Revised Regulations of Anguilla: B12-9

BANKING ACT (R.S.A. c. B12)

BANKING (ABANDONED PROPERTY) REGULATIONS

Note: These Regulations are made by the Minister, on recommendation of the Central Bank, in exercise of the powers conferred on the Minister under section 182 of the Banking Act, R.S.A. c. B12.

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Interpretation

1. In these Regulations—

"abandoned property" means any property presumed abandoned under Part 12 of the Act;

"claimant" means a person who makes a claim to abandoned property as the owner or a legal representative;

"prohibited item" means anything deemed controlled or illegal by an Act of Parliament.

Publication of abandoned property

2. (1) Subject to section 14, a notice issued by a licensed financial institution or licensed financial holding company under section 167(4) of the Act shall be—

(a) published in a newspaper for 2 consecutive weeks;

(b) published in one issue of the *Gazette*; and

(c) mailed to the owner at his or her last known address by registered mail.

(2) A notice published or mailed under subsection (1) shall provide that where no claim has been made by the owner or his legal representative before the expiration of the date stipulated within the notice, the abandoned property shall be paid to the Central Bank.

(3) Within 2 months after the end of the financial year of the licensed financial institution or licensed financial holding company, the institution or holding company shall confirm to the Central Bank that it has complied with section 167(4) of the Act.

(4) The confirmation required under subsection (3) shall provide the following details regarding the publication of abandoned property—

(a) a copy of the notice published in the *Gazette*;

(b) a copy of the notice published in the newspaper;

(c) a link to the website of the licensed financial institution or licensed financial holding company where the abandoned property has been published;

(d) the number of owners notified;

(e) the number of accounts presumed to be abandoned;

(f) the total value of abandoned property; and

(g) a copy of the template of the notice sent to owners.

(5) Where a licensed financial institution or licensed financial holding company does not hold any abandoned property, the licensed financial institution or licensed financial holding company shall inform the Central Bank in writing.

Report on abandoned property

3. (1) A licensed financial institution or licensed financial holding company shall report the holdings, required by section 167(1) of the Act, electronically to the Central Bank.

(2) The report in subsection (1) shall provide—

(a) in the case of a general deposit or funds paid, the—

(i) name of the owner,

(ii) account number, and

(iii) value of the abandoned property; and

(b) in the case of an instrument, the—

(i) name of the person at whose request the instrument was issued,

(ii) instrument number,

(iii) date of the instrument, and

(iv) amount of the instrument.

(3) A licensed financial institution or licensed financial holding company holding any contents of a safe deposit box presumed abandoned shall report such holdings as required by section 169(2) of the Act, in the form set out as Form 1 in the Schedule.

(4) Form 1 shall be completed in triplicate and one copy shall be retained for a period of 11 years by the—

(a) licensed financial institution or licensed financial holding company;

(b) Minister; and

(c) Central Bank.

Custody of abandoned property

4. (1) Subject to section 7, at the time the report is made to the Central Bank pursuant to section 167(1) of the Act, a licensed financial institution or licensed financial holding company shall submit to the custody of the Central Bank any abandoned property.

(2) The Central Bank shall publish the particulars of the abandoned property on its website until any of the following events occurs—

(a) a claim is legally settled; or

(b) 15 years have elapsed from the date on which the abandoned property was paid into the custody of the Central Bank.

Delivery of contents of a safe deposit box

5. (1) A licensed financial institution or licensed financial holding company shall deliver to the Minister, pursuant to section 169(2) of the Act, the contents of a safe deposit box presumed abandoned along with the Form 1 referred to in section 3(3).

(2) The Minister shall acknowledge receipt of the contents of a safe deposit box presumed abandoned by completing and signing the designated area on Form 1 and submit same to the licensed financial institution or licensed financial holding company.

(3) A licensed financial institution or licensed financial holding company shall submit a copy of the completed and signed Form 1 to the Central Bank.

Sale of contents of a safe deposit box

6. (1) The Minister shall, not less than 7 days before selling by public auction the contents of a safe deposit box presumed abandoned, pursuant to section 170 of the Act, give written notice to the Central Bank of the public auction.

(2) A notice referred to in subsection (1) shall include—

(a) the date, time and place of the public auction; and

(b) an inventory of the property to be offered for sale.

(3) The Minister shall publish the date, time and place of a public auction in—

(a) a newspaper for 2 consecutive weeks; and

(b) one issue of the *Gazette*.

(4) Upon the right to sell the contents of a safe deposit box presumed abandoned arising under section 170(1) of the Act, the Minister shall hold a public auction within 60 days.

(5) The Minister shall execute all documents necessary to transfer ownership of sold abandoned property to the purchaser.

Deduction of expenses

7. (1) A licensed financial institution or licensed financial holding company may deduct from the abandoned property all reasonable expenses properly incurred and incidental to publishing and mailing notices required by section 167(4) of the Act before the abandoned property is paid to the Central Bank.

(2) Where pursuant to subsection (1) a licensed financial institution or licensed financial holding company deducts expenses and the value of the abandoned property is insufficient to cover the expenses, any excess shall be borne by the licensed financial institution or licensed financial holding company.

Handling of proceeds from sale of the contents of a safe deposit box

8. (1) Where the Minister under section 6 auctions the contents of a safe deposit box presumed abandoned, the Minister shall deposit proceeds from such public auction into the Abandoned Property Fund within 7 business days of the sale.

(2) A deposit made under subsection (1) shall be accompanied by a statement in the form set out as Form 2 in the Schedule.

(3) Form 2 shall be completed in duplicate and one copy shall be retained for a period of 11 years by the—

(a) Minister; and

(b) Central Bank.

Abandoned property remaining unsold

9. (1) The Minister shall submit to the Central Bank, within 7 business days of a sale, a statement of abandoned property remaining unsold in the form set out as Form 3 in the Schedule.

(2) The Minister shall submit to the Central Bank, within 60 days of the sale, a statement of any abandoned property remaining unsold that the Minister intends to dispose of in the form set out as Form 4 in the Schedule.

(3) The statement submitted under subsection (2) shall be accompanied with a notice of the date, time, method and location of intended disposal of the abandoned property remaining unsold.

(4) The Minister shall provide the Central Bank, within 30 days of the disposal of abandoned property remaining unsold, written confirmation that the unsold abandoned property has been disposed of.

(5) Forms 3 and 4 shall be completed in duplicate and one copy shall be retained for a period of 11 years by the—

(a) Minister; and

(b) Central Bank.

Claim on abandoned property

10. (1) A licensed financial institution or licensed financial holding company shall only issue Form 5 to a claimant.

(2) A claimant shall make a claim for abandoned property pursuant to section 172(1)(a) of the Act to the licensed financial institution or licensed financial holding company where the account was established in the form set out as Form 5 in the Schedule.

(3) A claim under subsection (2) shall be—

(a) signed by the claimant;

(b) duly notarised by a Notary Public; and

(c) supported by affidavit evidence.

(4) On receiving a claim made under subsection (2), the licensed financial institution or licensed financial holding company shall verify that the claimant legally has rights to the abandoned property.

(5) In verifying a claim under subsection (4) the licensed financial institution or licensed financial holding company shall consider—

(a) the names and signatures of the owner and the claimant;

(b) whether the account number in the claim and that associated with the abandoned property are the same;

(c) any documentary evidence of the address of the owner on record or of the business relationship with the licensed financial institution or licensed financial holding company;

(d) any documentary evidence of legal authorisation to claim the abandoned property if the claimant is not the owner; and

(e) any other document or record that the licensed financial institution or licensed financial holding company may consider substantive to the validity of the claim and the identity of the owner and the legal authority of the claimant.

(6) A licensed financial institution or licensed financial holding company, on receiving a claim and after satisfying its internal requirements, shall submit the claim to the Central Bank for verification before the claim is settled.

(7) The Central Bank shall verify a claim submitted to it by a licensed financial institution or licensed financial holding company and where a claim is verified the Central Bank shall credit the account of the licensed financial institution or licensed financial holding company and advise the licensed financial institution or licensed financial holding company to settle the claim.

(8) Form 5 shall be completed in triplicate and one copy shall be retained by the—

(a) claimant;

(b) licensed financial institution or licensed financial holding company for a period of 16 years; and

(c) Central Bank for a period of 16 years.

Claim on contents of a safe deposit box

11. (1) A claimant shall make a claim for the contents of a safe deposit box presumed abandoned pursuant to sections 172(1)(b) and (c) of the Act to the Minister in the form set out as Form 6 in the Schedule.

(2) Form 6 shall be completed in triplicate and one copy shall be retained by the—

(a) claimant;

(b) Minister for a period of 11 years; and

(c) Central Bank for a period of 11 years.

(3) A claim under subsection (1) shall be—

(a) signed by the claimant;

(b) duly notarised by a Notary Public; and

(c) supported by affidavit evidence.

(4) On receiving a claim under subsection (1), the Minister shall verify that the claimant is the rightful and legal owner of the abandoned property.

(5) In verifying a claim under subsection (4) the Minister shall consider—

(a) the names of the owner and the claimant;

(b) whether the safe deposit box number in the claim and that associated with the contents of a safe deposit box presumed abandoned are the same;

(c) any documentary evidence of address of the owner on record or of the business relationship with the licensed financial institution or licensed financial holding company;

(d) any documentary evidence of legal authorisation to claim the contents of a safe deposit box presumed abandoned if the claimant is not the owner; and

(e) any other document or record that the Minister may consider substantive to the validity of the claim and identity of the owner and the legal authority of the claimant.

(6) The Minister shall submit to the Central Bank quarterly records of claimed abandoned property in the form set out as Form 7 in the Schedule.

(7) Form 7 shall be completed in duplicate and one copy shall be retained for a period of 11 years by the—

(a) Minister; and

(b) Central Bank.

Notice of settled claim

12. (1) Where a claim made under sections 10 or 11 is settled, the licensed financial institution, licensed financial holding company or the Minister as the case may be, shall within 2 business days give notice to the Central Bank that the claim has been settled in the form set out as Form 8 in the Schedule.

(2) The notice under subsection (1) shall include the—

(a) particulars of the claimed abandoned property; and

(b) method of payment used to settle the claim.

(3) Form 8 shall be completed in duplicate and one copy shall be retained for a period of 11 years by the—

(a) licensed financial institution, licensed financial holding company or Minister; and

(b) Central Bank.

Retention of customer records and forms

13. (1) A licensed financial institution or licensed financial holding company shall maintain customer records pertaining to abandoned property paid into the custody of the Central Bank for a period of 16 years from the date of payment to Central Bank to facilitate the verification and settlement of claims under section 10.

(2) The Minister shall maintain for a period of 11 years—

(a) customer details in respect of the contents of a safe deposit box presumed abandoned to facilitate the verification and settlement of claims under section 11; and

(b) all records of any unsold abandoned property disposed pursuant to section 9.

Prohibited items

14. (1) Immediately on discovery, a licensed financial institution or licensed financial holding company shall deliver any abandoned property that is a prohibited item to the relevant authority.

(2) A licensed financial institution or licensed financial holding company shall not publish a prohibited item or the particulars of a prohibited item in a notice.

Completion of forms

15. (1) Except as may be otherwise prescribed herein, the Forms prescribed in the regulations must be—

(a) typewritten or printed;

(b) legible and suitable for photocopying; and

(c) produced on good quality 8.5 inches by 14.0 inches paper.

(2) Numbers in the forms must be numerical and not in words.

(3) If information or an item required to be disclosed on the form does not apply, the phrase "not applicable" or the abbreviation "N/A" should be used.

Citation

16. These Regulations may be cited as the Banking (Abandoned Property) Regulations, Revised Regulations of Anguilla, B12-9.

SCHEDULE

FORMS

Form 1: *Statement of Delivery of the Contents of a Safe Deposit Box*

Form 2: *Statement of Sold Abandoned Property*

Form 3: *Statement of Unsold Abandoned Property*

Form 4: *Statement of Disposal of Abandoned Property*

Form 5: *Claim for Abandoned Property from the ECCB*

Form 6: *Claim for Abandoned Property from the Minister*

Form 7: *Statement of Claimed Abandoned Property*

Form 8: *Confirmation of Payment of Claim for Abandoned Property*

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FORM 1

STATEMENT OF DELIVERY OF THE CONTENTS OF A SAFE DEPOSIT BOX

(Sections 3(3) and 5(1))

Name of Financial Institution .....

Minister of Finance.....

Address .....

Package No.	**Name(s)**	**Last known address of Owner**	**Safety Deposit Box No.**	**Date of Last Lease or Rental Payment**	**Description of Property**

For the financial year ended [*date*]

To be completed by the Financial Institution

SIGNED AND DELIVERED TO
THE MINISTER OF FINANCE

Manager/Authorised Signatory

Manager/Authorised Signatory

Date

To be completed by the Minister of State
SIGNED AND RECEIVED FROM)
Trustee
THE FINANCIAL INSTITUTION)

Minister of Finance/Appointed

Authorised Signatory

Date

FORM 2

STATEMENT OF SOLD ABANDONED PROPERTY

(Section 8(2))

Governor

ECCB

Package No.	**Name(s) of Purchaser**	**Name(s) of Previous Owner**	**Safety Deposit Box No.**	**Name of Financial Institution**	**Date of auction**	**Description of Property**	**Value EC$**	
							Gross	**Net of authorised deductions**

_____

Minister of Finance/Appointed Trustee

_____

Authorised Signatory

_____

Date

_____

FORM 3

STATEMENT OF UNSOLD ABANDONED PROPERTY

(Section 9(1))

Governor

ECCB

Package No.	Name(s)	Safety Deposit Box No.	Name of Financial Institution	Date of auction	Description of Property	Gross Value of Property EC$

_____

Minister of Finance/Appointed Trustee

_____

Authorised Signatory

_____

Date

FORM 4

STATEMENT OF DISPOSAL OF ABANDONED PROPERTY

(Section 9(2))

Governor

ECCB

Package No.	**Name(s)**	**Safety Deposit Box No.**	**Name of Financial Institution**	**Description of Property**	**Reason for Disposal**	**Intended Form of Disposal**	**Recipient (if necessary)**	**Gross Value of Property EC$**

_____

Minister of Finance/Appointed Trustee

_____

Authorised Signatory

_____

Date

FORM 5

CLAIM FOR ABANDONED PROPERTY FROM THE ECCB

(Section 10(2))

[LICENSED FINANCIAL INSTITUTION/ HOLDING COMPANY]

Claimant Information

Name:……..…… SSN/ID:……..……..…..…….....

Current Address: ……...……...

Telephone:……..…… Email……..

Owner's Information

Name: …… SSN/ID:…….……..…….…….

Address on Record: ……

Telephone:…….. Email…….……....

Description of Abandoned Property

Account No.: ……..….

Name of Licensed Financial Institution: …….……

Your status as a claimant: check one box below and attach documents requested:

__ I am the OWNER.
Attach proof of identity and address on record (utility bill or monthly statement).

__ I am an HEIR of the owner.
Attach a copy of probated will AND a copy of death certificate of the owner.

__ I am a TRUSTEE or GUARDIAN to the owner.
Attach copies of current documents establishing guardianship or trust.

__ I am an EXECUTOR or ADMINISTRATOR for the owner's estate.
Attach a copy of the death certificate AND Letters of Administration.

__ I am an OFFICER OF A COMPANY.
Attach current documents establishing your authority to act for the company.

__ I am a PARENT of the owner who is under age 18.
Attach a copy of the minor's birth certificate, adoption papers (if applicable).

CLAIMANT SIGNATURE

The name Claimant hereby certifies that this claim for property presumed abandoned is valid and just, that all statements herein are true and correct, and that on payment of this claim said Claimant will indemnify and hold harmless the [Name of Licensed Financial Institution], the Eastern Caribbean Central Bank, their Officers and Employees, from any damages, claims or losses of any kind resulting from the payment of the above described property to claimant.

CLAIMANT:…… **DATE:…….……**

Note: The Licensed Financial Institution reserves the right to request any additional information it deems necessary to support the validity of the claim.

ATTACH THE FOLLOWING INFORMATION

(A) Proof of Claimant's Social Security or National Identification Number

(B) Copies of Claimant's Driver's Licence or any official form of picture identification

(C) Copies of any form of Government Issued Identification for Owner

(D) Proof of current mailing address

Failure to provide your **IDENTIFICATION, SIGNATURE, or COMPLETE THE CLAIM FORM** will delay processing.

TO BE COMPLETED BY LICENSED FINANCIAL INSTITUTION

Authorised signature:

……. Dated……..…..
[Position]

FORM 6

CLAIM FOR ABANDONED PROPERTY FROM THE MINISTER

(Section 11(1))

Government of [ ], Ministry of Finance

Claimant Information

Name:…… SSN/ID:…….…….....

Current Address: ……..……..……

Telephone:…….…… Email:..……..……..

Owner's Information

Name: …….. SSN/ID:…….……..……..

Address on Record: …….…….

Telephone:…… Email…….…….……

Description of Abandoned Property

Safe Deposit Box No.: ……

Contents: …….

Property Reported by: ……

(*Name of Licensed Financial Institution*)

Your status as a claimant: check one box below and attach documents requested:

__ I am the OWNER.
Attach proof of identity and address on record (utility bill or monthly statement).
__ I am an HEIR of the owner.
Attach a copy of probated will AND a copy of death certificate of the owner.
__ I am a TRUSTEE or GUARDIAN to the owner.
Attach copies of current documents establishing guardianship or trust.
__ I am an EXECUTOR or ADMINISTRATOR for the owner's estate.
Attach a copy of the death certificate AND Letters of Administration.
__ I am an OFFICER OF A COMPANY.
Attach current documents establishing your authority to act for the company.
__ I am a PARENT of the owner who is under age 18.
Attach a copy of the minor's birth certificate, adoption papers (if applicable).

CLAIMANT SIGNATURE

The name Claimant hereby certifies that this claim for property presumed abandoned is valid and just, that all statements herein are true and correct, and that on payment of this claim said Claimant will indemnify and hold harmless the Government of _____, the Eastern Caribbean Central Bank, their Officers and Employees, from any damages, claims or losses of any kind resulting from the payment of the above described property to claimant.

CLAIMANT:…… **DATE:…….**

Note: The Government reserves the right to request any additional information it deems necessary to support the validity of the claim.

ATTACH THE FOLLOWING INFORMATION:

(A) Proof of Claimant's Social Security or National Identification Number

(B) Copies of Claimant's Driver's Licence or any official form of picture identification

(C) Copies of any form of Government Issued Identification for Owner

(D) Proof of current mailing address

Failure to provide your **IDENTIFICATION, SIGNATURE, or COMPLETE THE CLAIM FORM** will delay processing.

TO BE COMPLETED BY GOVERNMENT

APPROVAL OF CLAIM No:

Claimant Name:
Year Delivered to State:
Date of Last Lease Payment:
Amount less authorized deductions: EC$
Description of Property:

Paid to:……....
Claimant

Authorized signatures:

…….…. Dated……..
[Minister of Finance/Appointed Trustee]

……. Dated…….…….
[Senior Official]

———————

FORM 7

STATEMENT OF CLAIMED ABANDONED PROPERTY

(Section 11(6))

Governor

ECCB

Package No.	Name(s)	Safety Deposit Box No.	Name of Financial Institution	Description of Property	Name of Claimant	Relationship of Owner to Claimant	Gross Value of Property EC$

_____

Minister of Finance/Appointed Trustee

_____

Authorised Signatory

_____

Date

FORM 8

CONFIRMATION OF PAYMENT OF CLAIM FOR ABANDONED PROPERTY

(Section 12(1))

Government of [ ];
Ministry of Finance/Licensed Financial Institution/Holding Company

Claimant's Name:…….....…….....…….....

Owner's Name:…….....…….....

Net Value of property received from the ECCB/Minister:……..……..

Date of claim from the ECCB/Minister:.....…….…….....…….……

Date Claim paid by ECCB/Minister:.....…….…….....…….……

Paid to: ……....
Claimant

Authorised signature:

……... …….
Minister/Licensed Financial Institution/Holding Company **Date**

Made this day of , 20[ ]

…….
MINISTER OF FINANCE

_____