

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 460 Department or Agency Alabama Historical Commission

Rule No. 460-x-13

Rule Title: Undocumented and Unclaimed Property

New;  Amend;  Repeal;  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

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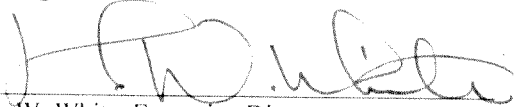
Does the proposed rule have any economic impact: No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer   
Frank W. White, Executive Director

Date June 5, 2012

(DATE FILED)  
(STAMP)

APA-2  
07/04

**Alabama Historical Commission**

**NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Historical Commission

RULE NO. & TITLE: 460-X-13 Undocumented and Unclaimed Property.

INTENDED ACTION: To adopt Rule 460-X-13 for undocumented, unclaimed, or abandoned property in the agency's collections.

SUBSTANCE OF PROPOSED ACTION: A procedure for obtaining clear title to personal property that is undocumented, unclaimed, or has been deemed to be abandoned.

TIME, PLACE, MANNER OF PRESENTING VIEWS: This notice will be published on June 29, 2012. Written comments will be accepted at the office of the Alabama Historical Commission, 468 South Perry Street, Montgomery, Alabama 36130.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: The Alabama Historical Commission will accept comments no later than August 15, 2012, at 5:00 P.M.

CONTACT PERSON AT AGENCY: John R. Powell, Jr., Contracts and Grants, of the Alabama Historical Commission, 468 South Perry Street, Montgomery, Alabama 36130, telephone 334 230-2654.



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Frank W. White  
Executive Director  
Alabama Historical Commission

ALABAMA HISTORICAL COMMISSION

ADMINISTRATIVE CODE

Chapter 460-x-13 UNDOCUMENTED AND UNCLAIMED PROPERTY

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460-x-13-.01 Undocumented and Unclaimed Property. To ensure proper, long term management of property in its collection, the Alabama Historical Commission relies on permanent acquisition and lawful deaccession. Both actions require clear title. The purpose of these regulations is to obtain clear title to property that is undocumented, unclaimed, or has been deemed to be abandoned.

460-x-13-.02 Definitions - the following definitions shall apply to this section.

- (a) Abandoned Property. Any undocumented property that has been held by the Commission for five years or more and has remained unclaimed,
- (b) Acquisition. To obtain property by lawful means.
- (c) Clear Title. Unencumbered or unrestricted legal ownership that is free from doubt as to its validity.
- (d) Commission. The Alabama Historical Commission.
- (e) Deaccession. To remove from the collection of the Commission.
- (f) Loan. A deposit of property that the records of the Commission indicate was loaned rather than donated to the Commission.

- (g) Property. Personal property, including but not limited to books, materials, documents, and tangible objects in the possession of the Commission.
- (h) Temporary Custody. A deposit of property that the records of the Commission indicate is to be held by the Commission at the request of the owner without a transfer of title to the Commission. Property placed "on deposit" with the Commission shall be considered to be in the temporary custody of the Commission
- (i) Undocumented Property. Property in the possession of the Commission for which the Commission cannot determine by reference to the Commission's records the property owner.

460-x-13-.03 Property on loan to the Commission.

- (a) Property on loan to the Commission for a definite term and which at the end of the term has not been claimed shall be considered subject to acquisition or deaccession if the Commission gives notice pursuant to 460-x-13-.05. and no assertion of title has been made.
- (b) Property on loan to the Commission for an indefinite term and held by the Commission for five years without being claimed shall be considered subject to acquisition or deaccession if the Commission gives notice pursuant to 460-x-13-.05 and no assertion of title has been made. Property on "permanent loan" to the Commission shall be deemed to be loaned for an indefinite term.

460-x-13-.04 Property held in temporary custody by the Commission

- (a) Property held in temporary custody for a definite term by the Commission shall be considered subject to acquisition or deaccession if, at the end of the specified period of temporary custody, no assertion of title has been made, and further the Commission has given notice pursuant to 460-

x-13-.05 and after this notice no assertion of title has been made.

- (b) Property held in temporary custody not for a definite period by the Commission shall be considered subject to acquisition if at the end of five years from the beginning of temporary custody, no assertion of title has been made, and further the Commission has given notice pursuant to 460-x-13-.05 and after this notice no assertion of title has been made.

460-x-13-.05 Notice

- (a) When the Commission seeks to acquire clear title either to abandoned property, property on loan, or property held in temporary custody, the Commission shall mail notice of this intent by certified mail, return receipt requested, to the person listed as owner in the Commission's records. This mailing shall be to the owner's address according to the Commission's records and to any other address for the owner that can be discovered through reasonable diligence. If the Commission has no record of the owner, or has no address for the owner, either in its records or through the exercise of reasonable diligence, or if the Commission does not receive written proof of receipt of the mailed notice within 30 days of the mailing of the notice, the Commission shall publish notice, at least once each week for two consecutive weeks, in a newspaper of general circulation in both Montgomery County and the county in which the last known address, if available, of the owner, if known, is located.
- (b) The published notice shall contain the following:
  - (1) A description of the property
  - (2) The name, if known, and last known address of the owner
  - (3) A request that all persons who may have any knowledge of the location of the owner provide written notice to the Commission

- (4) A statement that if written assertion of title is not presented by the owner to the Commission within ninety days from the date of the last published notice, the property shall be deemed donated and shall become the property of the Commission.

**Author:** William D. Little

**Statutory Authority:** Code of Ala 1975: Sections 41-9-249(7)a

**History:** New Rule: Filed June 5, 2012.