



SENATE BILL No. 390

March 15, 1995, Introduced by Senator EMMONS and referred to the Committee on Finance.

A bill concerning unclaimed property; to provide for the reporting and disposition of unclaimed property; to make uniform the law concerning unclaimed property; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "uniform unclaimed property act".

3 Sec. 2. As used in this act, unless the context otherwise
4 requires:

5 (a) "Administrator" means the state treasurer.

6 (b) "Apparent owner" means the person whose name appears on
7 the records of the holder as the person entitled to property
8 held, issued, or owing by the holder.

1 (c) "Attorney general" means the department of attorney
2 general.

3 (d) "Banking organization" means a bank, trust company, sav-
4 ings bank, industrial bank, land bank, safe deposit company, pri-
5 vate banker, or any organization defined by law as a bank or
6 banking organization.

7 (e) "Business association" means a nonpublic corporation,
8 joint stock company, investment company, business trust, partner-
9 ship, or association for business purposes of 2 or more individu-
10 als, whether or not for profit, including a banking organization,
11 financial organization, insurance company, or utility.

12 (f) "Domicile" means the state of incorporation of a corpo-
13 ration and the state of the principal place of business of an
14 unincorporated person.

15 (g) "Financial organization" means a savings and loan asso-
16 ciation, cooperative bank, building and loan association, savings
17 bank, or credit union.

18 (h) "Holder" means a person, wherever organized or domi-
19 ciled, who is 1 or more of the following:

20 (i) In possession of property belonging to another.

21 (ii) A trustee.

22 (iii) Indebted to another on an obligation.

23 (i) "Insurance company" means an individual, association,
24 corporation, fraternal or mutual benefit organization, or any
25 other legal entity, whether or not for profit, that is engaged or
26 attempting to engage in the business of making insurance or
27 surety contracts.

1 (j) "Intangible property" includes all of the following:

2 (i) Money, checks, drafts, deposits, interest, dividends,
3 and income.

4 (ii) Credit balances, customer overpayments, gift certifi-
5 cates, security deposits, refunds, credit memos, unpaid wages,
6 unused airline tickets, and unidentified remittances.

7 (iii) Stocks and other intangible ownership interests in
8 business associations.

9 (iv) Money deposited to redeem stocks, bonds, coupons, and
10 other securities, or to make distributions.

11 (v) Amounts due and payable under the terms of insurance
12 policies.

13 (vi) Amounts distributable from a trust or custodial fund
14 established under a plan to provide health, welfare, pension,
15 vacation, severance, retirement, death, stock purchase, profit
16 sharing, employee savings, supplemental unemployment insurance,
17 or similar benefits.

18 (k) "Last known address" means a description of the location
19 of the apparent owner sufficient for the purpose of the delivery
20 of mail.

21 (l) "Owner" means a depositor, in the case of a deposit; a
22 beneficiary, in case of a trust other than a deposit in trust; a
23 creditor, claimant, or payee, in the case of other intangible
24 property; or a person having a legal or equitable interest in
25 property subject to this act. Owner includes the legal represen-
26 tative of the person defined as an owner in this subdivision.

1 (m) "Person" means an individual, business association,
2 state or other government, governmental subdivision or agency,
3 public corporation, public authority, estate, trust, 2 or more
4 persons having a joint or common interest, or any other legal or
5 commercial entity.

6 (n) "Property" means tangible or intangible personal prop-
7 erty owned by a person.

8 (o) "State" means any state, district, commonwealth, terri-
9 tory, insular possession, or any other area subject to the legis-
10 lative authority of the United States.

11 (p) "Utility" means a person who owns or operates for public
12 use any plant, equipment, property, franchise, or license for the
13 transmission of communications or the production, storage, trans-
14 mission, sale, delivery, or furnishing of electricity, water,
15 steam, or gas.

16 Sec. 3. (1) Except as otherwise provided by this act, all
17 property, including any income or increment derived from the
18 property, less any lawful charges, that is held, issued, or owing
19 in the ordinary course of a holder's business and remains
20 unclaimed by the owner for more than 5 years after it becomes
21 payable or distributable is presumed abandoned.

22 (2) Property is payable or distributable for the purpose of
23 this act, notwithstanding the owner's failure to make demand or
24 to present any instrument or document required to receive
25 payment.

26 Sec. 4. Unless otherwise provided in this act or by law,
27 property is subject to the custody of this state as unclaimed

1 property, if the conditions raising a presumption of abandonment
2 under sections 3 and 6 to 17 are satisfied and 1 or more of the
3 following requirements are met:

4 (a) The last known address, as shown on the records of the
5 holder, of the apparent owner is in this state.

6 (b) The records of the holder do not reflect the identity of
7 the person entitled to the property and it is established that
8 the last known address of the person entitled to the property is
9 in this state.

10 (c) The records of the holder do not reflect the last known
11 address of the apparent owner, and 1 of the following is
12 established:

13 (i) That the last known address of the person entitled to
14 the property is in this state.

15 (ii) That the holder is domiciled in this state or is a gov-
16 ernment or governmental subdivision or agency of this state and
17 has not previously paid or delivered the property to the state of
18 the last known address of the apparent owner or other person
19 entitled to the property.

20 (d) The last known address, as shown on the records of the
21 holder, of the apparent owner is in a state that does not provide
22 by law for the escheat or custodial taking of the property or its
23 escheat or unclaimed property law is not applicable to the prop-
24 erty and the holder is domiciled in this state or is a government
25 or governmental subdivision or agency of this state.

26 (e) The last known address, as shown on the records of the
27 holder, of the apparent owner is in a foreign nation and the

1 holder is domiciled in this state or is a government or
2 governmental subdivision or agency of this state.

3 (f) The transaction out of which the property arose occurred
4 in this state, and both of the following are established:

5 (i) The last known address of the apparent owner or other
6 person entitled to the property is unknown or is in a state that
7 does not provide by law for the escheat or custodial taking of
8 the property or its escheat or unclaimed property law is not
9 applicable to the property.

10 (ii) The holder is domiciled in a state that does not pro-
11 vide by law for the escheat or custodial taking of the property
12 or its escheat or unclaimed property law is not applicable to the
13 property.

14 Sec. 5. (1) Subject to subsection (4), any sum payable on a
15 travelers check that is outstanding for more than 15 years after
16 its issuance is presumed abandoned unless the owner, within 15
17 years, has communicated in writing with the issuer concerning it
18 or otherwise indicated an interest as evidenced by a memorandum
19 or other record on file prepared by an employee of the issuer.

20 (2) Subject to subsection (4), any sum payable on a money
21 order or similar written instrument, other than a third party
22 bank check, that is outstanding for more than 7 years after its
23 issuance is presumed abandoned unless the owner, within 7 years,
24 has communicated in writing with the issuer concerning it or oth-
25 erwise indicated an interest as evidenced by a memorandum or
26 other record on file prepared by an employee of the issuer.

1 (3) A holder may not deduct from the amount of a travelers
2 check or money order any charge imposed by reason of the failure
3 to present the instrument for payment unless there is an enforce-
4 able written contract between the issuer and the owner of the
5 instrument under which the issuer may impose a charge and the
6 issuer regularly imposes such charges and does not regularly
7 reverse or otherwise cancel them.

8 (4) A sum payable on a travelers check, money order, or sim-
9 ilar written instrument, other than a third party bank check,
10 described in subsections (1) and (2) may not be subjected to the
11 custody of this state as unclaimed property unless 1 or more of
12 the following requirements are met:

13 (a) The records of the issuer show that the travelers check,
14 money order, or similar written instrument was purchased in this
15 state.

16 (b) The issuer has its principal place of business in this
17 state and the records of the issuer do not show the state in
18 which the travelers check, money order, or similar written
19 instrument was purchased.

20 (c) The issuer has its principal place of business in this
21 state, the records of the issuer show the state in which the
22 travelers check, money order, or similar written instrument was
23 purchased and the laws of the state of purchase do not provide
24 for the escheat or custodial taking of the property or its
25 escheat or unclaimed property law is not applicable to the
26 property.

1 (5) Notwithstanding any other provision of this act,
2 subsection (4) applies to sums payable on travelers checks, money
3 orders, and similar written instruments presumed abandoned on or
4 after February 1, 1965, except to the extent that those sums have
5 been paid over to a state prior to January 1, 1974.

6 Sec. 6. (1) Any sum payable on a check, draft, or similar
7 instrument, except those subject to section 5, on which a banking
8 or financial organization is directly liable, including a
9 cashier's check and a certified check, which is outstanding for
10 more than 5 years after it was payable or after its issuance if
11 payable on demand, is presumed abandoned, unless the owner,
12 within 5 years, has communicated in writing with the banking or
13 financial organization concerning it or otherwise indicated an
14 interest as evidenced by a memorandum or other record on file
15 prepared by an employee of the banking or financial
16 organization.

17 (2) A holder may not deduct from the amount of any instru-
18 ment subject to this section any charge imposed by reason of the
19 failure to present the instrument for payment unless there is an
20 enforceable written contract between the holder and the owner of
21 the instrument under which the holder may impose a charge, and
22 the holder regularly imposes such charges and does not regularly
23 reverse or otherwise cancel them.

24 Sec. 7. (1) Any demand, savings, or matured time deposit
25 with a banking or financial organization, including a deposit
26 that is automatically renewable, and any funds paid toward the
27 purchase of a share, a mutual investment certificate, or any

1 other interest in a banking or financial organization is presumed
2 abandoned unless the owner, within 5 years, has met 1 or more of
3 the following requirements:

4 (a) In the case of a deposit, increased or decreased its
5 amount or presented the passbook or other similar evidence of the
6 deposit for the crediting of interest.

7 (b) Communicated, in writing, with the banking or financial
8 organization concerning the property.

9 (c) Otherwise indicated an interest in the property as evi-
10 denced by a memorandum or other record on file prepared by an
11 employee of the banking or financial organization.

12 (d) Owned other property to which subdivision (a), (b), or
13 (c) applies and unless the banking or financial organization com-
14 municates, in writing, with the owner with regard to the property
15 that would otherwise be presumed abandoned under this subsection
16 at the address to which communications regarding the other prop-
17 erty regularly are sent.

18 (e) Had another relationship with the banking or financial
19 organization concerning which the owner has met 1 or more of the
20 following requirements:

21 (i) Communicated, in writing, with the banking or financial
22 organization.

23 (ii) Otherwise indicated an interest as evidenced by a memo-
24 randum or other record on file prepared by an employee of the
25 banking or financial organization and unless the banking or
26 financial organization communicates in writing with the owner
27 with regard to the property that would otherwise be abandoned

1 under this subsection at the address to which communications
2 regarding the other relationship regularly are sent.

3 (2) For purposes of subsection (1), property includes inter-
4 est and dividends.

5 (3) A holder may not impose with respect to property
6 described in subsection (1) any charge due to dormancy or inac-
7 tivity or cease payment of interest unless all of the following
8 requirements are met:

9 (a) There is an enforceable written contract between the
10 holder and the owner of the property providing that the holder
11 may impose a charge or cease payment of interest.

12 (b) For the property of a value in excess of \$2.00, the
13 holder, no more than 3 months before the initial imposition of
14 those charges or cessation of interest, has given written notice
15 to the owner of the amount of those charges at the last known
16 address of the owner stating that those charges will be imposed
17 or that interest will cease. However, the notice required in
18 this subdivision need not be given with respect to charges
19 imposed or interest ceased before the effective date of this
20 act.

21 (c) The holder regularly imposes such charges or ceases pay-
22 ment of interest and does not regularly reverse or otherwise
23 cancel them or retroactively credit interest with respect to the
24 property.

25 (4) Any property described in subsection (1) that is auto-
26 matically renewable is matured for purposes of subsection (1) 15
27 years after the expiration of its initial time period, but in the

1 case of any renewal to which the owner consents at or about the
2 time of renewal by communicating in writing with the banking or
3 financial organization or otherwise indicating consent as evi-
4 denced by a memorandum or other record on file prepared by an
5 employee of the organization, the property is matured upon the
6 expiration of the last time period for which consent was given.
7 If, at the time provided for delivery to the administrator under
8 section 20, a penalty or forfeiture in the payment of interest
9 would result from the delivery of the property, the time for
10 delivery is extended until the time when no penalty or forfeiture
11 would result.

12 (5) The following types of accounts are presumed abandoned
13 15 years after the owner or the person entitled to the funds last
14 communicated in writing with the banking or financial organiza-
15 tion concerning the funds or otherwise indicated an interest as
16 evidenced by a memorandum or other record on file prepared by an
17 employee of the banking or financial organization:

18 (a) An in trust for account described in section 2 of Act
19 No. 248 of the Public Acts of 1909, being section 487.702 of the
20 Michigan Compiled Laws.

21 (b) An account established pursuant to the Michigan uniform
22 gifts to minors act, Act No. 172 of the Public Acts of 1959,
23 being sections 554.451 to 554.461 of the Michigan Compiled Laws.

24 Sec. 8. (1) Funds held or owing under any life or endowment
25 insurance policy or annuity contract that has matured or termi-
26 nated are presumed abandoned if unclaimed for more than 5 years
27 after the funds became due and payable as established from the

1 records of the insurance company holding or owing the funds.

2 However, property described in subsection (3)(b) is presumed

3 abandoned if unclaimed for more than 2 years.

4 (2) If a person other than the insured or annuitant is enti-
5 tled to the funds and an address of the person is not known to
6 the insurance company or it is not definite and certain from the
7 records of the insurance company who is entitled to the funds, it
8 is presumed that the last known address of the person entitled to
9 the funds is the same as the last known address of the insured or
10 annuitant according to the records of the insurance company.

11 (3) For purposes of this act, a life or endowment insurance
12 policy or annuity contract not matured by actual proof of the
13 death of the insured or annuitant according to the records of the
14 insurance company is matured and the proceeds due and payable if
15 1 or more of the following requirements are met:

16 (a) The insurance company knows that the insured or annu-
17 itant has died.

18 (b) The insured has attained, or would have attained if he
19 or she were living, the limiting age under the mortality table on
20 which the reserve is based; the policy was in force at the time
21 the insured attained, or would have attained, the limiting age;
22 and neither the insured nor any other person appearing to have an
23 interest in the policy within the preceding 2 years, according to
24 the records of the insurance company, has assigned, readjusted,
25 or paid premiums on the policy, subjected the policy to a loan,
26 corresponded in writing with the insurance company concerning the
27 policy, or otherwise indicated an interest as evidenced by a

1 memorandum or other record on file prepared by an employee of the
2 insurance company.

3 (4) For purposes of this act, the application of an auto-
4 matic premium loan provision or other nonforfeiture provision
5 contained in an insurance policy does not prevent a policy from
6 being matured or terminated under subsection (1) if the insured
7 has died or the insured or the beneficiary of the policy other-
8 wise has become entitled to the proceeds of the policy before the
9 depletion of the cash surrender value of the policy by the appli-
10 cation of those provisions.

11 (5) If the laws of this state or the terms of the life
12 insurance policy require the insurance company to give notice to
13 the insured or owner that an automatic premium loan provision or
14 other nonforfeiture provision has been exercised and the notice,
15 given to an insured or owner whose last known address according
16 to the records of the insurance company is in this state, is
17 undeliverable, the insurance company shall make a reasonable
18 search to ascertain the policyholder's correct address to which
19 the notice must be mailed.

20 (6) Notwithstanding any other provision of law, if the
21 insurance company learns of the death of the insured or annuitant
22 and the beneficiary has not communicated with the insurance com-
23 pany within 4 months after the death of the insured or annuitant,
24 the insurance company shall take reasonable steps to pay the pro-
25 ceeds to the beneficiary.

26 (7) Commencing 2 years after the effective date of this act,
27 every change of beneficiary form issued by an insurance company

1 under any life or endowment insurance policy or annuity contract
2 to an insured or owner who is a resident of this state must
3 request all of the following information:

4 (a) The name of each beneficiary, or if a class of benefi-
5 ciaries is named, the name of each current beneficiary in the
6 class.

7 (b) The address of each beneficiary.

8 (c) The relationship of each beneficiary to the insured.

9 Sec. 8a. (1) Funds held by a provider under the prepaid
10 funeral contract funding act, Act No. 255 of the Public Acts of
11 1986, being sections 328.211 to 328.235 of the Michigan Compiled
12 Laws, that remain unclaimed for a period of 5 years after the
13 death of the contract beneficiary or, if no contract beneficiary
14 has been designated under the prepaid funeral contract, 5 years
15 after the death of the owner of the prepaid funeral contract are
16 presumed abandoned.

17 (2) Funds held pursuant to Act No. 70 of the Public Acts of
18 1954, being sections 328.201 to 328.204 of the Michigan Compiled
19 Laws, are presumed abandoned, after a period of 15 years, unless
20 the owner or person entitled to the funds has communicated in
21 writing with the banking or financial organization concerning the
22 funds or otherwise indicated in interest as evidenced by a memo-
23 randum or other record on file prepared by an employee of the
24 banking or financial organization.

25 Sec. 9. A deposit, including any interest on the deposit,
26 made by a subscriber with a utility to secure payment or any sum
27 paid in advance for utility services to be furnished, less any

1 lawful deductions, that remains unclaimed by the owner for more
2 than 1 year after termination of the services for which the
3 deposit or advance payment was made is presumed abandoned.

4 Sec. 10. Except to the extent otherwise ordered by the
5 court or administrative agency, any sum that a business associa-
6 tion has been ordered to refund by a court or administrative
7 agency that remains unclaimed by the owner for more than 1 year
8 after it became payable in accordance with the final determina-
9 tion or order providing for the refund, whether or not the final
10 determination or order requires any person entitled to a refund
11 to make a claim for the refund, is presumed abandoned.

12 Sec. 11. (1) Except as provided in subsections (2) and (5),
13 stock or other intangible ownership interest in a business asso-
14 ciation, the existence of which is evidenced by records available
15 to the business association, is presumed abandoned and, with
16 respect to the interest, the business association is the holder,
17 if a dividend, distribution, or other sum payable as a result of
18 the interest remains unclaimed by the owner for 7 years and the
19 owner, within 7 years, has not met any of the following
20 requirements:

21 (a) Communicated, in writing, with the business association
22 regarding the interest or a dividend, distribution, or other sum
23 payable as a result of the interest.

24 (b) Otherwise communicated with the business association
25 regarding the interest or a dividend, distribution, or other sum
26 payable as a result of the interest, as evidenced by a memorandum

1 or other record on file with the business association prepared by
2 an employee of the business association.

3 (2) At the expiration of a 7-year period following the fail-
4 ure of the owner to claim a dividend, distribution, or other sum
5 payable to the owner as a result of the interest, the interest is
6 not presumed abandoned unless there have been at least 7 divi-
7 dends, distributions, or other sums paid during the period, none
8 of which has been claimed by the owner. If 7 dividends, distri-
9 butions, or other sums are paid during the 7-year period, the
10 period leading to a presumption of abandonment commences on the
11 date payment of the first such unclaimed dividend, distribution,
12 or other sum became due and payable. If 7 dividends, distribu-
13 tions, or other sums are not paid during the presumptive period,
14 the period continues to run until there have been 7 dividends,
15 distributions, or other sums that have not been claimed by the
16 owner.

17 (3) The running of the 7-year period of abandonment ceases
18 immediately upon the occurrence of a communication referred to in
19 subsection (1). If any future dividend, distribution, or other
20 sum payable to the owner as a result of the interest is subse-
21 quently not claimed by the owner, a new period of abandonment
22 commences and relates back to the time a subsequent dividend,
23 distribution, or other sum became due and payable.

24 (4) At the time an interest is presumed abandoned-under this
25 section, any dividend, distribution, or other sum then held for
26 or owing to the owner as a result of the interest, and not
27 previously presumed abandoned, is presumed abandoned.

1 (5) This act does not apply to any stock or other intangible
2 ownership interest enrolled in a plan that provides for the auto-
3 matic reinvestment of dividends, distributions, or other sums
4 payable as a result of the interest unless the records available
5 to the administrator of the plan show, with respect to any intan-
6 gible ownership interest not enrolled in the reinvestment plan,
7 that the owner has not, within 15 years, communicated in any
8 manner described in subsection (1).

9 Sec. 12. Property distributable in the course of a dissolu-
10 tion of a business association that remains unclaimed by the
11 owner for more than 1 year after the date specified for final
12 distribution is presumed abandoned.

13 Sec. 13. (1) Property and any income or increment derived
14 therefrom held in a fiduciary capacity for the benefit of another
15 person is presumed abandoned unless the owner, within 5 years
16 after it has become payable or distributable, has increased or
17 decreased the principal, accepted payment of principal or income,
18 communicated concerning the property, or otherwise indicated an
19 interest as evidenced by a memorandum or other record on file
20 prepared by the fiduciary.

21 (2) Funds in an individual retirement account or a qualified
22 retirement plan for self-employed individuals or similar account
23 or qualified plan established under the internal revenue code are
24 not payable or distributable within the meaning of subsection (1)
25 unless, under the terms of the account or qualified plan, distri-
26 bution of all or part of the funds would then be mandatory.

1 (3) For the purpose of this section, a person who holds
2 property as an agent for a business association is deemed to hold
3 the property in a fiduciary capacity for that business associa-
4 tion alone, unless the agreement between him or her and the busi-
5 ness association provides otherwise.

6 (4) For the purposes of this act, a person who is deemed to
7 hold property in a fiduciary capacity for a business association
8 alone is the holder of the property only insofar as the interest
9 of the business association in the property is concerned, and the
10 business association is the holder of the property insofar as the
11 interest of any other person in the property is concerned.

12 Sec. 14. Property held for the owner by a court, state, or
13 other government, governmental subdivision or agency, public cor-
14 poration, or public authority that remains unclaimed by the owner
15 for more than 1 year after becoming payable or distributable is
16 presumed abandoned.

17 Sec. 15. (1) A gift certificate or a credit memo issued in
18 the ordinary course of an issuer's business that remains
19 unclaimed by the owner for more than 5 years after becoming pay-
20 able or distributable is presumed abandoned.

21 (2) In the case of a gift certificate, the amount presumed
22 abandoned is the price paid by the purchaser for the gift
23 certificate. In the case of a credit memo, the amount presumed
24 abandoned is the amount credited to the recipient of the memo.

25 Sec. 16. Unpaid wages, including wages represented by
26 unrepresented payroll checks, owing in the ordinary course of the

1 holder's business that remain unclaimed by the owner for more
2 than 1 year after becoming payable are presumed abandoned.

3 Sec. 17. All property held in a safe deposit box or any
4 other safekeeping repository in this state in the ordinary course
5 of the holder's business and proceeds resulting from the sale of
6 the property permitted by law, that remain unclaimed by the owner
7 for more than 5 years after the lease or rental period on the box
8 or other repository has expired, are presumed abandoned.

9 Sec. 18. (1) A person holding property presumed abandoned
10 and subject to the state's custody as unclaimed property under
11 this act shall report to the administrator concerning the prop-
12 erty as provided in this section.

13 (2) The report shall be verified and shall include all of
14 the following:

15 (a) The name, if known, social security number, if known,
16 and last known address, if any, of each person appearing from the
17 records of the holder to be the owner of property of the value of
18 \$50.00 or more presumed abandoned under this act. This subdivi-
19 sion does not apply to travelers checks and money orders.

20 (b) In the case of unclaimed funds of \$50.00 or more held or
21 owing under any life or endowment insurance policy or annuity
22 contract, the full name and last known address of the insured or
23 annuitant and of the beneficiary according to the records of the
24 insurance company holding or owing the funds.

25 (c) In the case of the contents of a safe deposit box or
26 other safekeeping repository or of other tangible property, a
27 description of the property and the place where it is held and

1 may be inspected by the administrator and any amounts owing to
2 the holder.

3 (d) The nature and identifying number, if any, or descrip-
4 tion of the property and the amount appearing from the records to
5 be due. However, items of value under \$50.00 each may be
6 reported in the aggregate.

7 (e) The date the property became payable, demandable, or
8 returnable, and the date of the last transaction with the appar-
9 ent owner with respect to the property.

10 (f) Other information the administrator requires by rule as
11 necessary for the administration of this act.

12 (3) If the person holding property presumed abandoned and
13 subject to the state's custody as unclaimed property under this
14 act is a successor to other persons who previously held the prop-
15 erty for the apparent owner, or the holder has changed its name
16 while holding the property, the holder shall file with the report
17 all known names and addresses of each previous holder of the
18 property.

19 (4) Except as otherwise provided in this subsection, the
20 report shall be filed before November 1 of each year for the
21 12-month period ending on the immediately preceding June 30. The
22 administrator may postpone the date to file a report, on written
23 request by any person required to file a report under this
24 section.

25 (5) Not more than 120 days before filing the report required
26 by this section, the holder in possession of property presumed
27 abandoned and subject to the state's custody as unclaimed

1 property under this act shall send written notice to the apparent
2 owner at his or her last known address informing him or her that
3 the holder is in possession of property subject to this act if
4 all of the following requirements are met:

5 (a) The holder has in its records an address for the appar-
6 ent owner that the holder's records do not disclose to be
7 inaccurate.

8 (b) The claim of the apparent owner is not barred by the
9 statute of limitations.

10 (c) The property has a value of \$50.00 or more.

11 Sec. 19. (1) The administrator shall cause a notice to be
12 published not later than June 1 of the year immediately following
13 the report required by section 18 at least once a week for 2 con-
14 secutive weeks in a newspaper of general circulation in the
15 county of this state in which is located the last known address
16 of any person named in the notice. If no address is listed or
17 the address is outside this state, the notice must be published
18 in the county in which the holder of the property has its princi-
19 pal place of business within this state.

20 (2) The published notice shall be entitled "notice of names
21 of persons appearing to be owners of abandoned property" and con-
22 tain all of the following:

23 (a) The names, in alphabetical order, and last known
24 address, if any, of persons listed in the report and entitled to
25 notice within the county as specified in subsection (1).

1 (b) A statement that information concerning the property may
2 be obtained by any person possessing an interest in the property
3 by addressing an inquiry to the administrator.

4 (c) A statement informing an owner of property held by the
5 administrator on how to file a claim with the administrator to
6 receive his or her property.

7 (3) The administrator is not required to publish in the
8 notice any items of less than \$50.00 unless the administrator
9 considers their publication to be in the public interest.

10 (4) This section is not applicable to sums payable on trav-
11 elers checks, money orders, and other written instruments pre-
12 sumed abandoned under section 5.

13 Sec. 20. (1) A person who is required to file a report
14 under section 18 shall at the time for filing the report pay or
15 deliver to the administrator all abandoned property that is
16 required to be reported under section 18.

17 (2) The holder of an interest under section 11 shall deliver
18 a duplicate certificate or other evidence of ownership if the
19 holder does not issue certificates of ownership to the
20 administrator. Upon delivery of a duplicate certificate to the
21 administrator, the holder and any transfer agent, registrar, or
22 other person acting for or on behalf of a holder in executing or
23 delivering the duplicate certificate is relieved of all liability
24 of every kind in accordance with the provision of section 21 to
25 every person, including any person acquiring the original certif-
26 icate or the duplicate of the certificate issued to the
27 administrator, for any losses or damages resulting to any person

1 by the issuance and delivery to the administrator of the
2 duplicate certificate.

3 Sec. 21. (1) Upon the payment or delivery of property to
4 the administrator, the state assumes custody and responsibility
5 for the safekeeping of the property. A person who pays or deliv-
6 ers property to the administrator in good faith is relieved of
7 all liability to the extent of the value of the property paid or
8 delivered for any claim then existing or which may arise or be
9 made in respect to the property after the payment or delivery to
10 the administrator.

11 (2) A holder who has paid money to the administrator pursu-
12 ant to this act may make payment to any person appearing to the
13 holder to be entitled to payment and, upon filing proof of pay-
14 ment and proof that the payee was entitled to the payment, the
15 administrator shall promptly reimburse the holder for the payment
16 without imposing any fee or other charge. If reimbursement is
17 sought for a payment made on a negotiable instrument, including a
18 travelers check or money order, the holder shall be reimbursed
19 under this subsection upon filing proof that the instrument was
20 duly presented and that payment was made to a person who appeared
21 to the holder to be entitled to payment. The holder shall be
22 reimbursed for payment made under this subsection even if the
23 payment was made to a person whose claim was barred under section
24 30(1).

25 (3) A holder who has delivered property, including a certifi-
26 cate of any interest in a business association, other than money
27 to the administrator pursuant to this act, may reclaim the

1 property if still in the possession of the administrator, without
2 paying any fee or other charge, upon filing proof that the owner
3 has claimed the property from the holder.

4 (4) The administrator may accept the holder's affidavit as
5 sufficient proof of the facts that entitle the holder to recover
6 money and property under this section.

7 (5) If the holder pays or delivers property to the adminis-
8 trator in good faith and another person claims the property from
9 the holder or another state claims the money or property under
10 its laws relating to escheat or abandoned or unclaimed property,
11 the administrator, upon written notice of the claim, shall defend
12 the holder against the claim and indemnify the holder against any
13 liability on the claim.

14 (6) For the purposes of this section, "good faith" means all
15 of the following:

16 (a) That payment or delivery was made in a reasonable
17 attempt to comply with this act.

18 (b) That the person delivering the property was not a fidu-
19 ciary then in breach of trust in respect to the property and had
20 a reasonable basis for believing, based on the facts then known
21 to him or her, that the property was abandoned for the purposes
22 of this act.

23 (c) That there is no showing that the records under which
24 the delivery was made did not meet reasonable commercial stan-
25 dards of practice in the industry.

26 (7) Property removed from a safe deposit box or other
27 safekeeping repository is received by the administrator subject

1 to the holder's right under this subsection to be reimbursed for
2 the actual cost of the opening and to any valid lien or contract
3 providing for the holder to be reimbursed for unpaid rent or
4 storage charges. The administrator shall reimburse or pay the
5 holder out of the proceeds remaining after deducting the
6 administrator's selling cost.

7 (8) For purposes of section 7(1)(e), a banking or financial
8 organization is considered to have acted in good faith if it has
9 made a reasonable search of its records as determined by the com-
10 mercial standards of practice in the industry and reasonably
11 determined that the banking or financial organization does not
12 have another relationship with the apparent owner.

13 Sec. 22. If property other than money is paid or delivered
14 to the administrator under this act, the owner is entitled to
15 receive from the administrator any dividends, interest, or other
16 increments realized or accruing on the property at or before
17 liquidation or conversion of the property into money.

18 Sec. 23. (1) Except as provided in subsections (2) and (3),
19 the administrator, within 3 years after the receipt of abandoned
20 property, shall sell it to the highest bidder at public sale in
21 whatever city in the state affords, in the judgment of the admin-
22 istrator, the most favorable market for the property involved.
23 The administrator may decline the highest bid and reoffer the
24 property for sale if, in the judgment of the administrator, the
25 bid is insufficient. If, in the judgment of the administrator,
26 the probable cost of sale exceeds the value of the property, the
27 property need not be offered for sale. Any sale held under this

1 section shall be preceded by a single publication of notice, at
2 least 3 weeks in advance of sale, in a newspaper of general cir-
3 culation in the county in which the property is to be sold.

4 (2) Securities listed on an established stock exchange shall
5 be sold at prices prevailing at the time of sale on the
6 exchange. Securities not listed on an established stock exchange
7 may be sold over the counter at prices prevailing at the time of
8 sale or by any other method the administrator considers
9 advisable.

10 (3) Unless the administrator considers it to be in the best
11 interest of the state to do otherwise, all securities, other than
12 those presumed abandoned under section 11, delivered to the
13 administrator shall be held for at least 1 year before the admin-
14 istrator may sell them.

15 (4) Unless the administrator considers it to be in the best
16 interest of the state to do otherwise, all securities presumed
17 abandoned under section 11 and delivered to the administrator
18 shall be held for at least 3 years before the administrator may
19 sell them. If the administrator sells any securities presumed
20 abandoned under section 11 before the expiration of the 3-year
21 period, any person making a claim under this act before the end
22 of the 3-year period is entitled to either the proceeds of the
23 sale of the securities or the market value of the securities at
24 the time the claim is made, whichever amount is greater, less any
25 amounts deducted under section 24(2). A person making a claim
26 under this act after the expiration of the 3-year period is
27 entitled to receive either the securities delivered to the

1 administrator by the holder, if they still remain in the hands of
2 the administrator, or the proceeds received from sale, less any
3 amounts deducted under section 24(2), but no person has any claim
4 under this act against the state, the holder, any transfer agent,
5 registrar, or other person acting for or on behalf of a holder
6 for any appreciation in the value of the property occurring after
7 delivery by the holder to the administrator.

8 (5) The purchaser of property at any sale conducted by the
9 administrator under this act takes the property free of all
10 claims of the owner or previous holder of the property and of all
11 persons claiming through or under the owner or previous holder.
12 The administrator shall execute all documents necessary to com-
13 plete the transfer of ownership.

14 Sec. 24. (1) Except as otherwise provided by this section,
15 the administrator shall promptly deposit in the general fund of
16 this state all funds received under this act, including the pro-
17 ceeds from the sale of abandoned property under section 23. The
18 administrator shall retain in a separate trust fund an amount not
19 less than \$100,000.00 from which prompt payment of claims allowed
20 under this act shall be made. When making the deposit, the
21 administrator shall record the name and last known address of
22 each person appearing from the holders' reports to be entitled to
23 the property and the name and last known address of each insured
24 person or annuitant and beneficiary and with respect to each
25 policy or contract listed in the report of an insurance company,
26 the number of the policy or contract, the name of the insurance
27 company, and the amount due. The name of the owner or apparent

1 owner and a gross description of the property only shall be
2 available for public inspection at all reasonable business
3 hours.

4 (2) Before making any deposit to the credit of the general
5 fund, the administrator may deduct any of the following:

6 (a) Costs in connection with the sale of abandoned
7 property.

8 (b) Costs of mailing and publication in connection with any
9 abandoned property.

10 (c) Reasonable service charges.

11 (d) Costs incurred in examining records of holders of prop-
12 erty and in collecting the property from those holders.

13 (3) The administrator shall transfer to the senior care
14 respite fund created in the older Michiganians act, Act No. 180
15 of the Public Acts of 1981, being sections 400.581 to 400.594 of
16 the Michigan Compiled Laws, funds that escheat to this state pur-
17 suant to section 403a of the nonprofit health care corporation
18 reform act, Act No. 350 of the Public Acts of 1980, being
19 section 550.1403a of the Michigan Compiled Laws.

20 Sec. 25. (1) A person, excluding another state, claiming an
21 interest in any property paid or delivered to the administrator
22 under this act, may file with the administrator a claim on a form
23 prescribed by the administrator and verified by the claimant.

24 (2) The administrator shall consider each claim within 90
25 days after it is filed and give written notice to the claimant if
26 the claim is denied in whole or in part. The notice may be given
27 by mailing it to the last address, if any, stated in the claim as

1 the address to which notices are to be sent. If no address for
2 notices is stated in the claim, the notice may be mailed to the
3 last address, if any, of the claimant as stated in the claim. No
4 notice of denial need be given if the claim fails to state either
5 the last address to which notices are to be sent or the address
6 of the claimant.

7 (3) If a claim is allowed, the administrator shall pay over
8 or deliver to the claimant the property or the amount the admin-
9 istrator actually received or the net proceeds if it has been
10 sold by the administrator, plus any additional amount required by
11 section 22. If the claim is for property presumed abandoned
12 under section 11 that was sold by the administrator within 3
13 years after the date of delivery, the amount payable for that
14 claim is the value of the property at the time the claim was made
15 or the net proceeds of sale, whichever is greater. If the prop-
16 erty claimed was interest bearing to the owner on the date of
17 surrender by the holder, the administrator also shall pay inter-
18 est at a rate of 6% a year or any lesser rate the property earned
19 while in the possession of the holder. Interest begins to accrue
20 when the property is delivered to the administrator and ceases on
21 the earlier of the expiration of 10 years after delivery or the
22 date on which payment is made to the owner. No interest on
23 interest bearing property is payable for any period before the
24 effective date of this act.

25 (4) Any holder who pays the owner for property that has been
26 delivered to the state and which, if claimed from the
27 administrator, would be subject to subsection (3) shall add

1 interest as provided in that subsection. The added interest must
2 be repaid to the holder by the administrator in the same manner
3 as the principal.

4 Sec. 26. (1) At any time after property has been paid or
5 delivered to the administrator under this act, another state may
6 recover the property if 1 or more of the following requirements
7 are met:

8 (a) The property was subjected to custody by this state
9 because the records of the holder did not reflect the last known
10 address of the apparent owner when the property was presumed
11 abandoned under this act, and the other state establishes that
12 the last known address of the apparent owner or other person
13 entitled to the property was in that state and under the laws of
14 that state the property escheated to or was subject to a claim of
15 abandonment by that state.

16 (b) The last known address of the apparent owner or other
17 person entitled to the property, as reflected by the records of
18 the holder, is in the other state and under the laws of that
19 state the property has escheated to or become subject to a claim
20 of abandonment by that state.

21 (c) The records of the holder were erroneous in that they
22 did not accurately reflect the actual owner of the property and
23 the last known address of the actual owner is in the other state
24 and under the laws of that state the property escheated to or was
25 subject to a claim of abandonment by that state.

26 (d) The property was subjected to custody by this state
27 under section 4(f) and under the laws of the state of domicile of

1 the holder the property has escheated to or become subject to a
2 claim of abandonment by that state.

3 (e) The property is the sum payable on a travelers check,
4 money order, or other similar instrument that was subjected to
5 custody by this state under section 5, and the instrument was
6 purchased in the other state, and under the laws of that state
7 the property escheated to or became subject to a claim of aban-
8 donment by that state.

9 (2) The claim of another state, under the laws of that
10 state, to recover escheated or abandoned property shall be
11 presented in a form prescribed by the administrator, who shall
12 decide the claim within 90 days after it is presented. The
13 administrator shall allow the claim if the administrator deter-
14 mines that the other state is entitled to the property under sub-
15 section (1).

16 (3) The administrator shall require a state, before recover-
17 ing property under this section, to agree to indemnify this state
18 and its officers and employees against any liability on a claim
19 for the property.

20 Sec. 27. A person who is aggrieved by a decision of the
21 administrator or whose claim has not been acted upon within 90
22 days after its filing may bring an action to establish the claim
23 in the circuit court, naming the administrator as a defendant.
24 The action shall be brought within 90 days after the decision of
25 the administrator or within 180 days after the filing of the
26 claim if the administrator has failed to act on it. If the
27 aggrieved person establishes the claim in an action against the

1 administrator, the court shall award the claimant costs and
2 reasonable attorney's fees.

3 Sec. 28. (1) The administrator may decline to receive prop-
4 erty reported under this act that the administrator considers to
5 have a value less than the expense of giving notice and of public
6 sale. If the administrator declines to receive the property, the
7 administrator shall authorize the holder of the property to
8 destroy or otherwise dispose of the property at any time the
9 holder chooses. An action or proceeding shall not be maintained
10 against a holder for or on account of any action taken by the
11 holder in destroying or otherwise disposing of the property pur-
12 suant to the authorization of the administrator.

13 (2) A holder may report and deliver property to the adminis-
14 trator before the property is otherwise presumed abandoned if the
15 owner has failed to exercise dominion or control, to assert a
16 right of ownership or possession, to make presentment or demand
17 payment, or to do any other act in relation to or concerning that
18 property for a period of 2 years. Property received by the
19 administrator under this subsection is presumed abandoned and
20 shall be disposed of pursuant to section 23.

21 Sec. 29. If the administrator determines after investiga-
22 tion that any property delivered under this act has insubstantial
23 commercial value, the administrator may destroy or otherwise dis-
24 pose of the property at any time. An action or proceeding shall
25 not be maintained against the state or any officer or against the
26 holder for or on account of any action taken by the administrator
27 under this section.

1 Sec. 30. (1) The expiration, before or after the effective
2 date of this act, of any period of time specified by contract,
3 statute, or court order, during which a claim for money or prop-
4 erty can be made or during which an action or proceeding may be
5 commenced or enforced to obtain payment of a claim for money or
6 to recover property, does not prevent the money or property from
7 being presumed abandoned or affect any duty to file a report or
8 to pay or deliver abandoned property to the administrator as
9 required by this act.

10 (2) An action or proceeding shall not be commenced by the
11 administrator with respect to any duty of a holder under this act
12 more than 10 years after the duty arose.

13 Sec. 31. (1) The administrator may require a person who has
14 not filed a report under this act to file a verified report stat-
15 ing whether the person is holding any unclaimed property report-
16 able or deliverable under this act.

17 (2) The administrator, at reasonable times and upon reason-
18 able notice, may examine the records of a person to determine
19 whether the person has complied with the provisions of this act.
20 The administrator may conduct the examination even if the person
21 believes he or she is not in possession of any property report-
22 able or deliverable under this act.

23 (3) If a person is treated under section 13 as the holder of
24 the property only insofar as the interest of the business associ-
25 ation in the property is concerned, the administrator, pursuant
26 to subsection (2), may examine the records of the person if the
27 administrator has given the notice required by subsection (2) to

1 both the person and the business association at least 90 days
2 before the examination.

3 (4) If an examination of the records of a person results in
4 the disclosure of property reportable and deliverable under this
5 act, the administrator may assess the cost of the examination
6 against the holder at the rate of \$50.00 a day for each examiner;
7 however, the charges shall not exceed the value of the property
8 found to be reportable and deliverable. The cost of examination
9 made pursuant to subsection (3) shall be imposed only against the
10 business association.

11 (5) If a holder fails after the effective date of this act
12 to maintain the records required by section 32 and the records of
13 the holder available for the periods subject to this act are
14 insufficient to permit the preparation of a report, the adminis-
15 trator may require the holder to report and pay an amount as may
16 reasonably be estimated from any available records.

17 Sec. 32. (1) A holder required to file a report under sec-
18 tion 18, as to any property for which it has obtained the last
19 known address of the owner, shall maintain a record of the name
20 and last known address of the owner for 10 years after the prop-
21 erty becomes reportable, except to the extent that a shorter time
22 is provided in subsection (2) or by rule of the administrator.

23 (2) A business association that sells in this state its
24 travelers checks, money orders, or other similar written instru-
25 ments, other than third-party bank checks on which the business
26 association is directly liable, or that provides those
27 instruments to others for sale in this state, shall maintain a

1 record of those instruments while they remain outstanding,
2 indicating the state and date of issue for 3 years after the date
3 the property is reportable.

4 Sec. 33. The administrator may bring an action in a court
5 of competent jurisdiction to enforce this act.

6 Sec. 34. (1) The administrator may enter into an agreement
7 with another state to exchange information needed to enable this
8 or another state to audit or otherwise determine unclaimed prop-
9 erty that this state or another state may be entitled to subject
10 to a claim of custody. The administrator by rule may require the
11 reporting of information needed to enable compliance with agree-
12 ments made pursuant to this section and prescribe the form.

13 (2) To avoid conflicts between the administrator's proce-
14 dures and the procedures of administrators in other jurisdictions
15 that enact the uniform unclaimed property act, the administrator,
16 so far as is consistent with the purposes, policies, and provi-
17 sions of this act, before adopting, amending, or repealing rules,
18 shall advise and consult with administrators in other jurisdic-
19 tions that enact substantially the uniform unclaimed property act
20 and take into consideration the rules of administrators in other
21 jurisdictions that enact the uniform unclaimed property act.

22 (3) The administrator may join with other states to seek
23 enforcement of this act against a person who is or may be holding
24 property reportable under this act.

25 (4) At the request of another state, the attorney general of
26 this state may bring an action in the name of the administrator
27 of the other state in a court of competent jurisdiction to

1 enforce the unclaimed property laws of the other state against a
2 holder in this state of property subject to escheat or a claim of
3 abandonment by the other state, if the other state has agreed to
4 pay expenses incurred by the attorney general in bringing the
5 action.

6 (5) The administrator may request that the attorney general
7 of another state or any other person bring an action in the name
8 of the administrator in the other state. This state shall pay
9 all expenses including attorney's fees in any action under this
10 subsection. The administrator may agree to pay the person bring-
11 ing the action attorney's fees based in whole or in part on a
12 percentage of the value of any property recovered in the action.
13 Expenses paid pursuant to this subsection shall not be deducted
14 from the amount that is subject to the claim by the owner under
15 this act.

16 Sec. 35. (1) A person who fails to pay or deliver property
17 within the time prescribed by this act shall pay to the adminis-
18 trator interest at the current monthly rate of 1 percentage point
19 above the adjusted prime rate per annum per month on the property
20 or value of the property from the date the property should have
21 been paid or delivered. The term "adjusted prime rate" means the
22 average predominant prime rate quoted by not less than 3 commer-
23 cial banks to large businesses, as determined by the department
24 of treasury. The adjusted prime rate is to be based on the aver-
25 age prime rate charged by not less than 3 commercial banks during
26 the 12-month period ending on September 30. The resulting
27 current monthly interest rate based on the 12-month period ending

1 September 30 will become effective on January 1 of the following
2 year.

3 (2) A person who willfully fails to render any report or
4 perform other duties required under this act shall pay a civil
5 penalty of \$100.00 for each day the report is withheld or the
6 duty is not performed, but not more than \$5,000.00.

7 (3) A person who willfully fails to pay or deliver property
8 to the administrator as required under this act shall pay a civil
9 penalty equal to 25% of the value of the property that should
10 have been paid or delivered.

11 (4) A person who willfully refuses after written demand by
12 the administrator to pay or deliver property to the administrator
13 as required under this act is guilty of a misdemeanor and upon
14 conviction may be punished by a fine of not less than \$500.00,
15 nor more than \$25,000.00, or imprisonment for not more than 6
16 months, or both.

17 (5) The administrator or an authorized representative of the
18 administrator may waive interest and civil fines imposed under
19 this section.

20 Sec. 36. An agreement to pay compensation to recover or
21 assist in the recovery of property reported under section 18,
22 made within 24 months after the date payment or delivery is made
23 under section 20, is unenforceable.

24 Sec. 37. This act does not apply to any property held, due,
25 and owing in a foreign country and arising out of a foreign
26 transaction.

1 Sec. 38. (1) This act does not relieve a holder of a duty
2 that arose before the effective date of this act to report, pay,
3 or deliver property. A holder who did not comply with the law in
4 effect before the effective date of this act is subject to the
5 applicable enforcement and penalty provisions that then existed
6 and they are continued in effect for the purpose of this subsec-
7 tion, subject to section 30(2).

8 (2) The initial report filed under this act for property
9 that was not required to be reported before the effective date of
10 this act but that is subject to this act must include all items
11 of property that would have been presumed abandoned during the
12 10-year period preceding the effective date of this act as if
13 this act had been in effect during that period.

14 Sec. 39. The administrator is the successor to the state
15 board of escheats created by former Act No. 329 of the Public
16 Acts of 1947. A reference to the state board of escheats in any
17 other provision of law is considered a reference to the adminis-
18 trator under this act.

19 Sec. 40. The administrator may promulgate rules necessary
20 to carry out the provisions of this act under the administrative
21 procedures act of 1969, Act No. 306 of the Public Acts of 1969,
22 being sections 24.201 to 24.328 of the Michigan Compiled Laws.

23 Sec. 41. This act shall be applied and construed as to
24 effectuate its general purpose to make uniform the law with
25 respect to the subject of this act among states enacting it.

26 Sec. 42. This act shall not apply to unclaimed, lost, or
27 abandoned property, if the loss, abandonment, or failure to claim

1 the property is the subject of another statute of this state that
2 specifies to whom ownership of the property shall devolve.

3 Sec. 43. Act No. 329 of the Public Acts of 1947, being sec-
4 tions 567.11 to 567.76 of the Michigan Compiled Laws, is
5 repealed.

6 Sec. 44. This act shall take effect January 1, 1996.