

ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

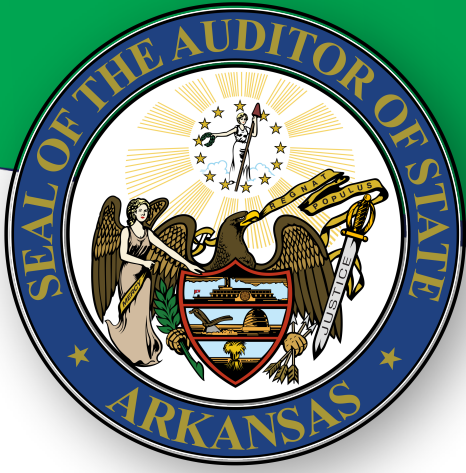
Josh Wood, Assistant Chief of Staff



2025 | **UNCLAIMED** **Property** **Holder Seminar**

SEPTEMBER 2025

Legislative Update



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Andrew Mudgett

Counsel, Kroll Government Solutions, LLC
Andrew.Mudgett@kroll.com



Overview



- General Overview of Arkansas Unclaimed Property Act (UPA)
 - Ark. Code Ann. §§ 18-28-201 et seq.
- Legislative Update
- Case Law Update



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

What is unclaimed property?

➤ Intangible or tangible property that has been abandoned or lost by its rightful owner for a specified period of time (i.e., the dormancy period)

- Savings and checking accounts
- Unpaid wages or commissions
- Stocks
- Bonds
- Utility deposits
- Insurance proceeds
- Cashier's checks
- Money orders
- Contents of safe deposit boxes
- Retirement accounts
- ***Gift Cards**
- ***Does not include gift certificates, gift cards, in-store merchandise credits, or layaway accounts issued or maintained by a person in the business of selling tangible personal property at retail.**



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

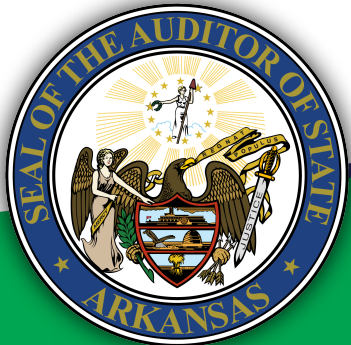
Overview of the UPA



What is unclaimed property?

Definition: Statutorily set time period, where there has been no owner-initiated contact or activity, that must elapse before a state can consider property dormant or abandoned.

- Calculated from a “trigger date”
- Examples of common dormancy triggers
 - Issue date (checks)
 - Date of last contact/activity
 - Maturity date
 - Date property becomes mandatorily distributable



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Overview of the UPA



Dormancy Period

Purpose: To provide time for an owner to come forward to claim his or her rightful property

- In Arkansas, varies by property type:
- 1 – 15 years
- Most property types – 3 years
- Payroll/wages – 1 year



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Overview of the UPA



Dormancy Period

Purpose: To provide time for an owner to come forward to claim his or her rightful property

- In Arkansas, varies by property type:
- 1 – 15 years
- Most property types – 3 years
- Payroll/wages – 1 year



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Overview of the UPA



Compliance Requirements

➤ Reporting

- Under the UPA, businesses are required to report and remit unclaimed property to the Arkansas Auditor of State annually
 - Most businesses – Before November 1st
 - Covers 12 months preceding 7/1 of that year
 - Life insurance companies – Before May 1st
 - Covers preceding calendar year



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Overview of the UPA



Compliance Requirements

➤ Due Diligence

- Must send written notice to owners
 - Applies to all properties \$50 or more
 - Must be sent at a set time prior to filing annual report
 - Do not need to send to owners whose addresses the business knows to be incorrect (i.e., returned mail)



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Legislative Update



Changes to the UPA

1. Dormancy periods
2. Due diligence requirements
3. Data Match
4. Changes affecting life insurance property



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Legislative Update



Changes to the UPA

Changes to the UPA in 2015 and 2017 modified dormancy periods for certain types of property:

- Bonds
- Savings Accounts & CDs
- Demutualization Proceeds
- Stocks



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Legislative Update



Changes to the UPA

- Bonds: 5 years → 3 years
 - Property Type: “Debt of a businesses association or financial organization, other than a bearer bond or an original issue discount bond”
 - Dormancy Trigger: Dormancy still runs from the date of the most recent interest payment that has been unclaimed by the owner



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Legislative Update



Changes to the UPA

- Savings Accounts & CDs: 5 years → 3 years
 - Property Type: “A demand, savings, or time deposit, including a deposit that is automatically renewable”
 - Dormancy Trigger: Dormancy still runs from “the earlier of maturity or the date of last indication by the owner of interest in the property”



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Legislative Update



Changes to the UPA

- Demutualization Proceeds (insurance companies): 5 years → 3 years
 - Property Type: “Property payable or distributable in the course of a demutualization of an insurance company”
 - Dormancy Trigger: Dormancy runs from the earlier of:
 - a. Date of last contact with owner; or
 - b. Date property became payable/distributable.



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Legislative Update



Changes to the UPA

- Stocks: 5 years → 7 years
- Property Type: “Stock or other equity interest in a business association or financial organization”
- Dormancy Trigger: Dormancy runs from the earlier of:
 - a. Date of most recent dividend, stock split, or other distribution unclaimed by owner;
 - b. Date of second mailing of a statement of account or other communication returned as undeliverable (or after holder discontinued mailings to owner); or
 - c. Date payee is presumed lost under new SEC rule 17Ad-17.



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Changes to Dormancy Periods



Most Important Dormancy Change

- Catchall: 5 years → 3 years
 - If the UPA does not otherwise specify a dormancy period for a particular type of property, the catchall applies.
 - Property Type: “All other property [not specifically covered by the UPA]”
 - Dormancy Trigger: Dormancy runs from the earlier of:
 - a. Date the owner has a right to demand the property; or
 - b. Date the obligation to pay or distribute the property arises.



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Changes to Dormancy Periods



- Examples of property types unaffected by dormancy period revisions:
 - Traveler's checks (15 years)
 - Money orders (7 years)
 - Life insurance and annuity proceeds (3 years)
 - Payroll/wages (1 year)
 - Utility deposits (1 year)
 - IRA accounts (3 years)



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Changes to Due Diligence Requirements



Due Diligence Revisions (2017)

➤ Timing

- Holder must send written notice to owner not more than 180 days or less than 90 days before filing the annual unclaimed property report
 - Old requirement: Not more than 120 days or less than 60 days before

➤ Securities (SEC Rule 17Ad-17)

- Due diligence notice must be sent by letter for:
 - Securities
 - Tangible property in a safe deposit box



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

New Developments in Arkansas



➤ 2025 Ark. SB 14

- “Data Match” initiative
- Newly enacted in 2025
- Amends Ark. Code Ann. § 18-28-215
- Enables the Administrator to directly pay owners if the following are satisfied:
 - The person receiving the property is named as the apparent owner of the property in a report filed under this subchapter;
 - The Administrator reasonably believes the person is entitled to receive the property; and
 - The property has a value of less than \$5000
- Owner does not need to submit a claim
- Individual claims
- Claims larger than \$1000 require additional documentation



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Changes Affecting Life Insurance Property



Unclaimed Life Insurance Benefits Act

Ark. Code Ann. §§ 23-81-901 et seq.

New in 2015

➤ **Overview:** Requires life insurance companies to search for insureds on the Social Security Death Master File ("DMF")

- DMF – Database of death information published by the Social Security Administration
- Not part of UPA, but will affect how life insurance companies identify and process unclaimed property



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Legislative Update



Unclaimed Life Insurance Benefits Act Ark. Code Ann. §§ 23-81-901 et seq.

➤ Specific Search Requirements

- *Policy Types Affected* – Insurers must compare in-force policies, contracts and retained asset accounts against the DMF semiannually
 - Excludes policies and annuities used to fund funeral expenses
- Must attempt to confirm potential matches/deaths
- Must make good faith effort to locate beneficiaries



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Legislative Update



Unclaimed Life Insurance Benefits Act Ark. Code Ann. §§ 23-81-901 et seq.

➤ Relationship to Unclaimed Property Requirements

- If it cannot find the beneficiary or owner, it must escheat to the State upon the expiration of the statutory time period for escheat.
- Need not escheat interest that would otherwise be owing to a beneficiary as a result of delayed payment under insurance law
- Violations may be subject to the Trade Practices Act



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Other Unclaimed Property Acts



- **The disposition of unclaimed property is governed by state law**
- **Uniform Unclaimed Property Acts drafted by the Uniform Law Commission**
 - 1954 Uniform Disposition of Unclaimed Property Act, revised 1966
 - 1981 Uniform Unclaimed Property Act
 - 1995 Uniform Unclaimed Property Act (Arkansas has a version of this Act)
- **2016 Revised Uniform Unclaimed Property Act**



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

2016 Revised Uniform Unclaimed Property Act (RUUPA)

- Currently enacted by at least 13 states
- Addresses some forms of new property (virtual currency, payroll cards)
- Affirmatively states that property is reportable absent owner demand
- Adopts 1981 Act straight 10 year statute of limitation



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Case Law Update – Priority Rules



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

MoneyGram Continued



- The Court found that the disputed instruments were similar to money orders “in function and operation” and therefore subject to the FDA (i.e., reportable to the state of purchase).
- States entitled to amounts that were originally escheated to Delaware under the second priority rule.
- The Court established a two-part test for determining when an instrument is covered under the FDA.
 1. Prepaid written instrument used to transmit money to a named payee?
 2. Could applying the priority rules of Texas v. New Jersey cause disproportionate escheatment to a bank's state of incorporation due to recordkeeping gaps (i.e. lack of owner address information)?
- Takeaway: While MoneyGram's instruments were determined to fall within the FDA, the Court declined to decide whether the FDA applies to cashier's checks or certified checks, and leaves room for interpretation when an instrument falls within the FDA.



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff

Questions?



ARKANSAS AUDITOR OF STATE
DENNIS MILLIGAN

Josh Wood, Assistant Chief of Staff