property from the holder of same, whose duty it is
17 to pay or surrender the property to the legitimate
18 claimant.
19  (d) "Commissioner", the commissioner of cor-
20 porations and taxation.
21  (e) "Department", department of corporations
22 and taxation.
23  (f) "Treasurer", the Treasurer and Receiver
24 General.
25  (g) "Person", any person as defined in section
26 seven, twenty-third, of chapter four of the General
27 Laws as appearing in the Tercentenary Edition,
28 acting in any capacity whatsoever, and all political
29 subdivisions of the commonwealth.
30 Section 2. (a) Property which has been be-
31 queathed to any person, shall be presumed aban-
32 doned, if not claimed by that person or his heirs,
33 legatees or distributees within fourteen years after
34 the death of the testator.
35  (b) When a person, owning property, is not known
36 for fourteen successive years to be living and neither
37 he nor his heirs or distributees can be located or
38 proved for fourteen successive years to have been
39 living, he shall be presumed to have died without
40 heirs or distributees, and his property shall be pre-
41 sumed abandoned.
42 Section 3. Any deposit of property with a per-
son having a residence or place of business in the
commonwealth, or authorized to do business therein,
together with the increments thereon, shall be pre-
sumed abandoned unless the owner has, within
fourteen years next preceding the date as of which
reports are required by section seven of this chap-
ter:—

(1) Communicated in writing with the person
concerning the deposit; or

(2) Been credited with interest on a passbook or
certificate of deposit at his request; or

(3) Had a transfer, disposition of interest or other
transaction noted of record in the books or records
of the person; or

(4) Increased or decreased the amount of the de-
posit.

Section 4. Any deposit of property made to secure
payment for services rendered or to be rendered, or
to guarantee the performance of service or duties, or
to protect against damage or harm, and the incre-
ments thereof, shall be presumed abandoned, unless
claimed by the person entitled thereto within four-
teen years after the occurrence of the event that
would obligate the holder or depository to return it
or its equivalent.

Section 5. All dividends, stocks, bonds, money,
credits and claims for money and credits, and all in-
tangible personal property, and the increments of
any of them, held by, or in the control of, any person
for the benefit of a person residing or having a place
of business in this Commonwealth shall be presumed
abandoned unless claimed by the beneficiary or per-
son entitled thereto within fourteen years from the
time the holder, trustee or other responsible person
77 became obligated to return them or their equivalent
78 to the proper owner or claimant.
79 Section 6. Moneys paid into any court within
80 this commonwealth for distribution, and the incre-
81 ments thereof, shall be presumed abandoned if not
82 claimed within fourteen years after the date of pay-
83 ment into court, or as soon after the fourteen year
84 period as all claims filed in connection with it have
85 been disallowed or settled by the court.
86 Section 7. (a) It shall be the duty of all persons,
87 or the agents thereof, holding property within the
88 purview of this chapter, to report annually under
89 penalties of perjury to the department as of July
90 first, property held by them declared by this chapter
91 to be presumed abandoned.
92 (b) The report shall be made in triplicate and filed
93 in the office of the department on or before Septem-
94 ber first of each year for the preceding July first, and
95 shall give the name of the owner, his last known ad-
96 dress and the amount and kind of property. It shall
97 also give such other information as the department
98 may require for the administration of this chapter.
99 All property contained in said report unless earlier
100 claimed by the owner or his legal representative shall
101 be turned over to the commissioner on or before
102 November first each year.
103 (c) No person shall be required to report any prop-
104 erty on a presumption of abandonment to the com-
105 missioner if the period of time provided by any
106 statute of limitations applicable to the owner's
107 right as against a holder has expired unless the
108 court orders him to do so.
109 Section 8. (a) Within thirty days after making
110 the report of abandoned property pursuant to the
provisions of section seven, the holder shall cause

to be published a notice entitled: "Notice of Certain

Unclaimed Property held by [name of holder]".

(b) Such notice shall be published once in a

newspaper in the county of the situs of the property.

If there are no newspapers published in such county

then such publication shall be in a newspaper pub-
lished in an adjacent county. All newspapers in

which such notice shall be published shall be news-
papers printed in the English language.

(c) Such notice shall be approved as to form by

the commissioner and shall contain the name and

the city or town of last known residence of the

presumed owner; a description of the property;

information concerning the intention of the holder

to turn over such property to the commissioner on

or before November first and that the holder shall

thereupon cease to be liable therefor; and such other

information as the commissioner may require.

(d) Such holder shall file with the commissioner

on or before November first each year a copy of such

publication required in subsection (b) above.

Section 9. (a) Property which has been surren-
dered to the commissioner under provisions of this

chapter shall vest in the commonwealth, subject,

nevertheless, to provisions of section ten of this

chapter.

(b) The commissioner shall proceed with the liqui-
dation of property within one year after it has been

surrendered to him under the provisions of this

chapter.

(c) If the liquidation requires that the property

be sold the commissioner shall sell it to the highest

bidder at public sale in whatever city in the com-
monwealth affords, in the commissioner's judgment, the most favorable market for the particular property involved. The commissioner may decline the highest bid and reoffer the property for sale if he considers the price offered insufficient. The sale shall be advertised in a newspaper once a week for three successive weeks in the county wherein the property was located at the time that it was presumed abandoned, but where the sale will be made in a different county it shall likewise be advertised in such county once a week for three successive weeks immediately preceding the sale. The commissioner may refuse to offer such property at public sale if, in his opinion, it is valueless or of such little value that the cost of sale would exceed the public proceeds therefrom. The commissioner shall send by registered mail to the holder and to the last known address of the owner a copy of the published notice ten days prior to said sale.

(d) Upon receipt of monies by the commissioner he shall forthwith turn over said monies to the treasurer. A holder of property shall be entitled to such reasonable charges for insurance, advertising, and storage as the commissioner may determine, provided that the commissioner realizes sufficient funds from the sale of said property. Such charges shall be certified by the commissioner to the treasurer who shall thereupon pay over to the holder the amount so certified.

(e) Monies received by the treasurer under proceedings of this chapter shall be placed in a special fund to be known as the abandoned property fund. Whenever such fund exceeds one hundred thousand dollars the excess shall be placed in the Old Age
179 Assistance Fund. Payments made by the treasurer under the provisions of section ten (e) shall be made from said abandoned property fund.

180 (f) All sales of property made by the commissioner under provisions of this chapter shall pass absolute title to the purchaser thereof.

185 Section 10. (a) Any person claiming an interest in property surrendered to the commissioner under the provisions of this chapter may establish his claim at any time thereafter. In the event that said property has not been liquidated at the time said claim is filed the commissioner shall, forthwith, delay liquidation proceedings that may be in process until such time as the rights of the claimant have been finally determined.

194 (b) The commissioner shall possess full and complete authority to determine all such claims and shall, forthwith, send a written notice of such determination to the claimant. At any time within twenty days thereafter such claimant may apply for a hearing and a redetermination of his claim.

200 After an appropriate hearing before the commissioner, or person duly designated by him, the commissioner shall make a final determination.

203 (c) The commissioner, or any person duly designated by him, is empowered to take testimony under oath and shall have the power to subpoena and require the attendance of witnesses and the production of books, papers and documents which may be pertinent to such hearing.

209 (d) The commissioner shall render a decision within thirty days after such hearing. A claimant adversely affected by such decision may appeal to the superior court of the county wherein he has resi-
dence and shall be entitled to a trial de novo. Such appeal shall be perfected by the claimant within twenty days after receiving notice from the commissioner. Any party adversely affected by a decree or order of the superior court may appeal to the supreme judicial court within twenty days from the date of the decree.

(e) If the validity of a claim shall be determined in favor of the claimant the commissioner shall so certify to the treasurer who shall forthwith pay over to the claimant only that amount which the treasurer actually received from the commissioner less all expense incurred by the commonwealth, with interest at the rate of three per cent per annum from the time when it was paid to the treasurer to the time when it is paid by him to the claimant. If the property has not been liquidated and still remains in the hands of the commissioner he shall forthwith turn it over to the claimant.

Section 11. (a) A person who surrenders property to the department under the provisions of this chapter shall be relieved of liability to the owner of said property, or any person claiming under him, arising from such surrender.

(b) A payment by the treasurer as provided in section ten (e) of this chapter shall forever bar any claims or demands of any person or persons against said property.

Section 12. (a) If the commissioner believes that a person has failed to report property that should have been reported under provisions of this chapter, the commissioner shall petition the superior court for an order to allow the commissioner or his agents to examine all appropriate business records of such
person. The commissioner shall give registered mail notice of his intention to such person together with a copy of his petition at least ten days prior to a hearing thereon.

(b) If upon an examination of the records the commissioner believes that such person is in violation of section seven of this chapter, he shall petition the superior court for an order to require the holder thereof to turn over said property to him.

c) If the court shall determine that the holder of such property is in violation of section seven of this chapter he shall be liable to a penalty of not less than fifty dollars nor more than five hundred dollars. However, no person shall be penalized for failure to report property as provided herein if the court shall find that such person has acted in good faith.

Section 13. The commissioner is hereby empowered to promulgate such rules and regulations as are consistent herewith which he may deem advisable to the proper enforcement of this chapter. The commissioner is hereby empowered to extend the date for the filing of the report required in section seven (b) for such periods up to six months if, in his opinion, such extension is advisable. Where the commissioner grants such an extension the requirements with respect to the turning over of the property in section seven (b) and the filing of the published notice with the commissioner as required by section eight (d) shall be extended for an additional two months.

Section 14. Nothing in this chapter shall be construed to affect the provisions of section eight B of chapter one hundred and twenty-one; sections two C, two D and two E of chapter one hundred and
twenty-two; sections thirty-nine A, thirty-nine B and thirty-nine C of chapter one hundred and twenty-three; sections ninety-six A and ninety-six B of chapter one hundred and twenty-seven; section five A of chapter one hundred and twenty-eight A; chapter one hundred and thirty-four; chapter one hundred and thirty-five; sections six A, six B, six C and six D of chapter one hundred and forty-seven; and sections one hundred and forty-nine A, one hundred and forty-nine B, one hundred and forty-nine C and one hundred and forty-nine D of chapter one hundred seventy-five; all of the General Laws.

Section 15. All provisions of the General Laws inconsistent herewith are hereby repealed.

Section 16. If any section or clause of this chapter is held invalid or unconstitutional by a court of competent jurisdiction the remainder shall not be affected thereby.