ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

2026 UNCLAIMED Property Holder Seminar

SEPTEMBER 2026

Arkansas' New Administrative Rules

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What are Administrative Rules?

Admin. Rules have the force and effect of law—but only within the authority granted to the agency by statute.

Ark. Code of Admin. Rules (the "CAR") – Newly created structure and format for all Ark. Admin. Rules.

The UCP Rules do not replace the Arkansas UCP Statutes. Rather, they supplement by providing administrative framework and detail.

Constitution

↑

Statutes

↑

Administrative Rules

↑

Agency Guidance

Why Adopt Admin. Rules?

1. Clarity: Holders should be able to look in one place and understand how the Auditor administers the UCP Act.

2. Consistency: The same rules should apply consistently to similarly situated holders.

3. Transparency: The expectations should be publicly available rather than existing primarily through informal communications between the Auditor and individual holders.

Effective Date

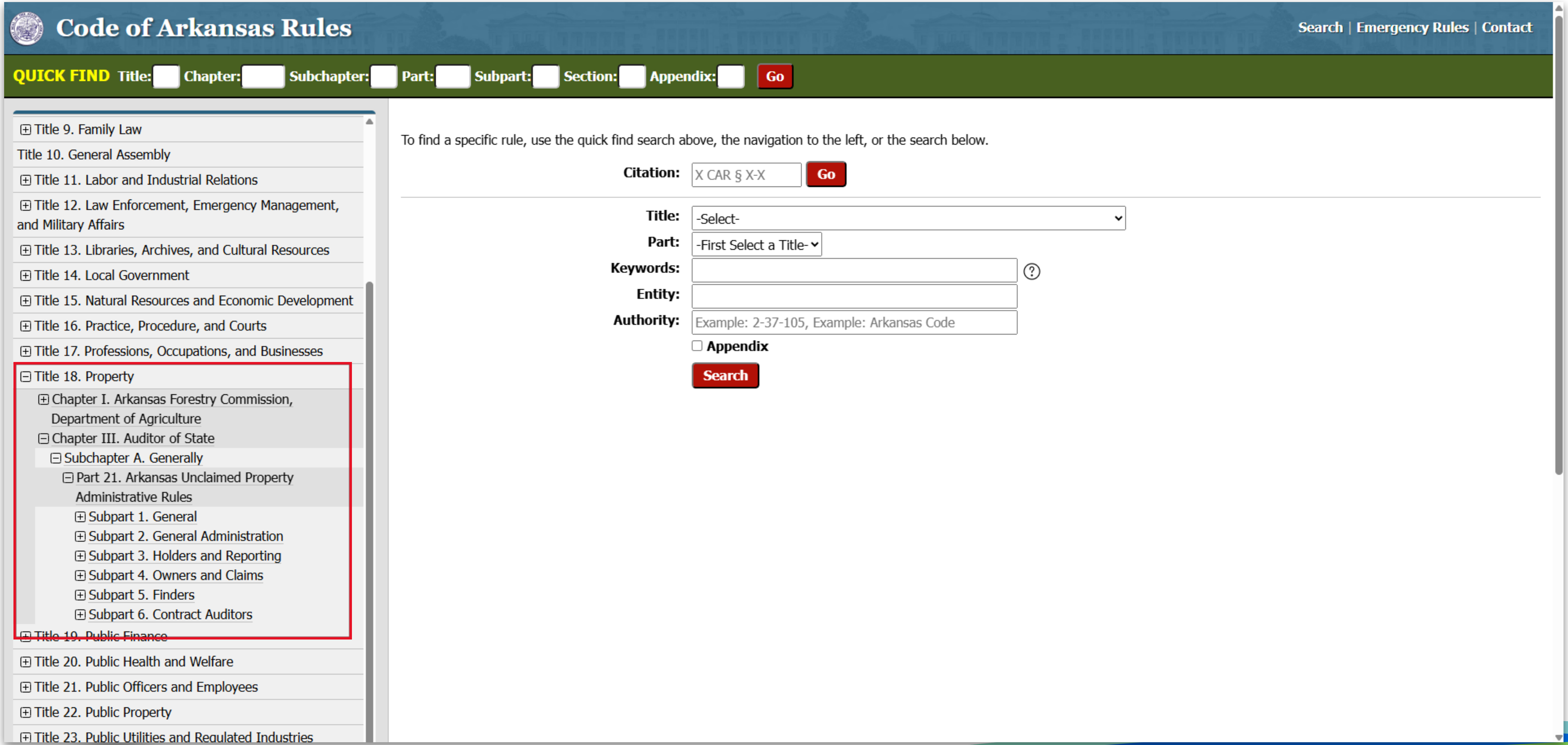
The Arkansas UCP Rules went into effect on November 3, 2025 (Shortly after the 2025 general UCP reporting deadline).

Timing was intended was to provide Holders sufficient time to learn the new rules and implement any necessary process changes before the 2026 reporting period.

Where Can I find the Arkansas UCP Administrative Rules?

CAR Website: https://codeofarrules.arkansas.gov/

Ark. Auditor of State Website: https://auditor.ar.gov/



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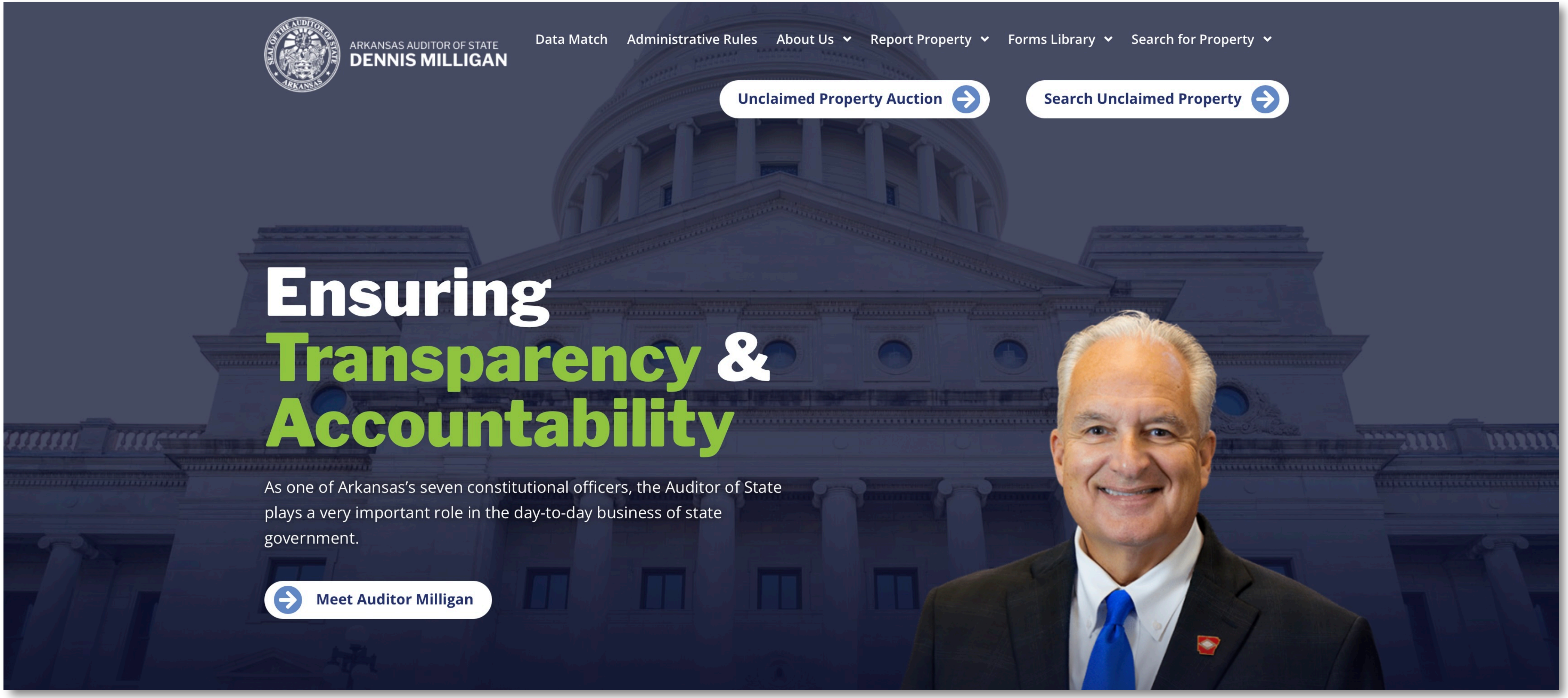
- ⊞ Title 17. Professions, Occupations, and Businesses
- ⊟ Title 18. Property
  - ⊞ Chapter I. Arkansas Forestry Commission, Department of Agriculture
  - ⊟ Chapter III. Auditor of State
    - ⊟ Subchapter A. Generally
      - ⊟ Part 21. Arkansas Unclaimed Property Administrative Rules
        - ⊞ Subpart 1. General
        - ⊞ Subpart 2. General Administration
        - ⊞ Subpart 3. Holders and Reporting
        - ⊞ Subpart 4. Owners and Claims
        - ⊞ Subpart 5. Finders
        - ⊞ Subpart 6. Contract Auditors
- ⊞ Title 19. Public Finance
- ⊞ Title 20. Public Health and Welfare



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As one of Arkansas's seven constitutional officers, the Auditor of State plays a very important role in the day-to-day business of state government.
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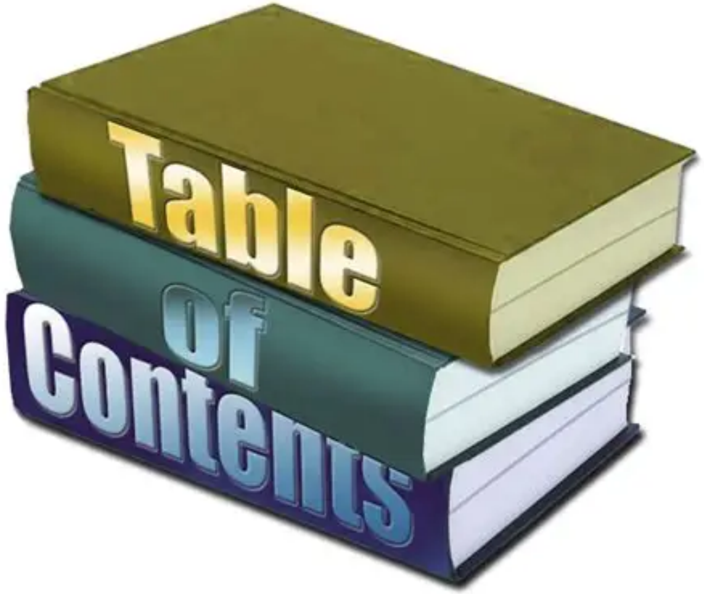
Navigating the Ark. UCP Admin. Rules



The Rules are Divided into Six (6) Subparts:

1. General
2. Administration
3. Holders and Reporting
4. Owners and Claims
5. Finders
6. Contract Auditors

Navigating the Ark. UCP Admin. Rules

The “Holders and Reporting” subpart contains 12 Chapters:

- 18 CAR § 21-301. Time periods
- 18 CAR § 21-302. Reporting required
- 18 CAR § 21-303. Statutory indemnification
- 18 CAR § 21-304. Prior to reporting
- 18 CAR § 21-305. Reporting form and format
- 18 CAR § 21-306. Reporting and Delivery of Property
- 18 CAR § 21-307. Properties with special reporting requirements
- 18 CAR § 21-308. Interest or service charge accrual
- 18 CAR § 21-309. Voluntary disclosure program
- 18 CAR § 21-310. Holder advocates
- 18 CAR § 21-311. Confidentiality agreements
- 18 CAR § 21-312. Estimation

What is Actually “New?”

Three categories of provisions:

1. **Signposts:** Rules that direct holders back to requirements already found in the statute.

2. **Clarifications:** Rules that provide additional detail about how statutory requirements are administered.

3. **New administrative procedures:** Rules establishing processes such as voluntary disclosure, holder advocates, confidentiality agreements, and estimation.

§ 21-301 — Time Periods

"Signpost Rule" to direct readers interested in dormancy periods back to the controlling statute

Do not use the rule as a substitute for the Statute.

Holder takeaway:
Property Type → Applicable Statute → Dormancy Period

§ 21-302 — Reporting Required

This is another "signpost" rule meant to point the reader back to the controlling statute.

The basic rule

- If you are holding property that falls within the Arkansas Unclaimed Property Act, you have a reporting obligation.

Holder takeaway:

- Reporting is not optional simply because:
- The amount is small;
- The account is old;
- The holder believes the owner cannot be found; or
- A third party prepares the report.

<u>If the property is reportable, the holder has the reporting obligation.</u>

§ 21-303 — Statutory Indemnification

Protection for holders.

Once a holder properly remits abandoned property to the State, the statute provides protection against liability for claims to that property.

***Important procedural requirement.**

If a holder is sued because it remitted property to the State, the holder must notify the Auditor. Notice by registered mail (including the summons and pertinent information) **at least 20 days before the return date for filing an answer**.

Holder takeaway:

If you are sued over property you remitted to Arkansas, **do not handle that as an ordinary private dispute without notifying the Auditor.**

§ 21-304 — Prior to Reporting

- **<u>Due Diligence</u>**
  - Important provision for holders!
  - The rule requires each holder to exercise due diligence **more than 90 days before reporting** property presumed abandoned under Arkansas law.
- Rule goes beyond "send a letter." It describes the process holders should use.

Due Diligence: Start With Your Own Records

Before reporting property, holders should determine whether the owner has:

- Another active account;
- Another account with a related entity;
- Other property;
- Recent positive contact; or
- Other information demonstrating that the owner is still engaged with the holder.

Important concept

- If an owner has another active account, the property may not actually be abandoned.
- For example: Customer has an old savings account with no activity; Customer also has an active checking account with the same institution; The holder should not automatically treat the savings account as abandoned without considering the active relationship.

Due Diligence — Contact Methods

The rule IDs several methods of contact, including:

Mail
First-class mail, postage prepaid, with return address requested.

Ordinary communications
Written correspondence using the format and medium most commonly used between the holder and owner.

Telephone
If the holder has a complete and accurate telephone number, telephone contact may be used.

Electronic communication
The rules' definition of due diligence recognizes that electronic means can be used.

Document Your Due Diligence

If a holder makes telephone or verbal contact attempts, the holder must document; (1) Date, (2) Time, (3) Nature of the attempted contact, and (3) Whether contact was made.

The rule requires the holder maintain documentary evidence of its due diligence efforts for **10 years after remitting the property**.

Holder takeaway:

- The question during an examination may not simply be: "Did you perform due diligence?"
- It may be: "**Show us the records demonstrating what you did.**"

Due Diligence - What If You Locate the Owner?

If due diligence locates the owner, the holder should notify the owner:

- What type of property is being held;
- How the owner can collect the property from the holder; and
- That failure to claim the property will result in the holder reporting it to the Auditor as unclaimed property.

The goal

- The UCP system is not designed to move property to the State unnecessarily. It should be a last resort after the holder has made a good faith effort to return the property to its rightful owner.

The preferred outcome is:

- **Holder → Owner**

rather than:

- **Holder → State → Claims Process → Owner**

Due Diligence - What If You Cannot Locate the Owner?

- Don't give up yet!

- The holder should verify things such as:
  - Whether the owner is a current employee;
  - Telephone directories or reasonably available databases;
  - Whether the owner is a readily identifiable organization or governmental entity;
  - Whether there has been positive contact involving other accounts;
  - Whether another department within the organization has information about the owner; and
  - Whether there are records showing that the owner or a successor has expressed an interest in the property.

The theme: Due diligence is a **process that requires a good faith effort on behalf of the Holder**, not merely a token gesture or going through the motions.

§ 21-305 — Reporting Form and Format

Electronic reporting is the default.

- Holders must submit reports electronically using the most current **NAUPA standard electronic file format**.
- Reports must be submitted through the Arkansas unclaimed property portal.

What if electronic reporting is exceptionally difficult or impossible?

A holder may request permission to file a hard-copy report.

- But: (1) The request must be in writing; (2) The holder must explain why electronic filing is exceptionally difficult or impossible; (3) Permission must be granted in writing; and (4) Permission applies only to that reporting period.

What Info Belongs in a Report?

ANY INFO THAT YOU POSSESS (OR CAN REASONABLY OBTAIN) WHICH MIGHT HELP IDENTIFY THE OWNER(S)!

Depending upon what the holder maintains, this includes information such as: (1) Owner name; (2) Previous names or aliases; (3) Date of birth; (4) Date of death; (5) EIN/TIN; (6) SSN; and (7) Last known address.

Why is this important?

- Because **good owner information is what allows the State to return property to the owner.**
- <u>Reporting is not simply about transferring money</u>. It is about transferring enough information to reconnect the property with its owner.

§ 21-306 — Reporting and Delivery

The holder remains responsible.

- This is an important provision for companies that outsource their UCP reporting.
- The holder remains responsible for: Content; Accuracy; Timeliness; and Record retention.

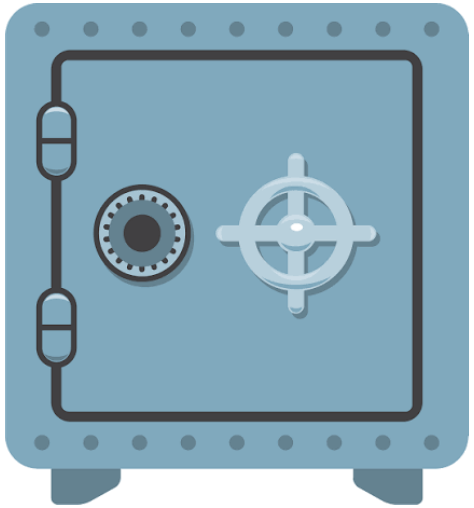
If you hire a consultant; law firm; service provider; parent company; subsidiary; or another third party to prepare your report—**it is still the holder's report.**

Reporting – Record Retention

Holders must maintain records including: Owner name; Last-known address; Signature cards; and Other evidence that could assist in identifying the owner.

The rule establishes a **10-year retention period after the property has been remitted to the Auditor.**

Mergers and acquisitions: If a holder acquires another holder through: Merger; Acquisition; Reorganization; Consolidation; or Transfer, the successor holder assumes the duty to maintain and continue the prior holder's unclaimed-property records.



Holder takeaway: Put a plan in place to make sure you don't lose the UCP records.

Report – Designate a Holder Contact

- Each holder must designate an employee or internal representative responsible for reporting.

- Even when a third party prepares or submits a report, the holder's internal representative must remain involved.
- **Why?** Because the Auditor needs to know who at the holder is ultimately responsible for the relationship?

Report Original Nature of Property

If known, the holder must report the **original nature of the property**.

Example:

- Suppose an unpaid wage is converted into a cashier's check. The reportable property is still **the wage;** not a cashier's check.

Exception to Original Nature Rule

If property has been converted from its original nature (1) at the owner's direction; or (2) because the law required the conversion, then the "original-property rule" may no longer apply.

Example: Securities are liquidated because:

- The owner directed the liquidation;
- A mandatory redemption occurred; or
- A corporate action required conversion to cash.

In that situation, the resulting cash distribution is no longer treated as a security merely because the transaction originated with securities.

§ 21-307 — Special Reporting Requirements

Life insurance

Safe Deposit Boxes

Securities

§ 21-308 — Interest and Service Charges

Once property is deemed abandoned under Arkansas law, **Accrual of service fees or interest on account balances terminates.**

Holder takeaway

- The abandonment date is not merely an accounting date.
- It affects what the holder may continue to charge or credit against the property.

§ 21-309 — Voluntary Disclosure Program

What if you discover you have been underreporting?

- The rules establish a voluntary disclosure program.
- The program is intended to give a holder an opportunity to come into compliance with its reporting and delivery obligations **without penalty during the period of participation.**

Basic eligibility: Generally, the holder must:

- Identify previously reportable property that was not reported or was underreported;
- Not be subject to a current UCP examination;
- Generally not have participated in the program within the previous 10 years; and
- Enter into a voluntary compliance agreement with the Auditor.

§ 21-310 — Holder Advocates

A holder subject to examination may retain a third-party advocate.

- That can include: Counsel; a consultant; an unclaimed-property specialist; or another professional assisting with the examination

But there is an important limitation:

- Hiring an advocate does **not** provide a basis for delaying the examination.
- The Auditor will not delay an examination simply to allow an advocate to conduct a separate audit of the holder's records first.

- **In other words:**
  - **You can have help.**
  - **You cannot use the helper to stop the clock.**

§ 21-311 — Confidentiality Agreements

A holder undergoing examination may require the Auditor or its agent to execute a confidentiality agreement as a condition of disclosure.

The agreement must be reasonably satisfactory to the Auditor and must address the statutory confidentiality requirements.

- **But there is a time limit.**
  - If the parties cannot reach agreement within **60 calendar days** after an agreement is first proposed, the examination proceeds under the statutory confidentiality protections.
- **Practical takeaway:**
  - Confidentiality concerns are legitimate;
  - but, they cannot become an indefinite impediment to an examination.

§ 21-312 — Estimation

- If a Holder fails to retain records required by law or regulation, the Auditor may determine the amount of property due using a reasonable method of estimation.
- That can include extrapolation and statistical sampling.
- **Why?** Because a Holder should not benefit from failing to maintain the records that the law requires it to maintain.

Big Picture for Holders

1. **Start with the statute:** The UCP Act establishes the substantive legal obligations.

2. **Use the rules to understand nuts and bolts:** The rules tell you how the Auditor will administer many of your obligations as Holders.

3. **Document your work:** Due diligence, Owner contact, Reporting, and Record retention.

4. **The holder remains responsible:** Outsourcing reporting does not outsource legal responsibility.

5. **<u>Good owner information matters</u>:**

The ultimate purpose of the UCP program is to reunite owners with their property. The information that you provide in your report is what makes that possible!

How Can we improve this Presentation?

- The rules are new, so is this presentation.
- If you have any thoughts on how we could improve this presentation, please let me know.
- tj.fowler@auditor.ar.gov
- QUESTIONS?

Questions?