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SFA**BILL ANALYSIS**

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Senate Bill 1369 (as introduced 5-30-02)
Sponsor: Senator Joanne G. Emmons
Committee: Finance

Date Completed: 11-12-02

CONTENT

The bill would amend the Uniform Unclaimed Property Act to do the following:

- **Identify certain property that would not be subject to the custody of the State.**
- **Modify the conditions that raise a presumption of abandonment.**
- **Modify certain reporting requirements.**
- **Eliminate a provision that allows the assessment of property examination costs against a property holder.**
- **Reduce the period of time that an action may be brought against a holder, and reduce the period that a holder must maintain certain records.**

The Act specifies the conditions under which property is considered abandoned, creates a general presumption of abandonment of unclaimed property after five years, provides for public notice of abandoned property, and provides for the disposition, sale, reclaiming, and reimbursement for sale of abandoned property. In general, all property, whether tangible or intangible, including any income or increment derived from the property, less any lawful charges, that is held, issued, or owing in the ordinary course of a holder's business and remains unclaimed by the owner for more than five years after it becomes payable or distributable, is presumed abandoned. "Holder" means a trustee or a person who possesses property belonging to another or is indebted to another on an obligation. Abandoned property is subject to the custody of the State as provided in the Act.

Under the bill, except for the purpose of certain reporting requirements placed on a holder under the Act, the following property would not be subject to the custody of the State as unclaimed property:

- Gift certificates or gift cards.
- Unclaimed layaway payments.
- Certificates evidencing property denominated in a value other than a currency, including prepaid phone cards, frequent flyer miles, stored value cards, and merchandise points.
- Unidentified remittances.
- Unused travel or entertainment tickets for events not held or services not rendered.
- Credit balances and uncashed checks issued in the ordinary course of the holder's business to a business association.
- De minimis property (an item of value of \$50 or less).
- Property subject to the Federal Employee Retirement Income Security Act.

Unless otherwise provided by law, an individual would not be restricted from demanding exempt property from a holder at any time that was outside any time limitations specified in the Act. This provision would not apply, however, to unused travel or entertainment tickets for events not held or services not rendered, or credit balances and uncashed checks issued in the ordinary course of the holder's business to a business association.

Under the Act, unless otherwise provided, property is subject to the custody of the State as unclaimed property if the conditions raising a presumption of abandonment are satisfied and one or more of the requirements listed in the Act are met. One of the requirements is that the transaction out of which the property arose occurred in the State, and both of the following are established: the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is inapplicable; and the holder is domiciled in such a state. The bill would eliminate this requirement.

Currently, a person holding property presumed abandoned must send certain reports to the State Treasurer regarding the property. The bill would eliminate a provision that allows items of value under \$50 to be reported in the aggregate. Further, the holder currently must send written notice to the apparent owner at his or her last known address, if certain requirements are met. One of the requirements is that the property have a value of at least \$50 or, if the holder is reporting for the current report year at least 25,000 properties over \$50 each, the property have a value of \$100 or more. The bill instead would require that the property have a value of more than \$10.

Under the Act, the State Treasurer may examine the records of a person to determine if the person has complied with the reporting requirements in the Act. The bill would eliminate a provision that allows the State Treasurer to assess the cost of the examination to the holder if the examination results in the disclosure of reportable and deliverable property. The bill also would prohibit the State Treasurer from contracting with another person to conduct an examination, which the Act now permits.

Currently, the State Treasurer may not commence an action or proceeding with respect to any duty of a holder more than 10 years after the duty arose. The bill would prohibit an action or proceeding with respect to any duty of a holder more than three years after the duty arose.

Currently, a holder who is required to file a report as to any property for which it has obtained the last known address of the owner, must maintain a record of the name and address for 10 years after the property becomes reportable. The bill would reduce the time period to three years.

Under the Act, the definition of "intangible property" includes, in part, various instruments such as money, checks, credit balances, and unpaid wages. The bill would add to the definition of intangible property gift cards, certificates evidencing property denominated in a value other than a currency, including prepaid phone cards, frequent flyer miles, stored value cards, and merchandise points, layaway payments, and entertainment tickets. Further, the bill would add to the definition of "business association" a limited liability company, cooperative, and a sole proprietorship; and eliminate from the definition a requirement that a corporation be "nonpublic".

MCL 567.222 et al.

Legislative Analyst: George Towne

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Jessica Runnels

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.