AN ACT concerning the distribution of unclaimed property act; relating to
hearings; amending K.S.A. 58-3963 and 58-3967 and repealing the
existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 58-3963 is hereby amended to read as follows: 58-
3963. (a) The administrator may require any person who has not filed a
report to file a verified report stating whether or not the person is holding
any unclaimed property reportable or deliverable under this act.
(b) The administrator, at reasonable times and upon reasonable
notice, may examine the records of any person to determine whether the
person has complied with the provisions of this act. The provisions of this
section shall not apply to any supervised commercial bank, trust company,
savings and loan association, savings bank, credit union, or insurance
company which provides a letter from an independent certified public
accountant or a resolution of its board of directors certifying compliance
with this act, unless there is notification of noncompliance by a
supervising agency of such commercial bank, trust company, savings and
loan association, savings bank, credit union; or insurance company.
(c) If a person is treated under K.S.A. 58-3945 58-3935, and
amendments thereto, as the holder of the property only insofar as the
interest of the business association in the property is concerned, the
administrator, pursuant to subsection (b), may examine the records of the
person if the administrator has given the notice required by subsection (b)
to both the person and the business association at least 90 days before the
examination.
(d) If an examination of the records of a person results in the
disclosure of property reportable and deliverable under this act, the
administrator may assess the cost of the examination against the holder
based upon the actual hourly salary rate for each examiner involved in the
examination inclusive of travel to and from the place of the examination
along with necessary and actual expenses for travel and subsistence as
allowed under K.S.A. 75-3201 et seq., and amendments thereto, along
with any consulting, data processing or other related expenses necessary to
perform the examination. In no case may the examination charges exceed
the value of the property found to be reportable and deliverable. The cost
of examination made pursuant to subsection (c) may be imposed only
against the business association.
(e) If a holder fails after the effective date of this act to maintain the
records required by K.S.A. 58-3964, and amendments thereto, and the
records of the holder available for the periods subject to this act are
insufficient to permit the preparation of a report, the administrator may
require the holder to report and pay such amounts as may reasonably be
estimated from any available records.
(f) If there is a dispute in the results of the examination of the records
regarding the disclosure of property reportable and deliverable pursuant
to this act, the administrator may hold a hearing on the audit results in
accordance with the provisions of the Kansas administrative procedure
act. The presiding officer for the hearing shall be appointed by the office
of administrative hearings pursuant to K.S.A. 77-561 et seq., and
amendments thereto. Any decisions resulting from such hearings shall be
public record.
Sec. 2. K.S.A. 58-3967 is hereby amended to read as follows: 58-
3967. (a) A person who willfully fails to present a report to the
administrator when due or to perform any other duty required by this act,
other than payment or delivery of unclaimed property as required by this
act, shall pay a civil penalty of $100 for each day the report is not
presented or the duty is not performed, except the total civil penalty shall
not exceed $5,000.
(b) A person who willfully fails to send written notice as required in
K.S.A. 58-3950, and amendments thereto, shall pay a civil penalty not to
exceed $5 for each failure to send written notice to an apparent owner.
(c) A person who willfully fails to pay or deliver to the administrator
any unclaimed property as required by this act shall pay a civil penalty
equal to 25% of the value of the property that should have been paid or
delivered.
(d) A person who fails to pay or deliver unclaimed property to the
administrator within the time period required by this act shall pay to the
administrator interest at the annual rate of 10% above the annual rate of
discount, in effect on the date the property should have been paid or
delivered, for the most recent issue of fifty-two-week United
States treasury bills, calculated upon the value of the unclaimed property
from the date that property should have been paid or delivered. If the
property remains unpaid or undelivered for more than one year after
becoming payable or deliverable, the interest rate for each succeeding year
shall be calculated at an annual rate of 10% above the discount rate on
each succeeding anniversary of the date that the unclaimed property was
payable or distributable. For the purposes of assessing and calculating the
penalties and interest on unclaimed property that was discovered during an
examination or audit and that was not paid or distributed, as required, the
date upon which the unclaimed property should have been paid or
delivered shall be used as the date upon or from which penalties and
interest are assessed and calculated.

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

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

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

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