

10 (a) "Corporation" shall include any joint stock
11 company, corporation, association of two or more
12 individuals, committee, public authority, or business
13 trust.

14 (b) "Public issuer" shall include the United
15 States, the several states and territories thereof,
16 political subdivisions and municipal corporations
17 within such states and territories, foreign countries,
18 and political subdivisions and municipal corporations
19 within such foreign countries.

20 (c) "Security" shall include — (1) Any instru-
21 ment issued by a corporation or public issuer to
22 evidence an obligation to make any payment of the
23 principal amount of a debt or of any increment due
24 or to become due thereon, or (2) Any instrument
25 issued by a corporation to evidence a proprietary
26 interest therein.

27 (d) "Broker" shall include any individual or
28 corporation engaging in this commonwealth in the
29 purchase, sale or exchange of securities for or on
30 behalf of any customer.

31 (e) "Dealer" shall include any individual or
32 corporation engaging in this commonwealth as a
33 regular business in purchase, sale or exchange of
34 securities for his or its account, through a broker or
35 otherwise.

36 (f) (1) "Customer" shall include any individual
37 or corporation entering into a contract in this com-
38 monwealth with a broker or dealer by which such
39 broker or dealer agrees to effect the purchase, sale
40 or exchange, or to keep custody of any security for
41 or on behalf of such individual or corporation. The
42 word "customer" shall also include any individual
43 or corporation entering into a contract in this com-

44 monwealth with a broker or dealer whereby such
45 broker or dealer for his own account buys from or
46 sells to such individual or corporation any security.

47 (2) If on the books of account located at an office
48 in this commonwealth of a broker or dealer there is
49 indicated a balance to the credit of an individual
50 or corporation, it shall be presumed unless estab-
51 lished to the contrary that such balance arose from a
52 contract as described in the preceding paragraph.

53 (g) "Claim," demand for payment or surrender
54 of property from the holder of same, whose duty
55 it is to pay or surrender the property to the legitimate
56 claimant.

57 (h) "Commissioner," the commissioner of corpo-
58 rations and taxation.

59 (i) "Department," department of corporations
60 and taxation.

61 (j) "Treasurer," the treasurer and receiver general.

62 (k) "Person," any person as defined in section
63 seven, clause twenty-third, of chapter four of the
64 General Laws as appearing in the Tercentenary
65 Edition, acting in any capacity whatsoever, and all
66 political subdivisions of the commonwealth.

67 *Section 2.* Anything to the contrary appearing
68 in General Laws, chapter two hundred A, as in-
69 serted by chapter eight hundred and one of the acts
70 of nineteen hundred and fifty, notwithstanding,
71 any amount received in this commonwealth after
72 June thirtieth, nineteen hundred and forty-seven,
73 by a broker or dealer or nominee of such broker or
74 dealer as the holder of record of a security remaining
75 unpaid to the person entitled thereto for five years
76 following the receipt thereof and any amount re-
77 ceived in this commonwealth after June thirtieth,

78 nineteen hundred and forty-seven, due from a broker
79 or dealer to a customer which has remained unpaid
80 to the customer for five years after the date of the
81 last entry shall be presumed abandoned; provided,
82 however, that if any amount specified in this section
83 is reflected, recorded or included in an account with
84 respect to which such broker or dealer has on file
85 evidence in writing received within the five years
86 immediately preceding the thirtieth day of June
87 preceding the date such amount would otherwise be
88 required to be turned over to the commissioner under
89 this chapter that the person entitled thereto had
90 knowledge of such account, then such amount shall
91 not be presumed abandoned.

92 *Section 3. (a)* It shall be the duty of every
93 broker or dealer holding property within the pur-
94 view of this chapter to report annually under the
95 penalties of perjury to the department as of July
96 first property held by them declared by this chapter
97 to be presumed abandoned.

98 *(b)* The report shall be made in such manner as
99 the commissioner may prescribe and filed in the
100 office of the commissioner on or before September
101 first of each year for the preceding July first, and
102 shall give the name of the owner if known, his last
103 known address, the amount specified in section
104 two hereof, the date of the last entry, a description
105 of the security, the number of shares represented
106 on the face of the security, the date the dividend
107 or interest was payable and such other information
108 as the commissioner may require. All property
109 contained in said report unless earlier claimed by
110 the owner or his legal representative, together with
111 any additions thereto, shall be turned over to the

112 commissioner on or before November first each year.
113 If any broker or dealer fails to turn over to the
114 commissioner on November first any of such property
115 that is not required to be liquidated, a sum equal
116 to the interest that would be due on such amount
117 at the rate of one half of one per cent per month, or
118 major fraction thereof, shall be added to and become
119 a part of the amount required to be turned over to
120 the commissioner under this chapter. If any broker
121 or dealer fails to turn over to the commissioner any
122 such property contained in said report within the
123 time prescribed, a sum equal to not more than one
124 hundred dollars for every day during which such
125 person is in default shall be added to and become a
126 part of the amount required to be turned over to
127 the commissioner under this section. The com-
128 missioner shall notify such broker or dealer of any
129 such additional sums to be added to the amount
130 required to be turned over to him under this section.
131 The commissioner may, however, in his discretion
132 abate any such additional sum in whole or in part.
133 If not so abated, any such additional sums shall
134 be retained by the commonwealth and not paid to a
135 claimant.

136 *Section 4.* (a) Within thirty days after making
137 the report of abandoned property pursuant to the
138 provisions of section three, the holder shall cause
139 to be published, with respect to items of property
140 amounting to twenty-five dollars or more in value,
141 unless the commissioner waives the requirement to
142 publish where in his opinion the cost of publishing
143 such notice is unreasonable in relation to the amount
144 of abandoned property, a notice entitled: "Notice
145 of Certain Unclaimed Property held by (name of
146 holder)."

147 (b) Such notice shall be published once in a
148 newspaper in the county of the situs of the property.
149 If there are no newspapers published in such county,
150 then such publication shall be in a newspaper pub-
151 lished in an adjacent county. All newspapers in
152 which such notice shall be published shall be news-
153 papers approved by the commissioner and printed
154 in the English language.

155 (c) Such notice shall be approved as to form by
156 the commissioner and shall contain the name and
157 the city or town of last known residence of the
158 presumed owner; a description of the property;
159 information concerning the intention of the holder
160 to turn over such property to the commissioner
161 on or before November first and that the holder
162 shall thereupon cease to be liable therefor; and such
163 other information as the commissioner may require.

164 (c) (1) Such holder shall notify such owner by
165 mail at the last known address of such owner on a
166 form approved by the commissioner of certain un-
167 claimed or abandoned property, amounting to
168 twenty-five dollars or more in value, which pursuant
169 to law is to be considered abandoned.

170 (d) Such holder shall file with the commissioner
171 on or before November first each year a copy of
172 such publication required in paragraph (b) and also
173 a copy of the notice required by subsection (c) (1).

174 *Section 5.* (a) Property which has been sur-
175 rendered to the commissioner under provisions of
176 this chapter shall vest in the commonwealth, subject,
177 nevertheless, to provisions of section six.

178 (b) The commissioner shall proceed with the
179 liquidation of property within one year after it
180 has been surrendered to him under the provisions
181 of this chapter.

182 (c) If the liquidation requires that the property
183 be sold, the commissioner shall sell it through a
184 broker or dealer maintaining a regular business
185 for the sale of securities in this commonwealth.

186 (d) All moneys received by the commissioner
187 from the holder thereof, or from the liquidation of
188 property under the preceding paragraphs hereof,
189 shall be forthwith turned over to the treasurer,
190 but the holder shall be entitled to such reasonable
191 expenses for compliance with this chapter as the
192 commissioner may determine, not in excess of the
193 money, or proceeds of property, received from the
194 holder. The amount of such expenses shall be
195 certified by the commissioner to the treasurer who
196 shall, within three months from such certification,
197 unless an appeal from the commissioner's deter-
198 mination is taken within that time, pay over to
199 the holder the amount so certified. The commis-
200 sioner shall notify the holder of his determination
201 of the amount of such expenses to which the holder
202 shall be entitled within ninety days after receipt
203 of a statement thereof, and from such determination
204 the holder shall have the right of appeal to the dis-
205 trict, municipal or superior court of the county
206 wherein he resides in the same manner as is provided
207 in the case of a claimant under paragraph (d) of
208 section six.

209 (e) Moneys received by the treasurer under pro-
210 ceedings of this chapter shall be placed in a special
211 fund to be known as the brokers' Abandoned Prop-
212 erty Fund. Whenever such fund exceeds twenty
213 thousand dollars the excess shall be placed in the
214 Old Age Assistance Fund. Payments made by the
215 treasurer under the provisions of paragraph (e) of

216 section six shall be made from said brokers'
217 Abandoned Property Fund.

218 (f) All sales of property made by the commis-
219 sioner under provisions of this chapter shall pass
220 absolute title to the purchaser thereof.

221 *Section 6. (a)* Any person claiming an interest
222 in property surrendered to the commissioner under
223 the provisions of this chapter may establish his
224 claim at any time thereafter. In the event that said
225 property has not been liquidated at the time said
226 claim is filed the commissioner shall, forthwith,
227 delay liquidation proceedings that may be in process
228 until such time as the rights of the claimant have
229 been finally determined. Any person who surrenders
230 property to the commissioner under the provisions
231 of this chapter under a mistake of fact or law and
232 who thereafter has repaid the same to the person
233 entitled thereto may establish a claim thereto within
234 six months from the time the property was repaid
235 to the person entitled thereto.

236 (b) The commissioner shall possess full and com-
237 plete authority to determine all such claims and
238 shall, forthwith, send a written notice of such deter-
239 mination to the claimant. At any time within
240 twenty days thereafter such claimant may apply
241 for a hearing and a redetermination of his claim.
242 After an appropriate hearing before the commis-
243 sioner, or person duly designated by him, the com-
244 missioner shall make a final determination.

245 (c) The commissioner, or any person duly desig-
246 nated by him, is empowered to take testimony
247 under oath and shall have the power to subpoena
248 and require the attendance of witnesses and the
249 production of books, papers and documents which
250 may be pertinent to such hearing.

251 (d) The commissioner shall render a decision
252 within thirty days after such hearing. A claimant
253 adversely affected by such decision or a holder ad-
254 versely affected by a determination of the com-
255 missioner, may appeal to the district, municipal
256 or superior court of the county where he resides or
257 does business, and an out-of-state claimant so
258 affected may appeal to a like court in Suffolk county;
259 and each shall be entitled to a trial de novo. Any
260 such appeal shall be perfected within twenty days
261 after receiving notice from the commissioner. Any
262 party adversely affected by a decree or order of the
263 district, municipal or superior court may appeal
264 to the supreme judicial court within twenty days
265 from the date of the decree.

266 (e) If the validity of a claim shall be determined
267 in favor of the claimant, the commissioner shall so
268 certify to the treasurer who shall forthwith pay
269 over to the claimant only that amount which the
270 treasurer actually received from the commissioner
271 less all expense incurred by the commonwealth,
272 with interest at the rate of one per cent per annum
273 from the time when it is paid to the treasurer to
274 the time when it is paid by him to the claimant.
275 If the property has not been liquidated and still
276 remains in the hands of the commissioner, he shall
277 forthwith turn it over to the claimant upon payment
278 to the commissioner of an amount equal to all ex-
279 pense incurred by the commonwealth.

280 *Section 7.* (a) Any person who in good faith
281 surrenders property deemed by him to be required
282 by this chapter to be surrendered to the commis-
283 sioner shall be relieved of liability to the owner of
284 the property so surrendered, and to any person
285 claiming under him, arising from such surrender.

286 (b) A payment by the treasurer as provided in
287 paragraph (e) of section six shall forever bar any
288 claims or demands of any person or persons against
289 said property.

290 Neither the commissioner or his assistants nor
291 the treasurer or his assistants shall be personally
292 liable for an action taken in good faith pursuant to
293 this chapter.

294 *Section 8.* (a) If the commissioner believes that
295 a person has failed to report property that should
296 have been reported under the provisions of this
297 chapter, the commissioner may direct by special
298 authorization an assistant to examine and inspect
299 the books, papers, accounts and records of such
300 person, and such person shall make available to
301 such assistant for such examination and inspection
302 the said books, papers, accounts and records. For
303 the purpose of determining the property that should
304 be reported and turned over to the commissioner
305 under the provisions of this chapter, the commis-
306 sioner or his assistants may summon and examine
307 under oath any person supposed to know or have
308 means of knowing any material fact touching on
309 the subject of said report or said property, together
310 with any books, papers, accounts and records be-
311 longing to such person. The said examination
312 may be reduced to writing, and false swearing therein
313 shall be deemed perjury and be punishable as such.
314 A justice of the superior court, upon application
315 of the commissioner, may compel the attendance
316 of such witnesses, together with his books, papers,
317 accounts and records, and the giving of such testi-
318 mony before the commissioner or his assistants in
319 the same manner and to the same extent as before
320 said court.

321 (b) If the commissioner believes that a person
322 has violated the provisions of section three, he shall
323 petition the superior court, sending to such person
324 by registered mail at least ten days prior to a hearing
325 thereon a copy of the petition and the said court,
326 upon a finding in favor of the commissioner thereon,
327 shall, subject to appeal as in other cases, order such
328 person to turn over to the commissioner all property
329 which should have been turned over to him under
330 the provisions of this chapter together with any
331 additional sums incurred under this chapter.

332 (c) Whoever refuses to permit the commissioner
333 or his assistant to inspect and examine his books,
334 papers, accounts and records as herein provided or
335 who wilfully fails to file the report required under
336 this chapter or files any false return, affidavit or
337 statement with the commissioner thereunder or
338 who wilfully violates any provision of this chapter
339 for which no other penalty is provided shall be
340 punished by a fine of not more than one thousand
341 dollars or by imprisonment for not more than one
342 year, or both.

343 *Section 9.* The commissioner is hereby em-
344 powered to promulgate such rules and regulations
345 as are consistent herewith which he may deem
346 advisable to the proper enforcement of this chapter.
347 The commissioner is hereby empowered to extend
348 the date for the filing of the report required in para-
349 graph (b) of section three for such periods up to
350 six months if, in his opinion, such extension is ad-
351 visable. Where the commissioner grants such an
352 extension the requirements with respect to the
353 turning over of the property in paragraph (b) of
354 section three and the filing of the published notice
355 with the commissioner as required by paragraph (d)

356 of section four shall be extended for the period of
357 two months from the termination of the time as
358 extended for the filing of the report. If any broker
359 or dealer fails to make any report required by this
360 chapter within the time prescribed, a sum of not
361 more than one hundred dollars for every day during
362 which such broker or dealer is in default shall be
363 added to and become part of the amount required
364 to be turned over to the commissioner under section
365 three, paragraph (b), but the commissioner may in
366 his discretion abate such additional sum in whole
367 or in part. The commissioner shall notify such
368 person of the amount required to be turned over
369 to him on account of being in default as aforesaid.

370 *Section 10.* If during any session of the legis-
371 lature there are insufficient funds in the brokers'
372 Abandoned Property Fund to pay all claims which
373 have been allowed by the commissioner or ordered
374 to be paid by the court, the treasurer shall so certify
375 to the legislature and shall request the legislature
376 to appropriate from the General Fund to the brokers'
377 Abandoned Property Fund an amount sufficient
378 to pay such claims.

379 *Section 11.* If any part, provision or section of
380 this chapter, or the application of any such part,
381 provision or section in any particular respect, shall
382 be adjudged by any court of competent jurisdiction
383 to be unconstitutional or ineffective in whole or in
384 part, such judgment shall be confined in its operation
385 to the particular provision or section or application
386 directly involved in the controversy in which such
387 judgment shall have been rendered and shall not
388 affect, impair or invalidate the remainder of such
389 provisions or sections of their application in other

390 respects; and to the extent that such provisions or
391 sections are not unconstitutional or ineffective,
392 they shall remain in full force and effect. Where,
393 in order to meet the requirements of constitutionality,
394 it is required that the presumed owners of any prop-
395 erty within the purview of this chapter shall be
396 persons residing in or having a place of business in
397 this commonwealth, then this chapter shall apply
398 only to the property held for the benefit of such
399 persons; provided, however, that where the last
400 known residence or place of business of such a person
401 according to the records of the holder of the property
402 is within this commonwealth or is indefinite, un-
403 certain or unknown, then in any of such events it
404 shall be presumed for the purposes of this chapter
405 that such a person's residence or place of business
406 is within this commonwealth.

