

Act No. 76  
Public Acts of 1991  
Approved by the Governor  
July 11, 1991  
Filed with the Secretary of State  
July 11, 1991

**STATE OF MICHIGAN  
86TH LEGISLATURE  
REGULAR SESSION OF 1991**

Introduced by Rep. Jondahl

# **ENROLLED HOUSE BILL No. 4105**

AN ACT to amend sections 2, 5, 19, 26, and 56 of Act No. 329 of the Public Acts of 1947, entitled as amended "An act to create a state board of escheats; to prescribe its powers and duties; to provide for the descent and devolution of escheated and abandoned property; to provide for the discovery, marshalling, protection, conservation and disposition of escheatable, abandoned and escheated property; to prescribe the procedure to declare escheatable and abandoned property escheated; to protect the rights and interests of owners and holders of escheatable, abandoned and escheated property in and to such property; to prescribe the procedure for the administration of this act and to prescribe penalties for violations of certain of its provisions; and to remove the bar of general statutes of limitation as a defense to proceedings instituted under this act in certain cases," section 5 as amended by Act No. 173 of the Public Acts of 1990 and section 19 as amended by Act No. 96 of the Public Acts of 1983, being sections 567.12, 567.15, 567.29, 567.36, and 567.66 of the Michigan Compiled Laws; to add sections 4a, 4b, 4c, 4d, and 4e; and to repeal certain acts and parts of acts.

*The People of the State of Michigan enact:*

Section 1. Sections 2, 5, 19, 26, and 56 of Act No. 329 of the Public Acts of 1947, section 5 as amended by Act No. 173 of the Public Acts of 1990 and section 19 as amended by Act No. 96 of the Public Acts of 1983, being sections 567.12, 567.15, 567.29, 567.36, and 567.66 of the Michigan Compiled Laws, are amended and sections 4a, 4b, 4c, 4d, and 4e are added to read as follows:

Sec. 2. The department shall investigate and make inquiry into every county of this state to ascertain whether there is any property in the county that, because the owner died intestate leaving no known heirs-at-law, the owner disappeared or is missing from his or her last known place of residence for a continuous period of 7 years or more leaving no known heirs-at-law, or the property has been abandoned by the owner, has escheated, is subject to escheat, or is escheatable to this state pursuant to this act or any other act.

Sec. 4a. (1) Except as provided in subsection (2), if a holder has the possession, custody, or control of property belonging to an owner, and the owner has ceased, failed, or neglected to exercise dominion or control, to assert a right of ownership or possession, to make presentment and demand for payment and satisfaction, or to do any other act in relation to or concerning the property for a period of 2 years or more, the holder may deliver the property, together with the increment on the property, to the department, together with a report, in duplicate, enumerating the name and last known address, if known, of the owner, a description of the property, and the date it came into the possession or under the control of the holder, or when the right of the owner to possession or custody of the property was created.

(2) If a holder is a depository financial institution, the holder may deliver the property together with the increment on the property to the department after a period of 12 consecutive months in which the owner has ceased, failed, or neglected to exercise dominion or control, to assert a right of ownership or possession, to make presentment and demand for payment and satisfaction, or to do any other act in relation to or concerning the property, if the value of the property is less than \$5.00.

(3) The official receipt of the department acknowledging receipt of the property is considered to be the official receipt of the owner of the property.

Sec. 4b. If a court of competent jurisdiction orders that property under its jurisdiction and control be distributed to the person adjudged to be the lawful owner of the property, and it appears that the property cannot be distributed to that person because the person failed or refused to make a claim for the property, the person's whereabouts are unknown and cannot be ascertained, or the identity of the person is unknown, the court may order and direct that the property be assigned, transferred, and delivered to the department to be held in trust for the person adjudged to be the lawful owner. The official receipt of the department acknowledging receipt of the property is considered to be the official receipt of the owner of the property.

Sec. 4c. The department is authorized to receive and hold all property delivered to it pursuant to this act. However, except as provided by section 52a, it is the duty of the department, upon receiving the property, to keep and hold the property in an account separate from accounts of other escheatable or escheated property, and notwithstanding any other provision of this act, immediately report the property to the attorney general, with the request that appropriate judicial proceedings immediately be instituted for the determination of actual abandonment of the property for the purpose of procuring an order assigning the property to the state of Michigan as an escheat. Property delivered to the department in accordance with this act may be determined to be actually abandoned regardless of whether the full period of dormancy has run.

Sec. 4d. (1) Property delivered to the state treasurer under this act, other than cash, may be sold by the state treasurer either at a public or private sale, as the treasurer considers to be in the best interests of this state or of a person entitled to redemption as provided under this act. A public sale shall be conducted according to rules and regulations prescribed under section 56, except that a public sale of property other than intangible property shall be held not less than once every 3 years. A public sale of property shall be made to the highest responsible bidder for cash and the state treasurer may reject any or all bids upon each item of property offered for sale.

(2) The state treasurer may make, execute, and deliver to each purchaser at the sale a good and sufficient bill of sale, assignment, or transfer of title of the property sold. The bill of sale, assignment, or transfer of title, signed and executed by the state treasurer has the same force and effect as though made by the original owner of the property sold, and entitles the purchaser to all rights of ownership in and to the property. The state treasurer has full power to make the sale, assignment, or transfer in the treasurer's own name and official title as the duly constituted agent and trustee of the original owner. The cash proceeds received from the sale of the property, less the expense of the sale, shall be credited to the account of the original owner.

Sec. 4e. A holder who delivers property to the department, whether by voluntary report and delivery or pursuant to an order of a court of competent jurisdiction, and takes proper receipt for the property, is released and discharged from all liability or accountability to the owner on account of the property, as well as the requirements of preparing and filing of any report concerning the property to any state, county, or municipal board, commission, or agency, except if required or accrued before the date of the delivery of the property to the department.

Sec. 5. (1) As used in this act:

(a) "Person" includes a natural person, corporation, partnership, voluntary association, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity; the United States government, including any official, officer, agency, department, authority, instrumentality, board, bureau, or court of the United States government, and any corporation organized by the United States for public purposes; and a state of the United States including this state, including any official, officer, agency, department, board, commission, constitutional body, or court of the state, any body politic and corporation created by the state for public purposes, and any political subdivision of the state.

(b) "Property", except as otherwise provided in subsection (2), means personal property, tangible or intangible, in the possession or under the control of a holder, and includes, but is not limited to, all of the following:

- (i) Money.
- (ii) Bills of exchange.
- (iii) Stocks, bonds, and other securities.

(iv) Credits, including wages and other allowances for services earned or accrued on or after January 1, 1958, and funds due and payable on checks certified in this state or on written instruments issued in this state on which a banking or financial institution or any other holder is liable, including but not limited to certificates of deposit, drafts, cashier checks, money orders, and travelers checks; and proceeds or property interests represented by unredeemed gift certificates. Credits also include checks or other similar written instruments as described in section 403a of the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being section 550.1403a of the Michigan Compiled Laws.

(v) Deposits, including accrued interest and increments on the deposits.

(vi) Dividends, cash, or stock.

(vii) Certificates of membership in a corporation or association.

(viii) Money due and payable pursuant to the terms of a policy of insurance and money held and owing by any life insurance company doing business in this state that has remained unclaimed and unpaid for 7 years or more after it is established from the records of the company that the money became due and payable under a life or endowment insurance policy or annuity contract that has matured or terminated. A life insurance policy not matured by actual proof of the prior death of the insured is considered to be matured, and the proceeds of that policy are due and payable within the meaning of this act if the policy is in force when the insured has attained the limiting age under the mortality table on which the reserve is based. Money otherwise admittedly due and payable is considered to be held and owing within the meaning of this act although the policy or contract has not been surrendered as required.

(ix) Security deposits.

(x) Funds deposited by a holder with fiscal agents or fiduciaries for payment to an owner of dividends, coupon interest, and liquidation value of stocks and bonds.

(xi) Funds to redeem stocks and bonds.

(xii) Amounts refundable from excess or increased rates or charges collected by a corporation for utility services lawfully furnished by it that were ordered refunded to consumers or other persons entitled to them, and that remain unclaimed by the persons entitled to them for 7 years from the date they became payable pursuant to the final determination or order providing for the refunds. Property defined in this subparagraph includes interest due on the refunds.

(xiii) All other liquidated choses-in-action.

(c) "Owner", in addition to its commonly accepted meaning, means any person having the legal or equitable title or right to make demand to property that is subject to this act.

(d) "Holder" means any person having possession, custody, or control of the property of another person, and includes, but is not limited to, a bank, either state or national; a savings and loan association; a credit union; a trust company; a depository; a bailee; a trustee; a receiver or other liquidating officer; a fiduciary; a federal or state governmental department, official, officer, board, public corporation, commission, constitutional body, court, institution or agency, or political subdivision of the state; a municipal corporation and its fiscal officers; a custodian or officer appointed by a court to receive, keep, handle, or disburse money or other property; a public utility, insurance, or service corporation; and every other legal entity doing business in this state. This definition distinguishes the term "holder" of property from the term "owner" of property.

(e) "Abandoned property" means property against which a full period of dormancy has run.

(f) "Period of dormancy", except as provided in section 7a, means the full and continuous period of 7 years, during which an owner has ceased, failed, or neglected to exercise dominion or control over his or her property or to assert a right of ownership or possession; to make presentment and demand for payment and satisfaction; or to do any other act in relation to or concerning the property. This definition does not include an act of a holder of abandoned property that is not done at the express request or authorization of the owner. For a life insurance policy not matured by actual proof of the prior death of the insured, the period of dormancy shall begin running at the time that the insured attains the limiting age under the mortality table on which the reserve is based, if the policy is in force at that time. For a prepaid funeral contract established under the prepaid funeral contract funding act, Act No. 255 of the Public Acts of 1986, being sections 328.211 to 328.235 of the Michigan Compiled Laws, the period of dormancy shall begin running at the date of death of the contract beneficiary, or if no contract beneficiary has been designated under the contract, the date of death of the owner of the contract, if the contract is in force at that time. For an account established under Act No. 70 of Public Acts of 1954, being sections 328.201 to 328.204 of the Michigan Compiled Laws, the period of dormancy shall begin running at the date of death of the person for whom the account was established, if the account is in existence at that time. If it is unclear whether the contract beneficiary, the owner of the contract, or the person for whom the account was established has died, the department may prescribe the method to be utilized by the holder of the property to determine whether a report should be filed.

(g) "Escheat" means the descent or devolution of property to this state pursuant to the state constitution of 1963, the laws of this state, or this act.

(h) "Escheatable property" means property that is subject to escheat to this state pursuant to the state constitution of 1963, the laws of this state, or this act.

(i) "Escheated property" means property that has descended to this state as an escheat.

(j) "Appropriation" means the act of this state, through its duly constituted officers or agencies, in taking or accepting possession or custody of abandoned, unprotected, unclaimed, or lost property as conservator for later disposition by descent to this state as an escheat or redemption by the owner as provided in this act.

(k) "Redemption" means the reclamation of escheated or escheatable property, or the proceeds of the sale of the property, made by the owner or other person entitled to the property, pursuant to this act.

(l) "Unprotected property" means property that the owner has mislaid or left unprotected against loss, damage, waste, or deterioration under circumstances indicating the disappearance of the owner or an abandonment of the property.

(m) "Department", unless the context clearly requires otherwise, means the department of treasury.

(2) As used in this act, the word "property" does not include credits or deposits evidenced by cash balances on unclaimed or refused personal property, or any property, except the items specified in subsection (1)(b)(i) to (xiii), that the owner could not recover because of any state or federal statute of limitations. "Property" does not include sewage tap or connection fees or charges that a court has ordered to be refunded by a local government to property owners or other persons paying the fees or charges and that are unclaimed within a period of 7 years from the date of the court order and are used to retire judgment bonds issued to refund the sewage tap or connection fees. This act applies to unclaimed property held by a life insurance company as described in subsection (1)(b)(viii) where the last known address, according to the records of the life insurance company, of the person entitled to the property is within this state. If a person other than the insured or annuitant is entitled to the property and no address for that person is known to the life insurance company or if it is not definite and certain from the records of the life insurance company what person is entitled to the property, then it is presumed for the purposes of this act that the last known address of the person entitled to the property is the same as the last known address of the insured or annuitant according to the records of the life insurance company.

Sec. 19. Except as provided by section 52a, it shall be the duty of the state board of escheats, upon receiving such property, or the payment of money, to keep and hold the same in an account separate from accounts of other escheated property and immediately report the account to the state public administrator. It shall be the duty of the attorney general, or the state public administrator, to commence or cause to be commenced appropriate judicial proceedings for a determination of the issue of actual abandonment of such property by the owner or owners thereof, as described in such report, and for the purpose of procuring an order or decree assigning the money or other property to the state of Michigan as an escheat. Such proceedings shall be instituted as soon as may be after the period of dormancy has run against such property, except as otherwise provided in section 4c or 11, and the attorney general, or the state public administrator, may employ any of the permissible alternative methods of procedure provided by this act. However, property so received by the board of escheats shall not be sold until after the termination of such judicial proceedings, and the entry of an order or decree therein, except that the board, in its discretion, and upon good cause shown, may earlier dispose of any such property which, because of its nature, location or condition, would suffer loss, depreciation or damage by reason of necessary delay attendant to obtaining of an order or decree.

Sec. 26. Immediately upon the issuance to him or her of letters of administration in proceedings provided for in section 23, the public administrator so appointed shall cause notice of his or her appointment and time and place of hearing claims against the estate or estates to be served upon the owner or owners named in the petition and all other interested persons. The service shall be made by the public administrator by posting the notice, with a true copy of the petition attached, on the bulletin board of the court house of the county, or in the absence of a bulletin board, then upon a front door of the court house. Proof of the posting and of the time and place posted shall be made by the public administrator by the filing of the proper affidavit. The service shall not be construed as substituted service. Notice of hearing of the final account of the public administrator shall be published in a newspaper printed, published, and circulating in the county in the manner provided for in the Michigan Court Rules of 1985 and the revised probate code, Act No. 642 of the Public Acts of 1978, being sections 700.1 to 700.993 of the Michigan Compiled Laws, for procedures for decedent estates. No other notice or service or publication of notice, is required in the proceedings.

Sec. 56. The department shall adopt and promulgate reasonable rules and regulations to govern its procedure in the administration of the powers and duties given it by this act. The rules and regulations shall prescribe all of the following:

- (a) The form of reports of abandoned or unprotected property required by this act.
- (b) The procedure in conducting the sale of property coming into its possession, and the time and place for the sales.
- (c) The form of applications for redemption of property, and the time and place of hearing on the applications. However, an application shall be heard within 30 days after the filing of the application, unless the hearing, upon cause shown, is adjourned to a later fixed date.
- (d) A uniform practice and policy relative to the making of investments or reinvestments of the proceeds of the sale of real property assigned and delivered to the department under this act, subject to the approval of the state administrative board.
- (e) The form of all legal notices required to be issued, served, or published by the department under this act.
- (f) The form of the deeds of conveyance and contracts of purchase and sale of land described in this act, or any amendments to the contracts.
- (g) The form of all other notices, documents, or other writings to be given, made, or executed by the department in administering the functions imposed upon it by this act.

Section 2. Act No. 63 of the Public Acts of 1949, being sections 567.201 to 567.206 of the Michigan Compiled Laws, is repealed.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved .....

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Governor.