

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. \_\_\_\_\_

April 8, 1991

SUBJECT: Taxation and Revenue - Abandoned Property -  
Disclosure to Member of General Public by  
Private Holder.

SYLLABUS: Neither the Abandoned Property Act nor the  
Freedom of Information Act provides authority  
for a member of the general public to demand  
information concerning abandoned property  
from the present or former holder of the  
abandoned property.

TO: Honorable James C. Johnson  
Member, House of Representatives  
District No. 13

FROM: Joe L. Allen, Jr. *JLA*  
Chief Deputy Attorney General

QUESTION: When a holder of abandoned property transmits  
the same to the Tax Commission without providing the re-  
quired information, may a member of the general public de-  
mand such information from the transmittee of the property?

APPLICABLE LAW: S.C. Code Ann. § 27-18-10, et seq., Uni-  
form Unclaimed Property Act, and S.C. Code Ann. § 30-4-10,  
et seq., The Freedom Of Information Act.

DISCUSSION:

S.C. Code Ann. § 27-18-180 provides in part that:

(A) A person holding property tangi-  
ble or intangible, presumed abandoned  
and subject to custody as unclaimed  
property under this chapter shall re-  
port to the administrator concerning  
the property as provided in this sec-  
tion.

(B) The report must be verified and  
must include:

April 8, 1991

- (1) except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of twenty-five dollars or more presumed abandoned under this chapter;
- (2) in the case of unclaimed funds of twenty-five dollars or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;
- (3) in the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator and any amounts owing to the holder;
- (4) the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under twenty-five dollars each may be reported in the aggregate;
- (5) the date the property became payable, demandable, or returnable, and

April 8, 1991

- the date of the last transaction with the apparent owner with respect to the property; and
- (6) other information the administrator prescribes by rule as necessary for the administration of this chapter.

We find no language in the statute that authorizes a member of the general public to demand from a private holder or former holder any information concerning abandoned property.

Additionally, we find no authority under the Freedom of Information Act to require a private holder of abandoned property to provide information to a member of the general public. Section 30-4-20 defines a public body. In general, a public body is the State, its agencies, boards, commissions, political subdivisions or other organizations, corporations, or agencies supported in whole or in part by public funds or expending public funds. For purposes of this opinion, a private holder would not be a public body.

The section further defines a public record to be one owned, prepared, used, in the possession of, or retained by a public body. Records of a private holder would not therefore be included in this definition. The language of the statutes is clear and controlling.<sup>1</sup>

CONCLUSION:

Neither the Abandoned Property Act nor the Freedom of Information Act provides authority for a member of the general public to demand information concerning abandoned property from the present or former holder of the abandoned property.

JLAJr:wcg

-----

<sup>1</sup>This conclusion is founded upon the settled rule of construction that the language of a statute should be given its plain and ordinary meaning. For cases see 17 S.C.D., Statutes, Key 188, et seq.