

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4703

A bill to amend 1995 PA 29, entitled
"Uniform unclaimed property act,"
(MCL 567.221 to 567.265) by adding section 31a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 31A. (1) IF THE ADMINISTRATOR DETERMINES THAT A HOLDER
2 HAS FAILED TO REPORT OR DELIVER TO THE ADMINISTRATOR UNCLAIMED
3 PROPERTY AS REQUIRED BY THIS ACT, THE ADMINISTRATOR SHALL MAIL TO
4 THE HOLDER BY CERTIFIED OR REGISTERED MAIL A NOTICE OF EXAMINATION
5 DETERMINATION, WHICH SHALL INCLUDE THE PROPERTY DELIVERABLE. THE
6 NOTICE OF EXAMINATION DETERMINATION SHALL CONSTITUTE A DECISION OF
7 THE ADMINISTRATOR. WITHIN 90 DAYS AFTER THE DECISION OF THE
8 ADMINISTRATOR IS MAILED, A HOLDER THAT IS AGGRIEVED OF THE DECISION
9 MAY BRING AN ACTION IN THE CIRCUIT COURT, OR WITHIN THE SAME

1 PERIOD, THE HOLDER MAY ELECT TO CONTEST THE DECISION BY FILING A
2 REQUEST FOR RECONSIDERATION WITH THE ADMINISTRATOR PRIOR TO
3 BRINGING AN ACTION IN CIRCUIT COURT.

4 (2) IF THE HOLDER ELECTS TO CONTEST THE DECISION IN SUBSECTION
5 (1) BY FILING A REQUEST FOR RECONSIDERATION WITH THE ADMINISTRATOR,
6 IN LIEU OF FILING AN ACTION IN CIRCUIT COURT, THE HOLDER MAY LATER
7 FILE AN ACTION IN CIRCUIT COURT UNDER THE PROVISIONS OF SUBSECTION
8 (4) OR (8).

9 (3) THE REQUEST FOR RECONSIDERATION SHALL BE IN WRITING,
10 IDENTIFY THE CONTESTED PROPERTY, AND STATE THE REASON THAT THE
11 HOLDER BELIEVES THE DECISION IS IN ERROR. THE ADMINISTRATOR SHALL
12 ONLY RECONSIDER THAT PORTION OF THE PROPERTY DUE THAT IS IDENTIFIED
13 IN THE REQUEST FOR RECONSIDERATION. THE ADMINISTRATOR MAY DELEGATE
14 A RECONSIDERATION UNDER THIS SUBSECTION TO AN INDIVIDUAL WHO IS
15 EMPLOYED BY THE DEPARTMENT TO ENFORCE THIS ACT.

16 (4) AT ANY TIME PRIOR TO RECEIPT OF A RECONSIDERED DECISION,
17 THE HOLDER MAY FILE WITH THE ADMINISTRATOR A WRITTEN NOTICE OF
18 WITHDRAWAL OF THE REQUEST FOR RECONSIDERATION. WITHIN 90 DAYS AFTER
19 THE NOTICE OF WITHDRAWAL IS MAILED TO THE ADMINISTRATOR, THE HOLDER
20 MAY FILE AN ACTION IN CIRCUIT COURT.

21 (5) THE HOLDER SHALL DELIVER TO THE ADMINISTRATOR THE PROPERTY
22 THAT IS NOT CONTESTED. WHILE THE REQUEST FOR RECONSIDERATION IS
23 PENDING, INTEREST CONTINUES TO ACCRUE ON ALL UNDELIVERED PROPERTY.
24 PAYMENT OR DELIVERY OF THE CONTESTED AMOUNT DUE OR PROPERTY DOES
25 NOT WAIVE THE RIGHT TO RECONSIDERATION UNDER SUBSECTION (3).

26 (6) WITHIN 60 DAYS OF FILING THE REQUEST FOR RECONSIDERATION,
27 THE HOLDER MAY SUBMIT ADDITIONAL DOCUMENTATION AND WRITTEN

1 SUBMISSIONS TO THE ADMINISTRATOR IN SUPPORT OF THE RECONSIDERATION.
2 THE ADMINISTRATOR MAY MEET WITH THE HOLDER OR HAVE INFORMAL
3 COMMUNICATION WITH THE HOLDER AS PART OF THE RECONSIDERATION
4 PROCESS.

5 (7) WITHIN 60 DAYS OF RECEIPT OF THE HOLDER'S REQUEST FOR
6 RECONSIDERATION OR WITHIN 60 DAYS AFTER THE RECEIPT OF ADDITIONAL
7 DOCUMENTATION, THE ADMINISTRATOR SHALL MAIL THE HOLDER A WRITTEN
8 DECISION REGARDING THE CONTESTED PROPERTY. THE DECISION SHALL STATE
9 THE REASONS AND AUTHORITY THAT SUPPORT THE ADMINISTRATOR'S
10 DECISION. THE TIME PERIOD FOR A DECISION IN THIS SUBSECTION MAY BE
11 EXTENDED BY THE ADMINISTRATOR FOR GOOD CAUSE, BUT SHALL NOT EXCEED
12 183 DAYS FROM THE DAY THE ADMINISTRATOR RECEIVED THE HOLDER'S
13 REQUEST FOR RECONSIDERATION. THE DECISION SHALL BE MAILED TO THE
14 HOLDER BY CERTIFIED OR REGISTERED MAIL AT THE ADDRESS PROVIDED IN
15 THE REQUEST FOR RECONSIDERATION. IF THE HOLDER PREVAILS AS TO ANY
16 PORTION OF THE CONTESTED PROPERTY, THE ADMINISTRATOR SHALL RETURN
17 TO THE HOLDER ANY PROPERTY THAT HAD BEEN DELIVERED. THAT PROPERTY
18 SHALL BE RETURNED TO THE HOLDER WITHIN 60 DAYS AS OF THE DATE OF
19 THE DECISION.

20 (8) WITHIN 90 DAYS AFTER MAILING THE DECISION REGARDING
21 RECONSIDERATION IN SUBSECTION (7), THE HOLDER MAY CONTEST THE
22 DECISION BY FILING AN ACTION IN CIRCUIT COURT, UNLESS, WITHIN THAT
23 TIME, THE HOLDER FILES AN APPEAL WITH THE ADMINISTRATOR. THE
24 ADMINISTRATOR SHALL SELECT A DELEGATE TO CONDUCT THE APPEAL. THE
25 DELEGATE MAY NOT BE EMPLOYED BY, OR CONTRACTED WITH, THE DEPARTMENT
26 TO PROVIDE AUDITING OR ADMINISTRATIVE SERVICES FOR THE ENFORCEMENT
27 OF THIS ACT OTHER THAN AS A DELEGATE FOR AN APPEAL. IF THE HOLDER

1 ELECTS TO CONTEST THE DECISION IN THIS SUBSECTION BY FILING AN
2 APPEAL WITH THE ADMINISTRATOR, IN LIEU OF FILING AN ACTION IN
3 CIRCUIT COURT, THE HOLDER MAY LATER FILE AN ACTION IN CIRCUIT COURT
4 UNDER THE PROVISIONS OF SUBSECTION (9) OR (13). THE DELEGATE SHALL
5 HAVE THE KNOWLEDGE, SKILL, AND ABILITY TO QUALIFY AS AN
6 ADMINISTRATIVE LAW EXAMINER UNDER THE MICHIGAN CIVIL SERVICE
7 COMMISSION'S JOB SPECIFICATIONS.

8 (9) AT ANY TIME, THE HOLDER MAY FILE WITH THE ADMINISTRATOR A
9 WRITTEN NOTICE OF WITHDRAWAL OF THE APPEAL TO THE ADMINISTRATOR.
10 WITHIN 90 DAYS AFTER THE NOTICE OF WITHDRAWAL IS MAILED TO THE
11 ADMINISTRATOR, THE HOLDER MAY FILE AN ACTION IN CIRCUIT COURT BASED
12 ON THE DECISION AS RECONSIDERED BY THE ADMINISTRATOR IN SUBSECTION
13 (7).

14 (10) THE NOTICE OF APPEAL UNDER SUBSECTION (8) SHALL STATE THE
15 HOLDER'S NAME, MAILING ADDRESS, AND TELEPHONE NUMBER; THE NAME OF
16 THE PERSON OR PERSONS REPRESENTING THE HOLDER; THE REPRESENTATIVE'S
17 MAILING ADDRESS AND TELEPHONE NUMBER; AND THE REASON THAT HOLDER
18 BELIEVES THE RECONSIDERED DECISION OF THE ADMINISTRATOR WAS IN
19 ERROR. THE ADMINISTRATOR'S DELEGATE SHALL SET THE TIME AND PLACE
20 FOR CONDUCTING A HEARING ON THE APPEAL AND SHALL GIVE THE HOLDER
21 WRITTEN NOTICE AT LEAST 21 DAYS BEFORE THE APPEAL IS HEARD. THE
22 APPEAL IS NOT SUBJECT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
23 1969 PA 306, MCL 24.201 TO 24.328. THE HOLDER MAY APPEAR OR BE
24 REPRESENTED BY ANY PERSON BEFORE THE DELEGATE AND MAY PRESENT
25 TESTIMONY AND ARGUMENT. AT THE PARTY'S OWN EXPENSE AND WITH ADVANCE
26 NOTICE TO THE OTHER PARTY, A HOLDER OR THE DELEGATE, OR BOTH, MAY
27 MAKE AN AUDIORECORDING OF THE APPEAL.

1 (11) THE HEARING ON THE APPEAL TO THE ADMINISTRATOR SHALL BE
2 CONDUCTED BY THE ADMINISTRATOR'S DELEGATE WITHIN 90 DAYS AFTER THE
3 FILING OF THE APPEAL UNLESS OTHERWISE AGREED TO BY THE PARTIES. A
4 WRITTEN RECOMMENDATION SHALL BE ISSUED BY THE DELEGATE TO THE
5 ADMINISTRATOR WITHIN 90 DAYS OF THE CONCLUSION OF THE HEARING OR
6 THE SUBMISSION OF ANY POSTHEARING DOCUMENTATION, WHICHEVER IS
7 LATER. THE WRITTEN RECOMMENDATION SHALL INCLUDE THE REASONS AND THE
8 AUTHORITY THAT SUPPORT THE RECOMMENDATION.

9 (12) WITHIN 60 DAYS OF THE DATE OF THE RECOMMENDATION OF THE
10 DELEGATE, THE ADMINISTRATOR SHALL AFFIRM, MODIFY, OR REJECT ALL, OR
11 PORTIONS OF, THE RECONSIDERED DECISION. THE ADMINISTRATOR SHALL
12 STATE THE REASONS AND AUTHORITY FOR ANY ACTION ON THE DECISION THAT
13 DOES NOT FOLLOW THE DELEGATE'S RECOMMENDATION. A COPY OF THE
14 ADMINISTRATOR'S DECISION AND A COPY OF THE DELEGATE'S
15 RECOMMENDATION SHALL BE MAILED TO THE HOLDER BY CERTIFIED OR
16 REGISTERED MAIL AT THE ADDRESS PROVIDED IN THE HOLDER'S NOTICE OF
17 APPEAL. IF THE HOLDER PREVAILS AS TO ANY PORTION OF THE CONTESTED
18 PROPERTY, THE ADMINISTRATOR SHALL RETURN ANY CONTESTED PROPERTY
19 THAT HAD BEEN REMITTED TO THE HOLDER, INCLUDING ANY RELATED AMOUNT
20 OF INTEREST OR PENALTY PAID.

21 (13) WITHIN 90 DAYS AFTER THE ADMINISTRATOR'S DECISION IN
22 SUBSECTION (12) IS MAILED, THE HOLDER MAY APPEAL THE DECISION BY
23 FILING AN ACTION IN THE CIRCUIT COURT.

24 (14) A HOLDER THAT HAS REQUESTED A WAIVER OF PENALTIES OR
25 INTEREST BASED ON REASONABLE CAUSE MAY CONTEST ANY DENIAL OF A
26 WAIVER THROUGH A REQUEST FOR RECONSIDERATION, AN APPEAL TO THE
27 ADMINISTRATOR, OR AN ACTION IN CIRCUIT COURT AS PROVIDED IN THIS

1 SECTION.

2 (15) AS USED IN THIS SECTION, "NOTICE OF EXAMINATION
3 DETERMINATION" MEANS A NOTICE THAT STATES THE PROPERTY THAT IS
4 DELIVERABLE BY THE HOLDER TO THE ADMINISTRATOR AS A RESULT OF AN
5 EXAMINATION.