

2000 Victoria, BC

UNIFORM LEGISLATION RESPECTING UNCLAIMED INTANGIBLE PROPERTY

Report of the Working Group

[1]In 1999 the Uniform Law Conference Civil Law Section approved, with some modifications, 51 policy recommendations as a basis for a uniform unclaimed intangible property statute.

[2]The working group is composed of Arthur Close, Q.C., Susan Amrud, Michael Finley, François Frenette, Jay Chalke, Russell Getz and Elizabeth Strange of the New Brunswick Department of Justice who has joined this year.

[3]Ken Downing, Legislative Counsel, British Columbia Ministry of Attorney General, kindly agreed to draft the uniform act, and Diane McInnis, New Brunswick Department of Justice, has graciously offered to provide French language translation.

[4]Draft legislation has been developed from the 1999 paper. The working group is presently considering draft 7. It is intended to bring a final draft and commentaries to next year's meeting. While significant parts of the Act are resolved or are nearing resolution, issues in the following areas are outstanding:

Rights and Duties of Holders and Administrators

[5]In addressing the obligations of holders to report and deliver unclaimed intangible property, and the corresponding entitlement of administrators to claim and receive reports and unclaimed intangible property, the challenge is to craft provisions which are fair, effective in reuniting owners with their property, and practical for holders.

[6]An important issue is to ensure that the sections which provide for the obligations of holders make appropriate provision for the regulation of different classes of holders with differing degrees of connection with an enacting jurisdiction, in a way that resolves questions of extraterritoriality,

and can function properly in the event that there is less than universal adoption of uniform legislation by all provinces and territories.

Inspection and Enforcement

[7]The effort here is to achieve a balance in provisions respecting inspection and enforcement, including such matters as the regulation of property locator services, to ensure that they are sufficiently strong to ensure compliance without being unduly onerous.