

# FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text.  
Language which has been stricken indicates proposed text for deletion.

## TITLE 1. ADMINISTRATION

### DEPARTMENT OF THE TREASURY

Title of Regulation: **1 VAC 75-40. Unclaimed Property Administrative Review Process (adding 1 VAC 75-40-10 through 1 VAC 75-40-60).**

Statutory Authority: § 55-210.27 of the Code of Virginia.

#### Summary:

*This regulation addresses the process whereby any person (also, the applicant) (i) asserting ownership of property remitted to the Commonwealth under the Uniform Disposition of Unclaimed Property Act, (ii) required to pay or deliver abandoned property pursuant to the Uniform Disposition of Unclaimed Property Act, or (iii) otherwise aggrieved by a decision of the administrator, may file an application for administrative review and correction of the administrator's determination. The review process will provide the applicant with the opportunity to have its issues considered at a different management level in the Department of the Treasury. The applicant's participation in the review process is voluntary and completion of this administrative review process is not a condition precedent to litigation. In addition, the form of application is provided.*

#### **1 VAC 75-40-10. Definitions.**

*The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.*

*"Abandoned property" means funds or other property, tangible or intangible, presumed abandoned under the act.*

*"Act" refers to the Uniform Disposition of Unclaimed Property Act, Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 of the Code of Virginia.*

*"Administrator" means the Director of the Unclaimed Property Division at the Department of the Treasury or such other person as shall be designated by the State Treasurer.*

*"Applicant" means any person (i) asserting ownership of property remitted to the Commonwealth under the Uniform Disposition of Unclaimed Property Act, (ii) required to pay or deliver abandoned property pursuant to the Uniform Disposition of Unclaimed Property Act, or (iii) otherwise aggrieved by a decision of the administrator.*

*"Division of Unclaimed Property" means the Division in the Department of the Treasury of the Commonwealth of Virginia responsible for administration of the Uniform Disposition of Unclaimed Property Act.*

*"Holder" means a person, wherever organized or domiciled, who is (i) in possession of property belonging to another, (ii) a trustee in case of a trust, or (iii) indebted to another on an obligation.*

**1 VAC 75-40-20. State Treasurer to give written notice to any person asserting ownership of property when payment denied.**

*The State Treasurer will issue a denial of payment letter to any person asserting ownership of property remitted to the Commonwealth under the act where it is determined that the evidence submitted does not provide sufficient proof of ownership.*

**1 VAC 75-40-30. State Treasurer to give written notice for failure to pay or deliver abandoned property.**

*The State Treasurer shall issue a written notice to any person who he ascertains has failed to pay or deliver abandoned property. The notice will demand the remittance of the property and payment of any penalties and interest. The notice will be accompanied by a detailed explanation of the person's right to administrative or judicial review. The notice will require the holder to remit the demanded property, plus penalties and interest, if any, to the State Treasurer within 90 days from the date the notice is received by the holder unless the holder requests (i) an administrative review in accordance with this regulation, or (ii) a judicial review in accordance with § 55-210.22 of the Code of Virginia.*

**1 VAC 75-40-40. Request for administrative review.**

*Any person aggrieved by a decision of the administrator may file an application for administrative review and correction of the administrator's determination.*

*1. Any person asserting ownership of property remitted to the Commonwealth receiving a denial of payment letter from the State Treasurer may file an application for administrative review within 90 days from the date the notice is received by such person.*

*2. Any person receiving a written notice from the State Treasurer demanding the remittance of property and the payment of penalties and interest, if any, may file an application for administrative review within 90 days after receipt by the holder of the written notice.*

*3. Any person otherwise aggrieved by a decision of the administrator may file an application for administrative review within 90 days from the date the written notice is received by such person.*

**1 VAC 75-40-50. Application for administrative review.**

*All requests for an administrative review are required to be submitted on the form entitled "Application for an Administrative Review" within the prescribed time period. The Application for an Administrative Review must be accompanied by the documentation to support the review or*

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an explanation as to why such supporting documentation is not available. No application shall be denied solely on the basis that no supporting documentation is available or that additional documentation may be desirable. Failure to submit the Application for an Administrative Review within the prescribed time period will bar administrative but not judicial review of the matter.

## **1 VAC 75-40-60. Administrative review process steps.**

A. The Application for an Administrative Review form must be submitted to the administrator as agent for the State Treasurer within the prescribed time period.

B. The administrator will contact the applicant to schedule the administrative review meeting within 30 calendar days of the receipt of the Application for an Administrative Review.

C. The administrative review will be held at the office of the State Treasurer at an agreed upon time during the next 30 calendar days or at such later time as is mutually agreed upon by the applicant and the administrator. Prior to the review meeting, the applicant shall present any additional evidence and pertinent information supporting the basis for the Application for an Administrative Review.

D. The review panel for the Department of the Treasury will consist of the State Treasurer or designee, the Director of Unclaimed Property or designee, and a representative from the Office of the Attorney General. A representative from the Division of Unclaimed Property Audit or Claims area may also participate in the administrative review meeting. The applicant may be assisted at the review meeting by his agent or by legal counsel, or both.

E. During the administrative review meeting, the applicant will have an opportunity to explain his reason for requesting a correction. Members of the State Treasurer's review panel may ask questions to clarify their understanding of the issues. There will be no examination or cross-examination of any of those present at the meeting. The Division of Unclaimed Property (Division) shall allow the applicant to make an audio recording of the administrative review meeting at the applicant's expense and using the applicant's equipment. The division may make an audio recording of the administrative review meeting at the division's expense and using the division's equipment. The division shall, upon request of the applicant, provide the applicant a transcript of a meeting recorded by the division. The division may charge the applicant for the cost of the requested transcription and reproduction of the transcript. Receipts from the charges for the transcripts shall be credited to the division for reimbursement of transcription expenses.

F. The State Treasurer's review panel has the ability to approve claims, correct errors and amend or withdraw any denial of payment letter or other written notice from the administrator or State Treasurer.

G. Based on the evidence and additional information presented during the review meeting, the State Treasurer will issue a written determination to the applicant within 90 days of the receipt of the Application for an Administrative Review. The State Treasurer will notify the applicant and the administrator if a longer period is required. The State

Treasurer's written determination will also advise the applicant of his right to seek judicial review pursuant to § 55-210.22 of the Code of Virginia.

I certify this regulation if full, true and correctly dated.

Name: \_\_\_\_\_ Date: February 3, 2004

Robert S. Young, Regulatory Coordinator

## FORMS

<p><b>NOTICE:</b> The form used in administering 1 VAC 75-40, Unclaimed Property Administrative Review Process, is listed and published below.</p>
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*Application for an Administrative Review.*

**APPLICATION FOR AN ADMINISTRATIVE REVIEW**

Applicant Name: \_\_\_\_\_

Primary Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Fax Number: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

Reason For Request: \_\_\_\_\_ Claim Denial, \_\_\_\_\_ Demand Notice, \_\_\_\_\_ Other

Participants on behalf of the Applicant:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Review Amount (if known): \$ \_\_\_\_\_

Years Covered: \_\_\_\_\_

Review Issue: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Continue on separate pages if necessary.)

Signature on behalf of

Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title, if applicable: \_\_\_\_\_

**Note: Supporting documents, if available, must be submitted with this Application.**

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