

SENATE BILL No. 1369

May 30, 2002, Introduced by Senator EMMONS and referred to the Committee on Finance.

A bill to amend 1995 PA 29, entitled
"Uniform unclaimed property act,"
by amending sections 2, 4, 15, 18, 30, 31, and 32 (MCL 567.222,
567.224, 567.235, 567.238, 567.250, 567.251, and 567.252),
sections 18 and 31 as amended by 1997 PA 195, and by adding
section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

7 (c) "Attorney general" means the department of attorney
8 general.

1 (d) "Banking organization" means a bank, trust company,
2 savings bank, industrial bank, land bank, safe deposit company,
3 private banker, or any organization defined by law as a bank or
4 banking organization.

5 (e) "Business association" means a ~~nonpublic~~ corporation,
6 joint stock company, investment company, business trust, partner-
7 ship, LIMITED LIABILITY COMPANY, COOPERATIVE, SOLE
8 PROPRIETORSHIP, or association for business purposes of 2 or more
9 ~~individuals~~ PERSONS, whether or not for profit, including a
10 banking organization, financial organization, insurance company,
11 or utility.

12 (F) "DE MINIMIS PROPERTY" MEANS AN ITEM OF VALUE OF \$50.00
13 OR LESS.

14 (G) ~~(f)~~ "Domicile" means the state of incorporation of a
15 corporation and the state of the principal place of business of
16 an unincorporated person.

17 (H) ~~(g)~~ "Financial organization" means a savings and loan
18 association, cooperative bank, building and loan association,
19 savings bank, or credit union.

20 (I) ~~(h)~~ "Holder" means a person, wherever organized or
21 domiciled, who is 1 or more of the following:

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

23 (ii) A trustee.

24 (iii) Indebted to another on an obligation.

25 (J) ~~(i)~~ "Insurance company" means an individual, associa-
26 tion, corporation, fraternal or mutual benefit organization, or
27 any other legal entity, whether or not for profit, that is

1 engaged or attempting to engage in the business of making
2 insurance or surety contracts.

3 (K) ~~(j)~~ "Intangible property" includes all of the
4 following:

5 (i) Money, checks, drafts, deposits, interest, dividends,
6 and income.

7 (ii) Credit balances, customer overpayments, gift certifi-
8 cates, GIFT CARDS, CERTIFICATES EVIDENCING PROPERTY DENOMINATED
9 IN A VALUE OTHER THAN A CURRENCY, INCLUDING, BUT NOT LIMITED TO,
10 PREPAID PHONE CARDS, FREQUENT FLYER MILES, STORED VALUE CARDS,
11 AND MERCHANDISE POINTS, security deposits, refunds, LAYAWAY
12 PAYMENTS, credit memos, unpaid wages, unused ~~airline~~ TRAVEL OR
13 ENTERTAINMENT tickets, and unidentified remittances.

14 (iii) Stocks and other intangible ownership interests in
15 business associations.

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

18 (v) Amounts due and payable under the terms of insurance
19 policies.

20 (vi) Amounts distributable from a trust or custodial fund
21 established under a plan to provide health, welfare, pension,
22 vacation, severance, retirement, death, stock purchase, profit
23 sharing, employee savings, supplemental unemployment insurance,
24 or similar benefits.

25 (l) ~~(k)~~ "Last known address" means a description of the
26 location of the apparent owner sufficient for the purpose of the
27 delivery of mail.

1 (M) ~~(t)~~ "Owner" means a depositor, in the case of a
2 deposit; a beneficiary, in case of a trust other than a deposit
3 in trust; a creditor, claimant, or payee, in the case of other
4 intangible property; or a person having a legal or equitable
5 interest in property subject to this act. Owner includes the
6 legal representative of the person defined as an owner in this
7 subdivision.

8 (N) ~~(m)~~ "Person" means an individual, business associa-
9 tion, state or other government, governmental subdivision or
10 agency, public corporation, public authority, estate, trust, 2 or
11 more persons having a joint or common interest, or any other
12 legal or commercial entity.

13 (O) ~~(n)~~ "Property" means tangible or intangible personal
14 property owned by a person.

15 (P) ~~(o)~~ "State" means any state, district, commonwealth,
16 territory, insular possession, or any other area subject to the
17 legislative authority of the United States.

18 (Q) ~~(p)~~ "Utility" means a person who owns or operates for
19 public use any plant, equipment, property, franchise, or license
20 for the transmission of communications or the production, stor-
21 age, transmission, sale, delivery, or furnishing of electricity,
22 water, steam, or gas.

23 Sec. 4. Unless otherwise provided in this act or by law,
24 property is subject to the custody of this state as unclaimed
25 property, if the conditions raising a presumption of abandonment
26 under sections 3 and 6 to 17 are satisfied and 1 or more of the
27 following requirements are met:

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

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

7 (c) The records of the holder do not reflect the last known
8 address of the apparent owner, and 1 of the following is
9 established:

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

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

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

23 (e) The last known address, as shown on the records of the
24 holder, of the apparent owner is in a foreign nation and the
25 holder is domiciled in this state or is a government or govern-
26 mental subdivision or agency of this state.

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

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

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

13 SEC. 4A. (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 18(5),
14 THE FOLLOWING PROPERTY IS NOT SUBJECT TO THE CUSTODY OF THE STATE
15 AS UNCLAIMED PROPERTY UNDER SECTION 4:

16 (A) GIFT CERTIFICATES OR GIFT CARDS.

17 (B) UNCLAIMED LAYAWAY PAYMENTS.

18 (C) CERTIFICATES EVIDENCING PROPERTY DENOMINATED IN A VALUE
19 OTHER THAN A CURRENCY, INCLUDING, BUT NOT LIMITED TO, PREPAID
20 PHONE CARDS, FREQUENT FLYER MILES, STORED VALUE CARDS, AND MER-
21 CHANDISE POINTS.

22 (D) UNIDENTIFIED REMITTANCES.

23 (E) UNUSED TRAVEL OR ENTERTAINMENT TICKETS FOR EVENTS NOT
24 HELD OR SERVICES NOT RENDERED.

25 (F) CREDIT BALANCES AND UNCASHED CHECKS ISSUED IN THE ORDI-
26 NARY COURSE OF THE HOLDER'S BUSINESS TO A BUSINESS ASSOCIATION.

1 (G) DE MINIMIS PROPERTY.

2 (H) PROPERTY SUBJECT TO THE EMPLOYEE RETIREMENT INCOME

3 SECURITY ACT OF 1974, PUBLIC LAW 93-406, 88 STAT. 829.

4 (2) UNLESS OTHERWISE PROVIDED BY LAW, THERE IS NO RESTRIC-
5 TION UPON AN INDIVIDUAL FROM DEMANDING PROPERTY IDENTIFIED IN
6 SUBSECTION (1) FROM A HOLDER AT ANY TIME THAT IS OUTSIDE ANY TIME
7 LIMITATIONS SPECIFIED IN THIS ACT. THIS SUBSECTION DOES NOT
8 APPLY TO PROPERTY IDENTIFIED IN SUBSECTION (1)(E) AND (F).

9 Sec. 15. ~~-(1) A gift certificate or a~~ credit memo issued
10 in the ordinary course of an issuer's business that remains
11 unclaimed by the owner for more than 5 years after becoming pay-
12 able or distributable is presumed abandoned. ~~-(2) In the case of~~
13 ~~a gift certificate, the amount presumed abandoned is the price~~
14 ~~paid by the purchaser for the gift certificate. In the case of a~~
15 ~~credit memo, the~~ THE amount presumed abandoned is the amount
16 credited to the recipient of the memo.

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

21 (2) The report shall be verified and shall include all of
22 the following:

23 (a) The name, if known, social security number, if known,
24 and last known address, if any, of each person appearing from the
25 records of the holder to be the owner of property of the value of
26 \$50.00 or more presumed abandoned under this act. This
27 subdivision does not apply to travelers checks and money orders.

1 (b) In the case of unclaimed funds of MORE THAN \$50.00 ~~or~~
2 ~~more~~ held or owing under any life or endowment insurance policy
3 or annuity contract, the full name and last known address of the
4 insured or annuitant and of the beneficiary according to the
5 records of the insurance company holding or owing the funds.

6 (c) In the case of the contents of a safe deposit box or
7 other safekeeping repository or of other tangible property, a
8 description of the property and the place where it is held and
9 may be inspected by the administrator and any amounts owing to
10 the holder.

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

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

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

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

1 (4) Except as otherwise provided in this subsection, the
2 report shall be filed on or before November 1 of each year for
3 the 12-month period ending on the immediately preceding June 30.
4 The administrator may postpone the date to file a report, on
5 written request by any person required to file a report under
6 this section. The administrator may extend the filing date for
7 up to 60 days after the deadline if an estimated payment is paid
8 on or before the deadline for the 12-month period ending on the
9 immediately preceding June 30. Remittance of an estimated pay-
10 ment without a report on or before the deadline shall be consid-
11 ered a request for extension. A request for extension of time to
12 file the report is not a request for an extension of time to
13 remit payments. Interest and penalties will not accrue during
14 the extension period against a person who remits an estimated
15 payment. The administrator shall determine how estimated pay-
16 ments are to be remitted.

17 (5) Not less than 60 days or more than 365 days before
18 filing the report required by this section, the holder in posses-
19 sion of property presumed abandoned and subject to the state's
20 custody as unclaimed property under this act shall send written
21 notice to the apparent owner at his or her last known address
22 informing him or her that the holder is in possession of property
23 subject to this act if all of the following requirements are
24 met:

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

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

3 (c) The property has a value of ~~-\$50.00 or more or, if the~~
4 ~~holder filing a report under this section is reporting for the~~
5 ~~current report year at least 25,000 properties over \$50.00 each,~~
6 ~~the property has a value of \$100.00 or more~~ THAN \$10.00.

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

16 (2) An action or proceeding shall not be commenced by the
17 administrator with respect to any duty of a holder under this act
18 more than ~~10~~ 3 years after the duty arose.

19 Sec. 31. (1) The administrator may require a person who has
20 not filed a report under this act or a person who the administra-
21 tor believes has filed an inactive, incomplete, or false report,
22 to file a verified report in a form specified by the
23 administrator. The report shall state whether the person is
24 holding any unclaimed property reportable or deliverable under
25 this act, describe unclaimed property not previously reported or
26 as to which the administrator has made inquiry, and specifically
27 identify and state the amounts of property that may be in issue.

1 (2) The administrator, at reasonable times and upon
2 reasonable notice, may examine the records of a person to deter-
3 mine whether the person has complied with this act. The adminis-
4 trator may conduct the examination even if the person believes he
5 or she is not in possession of any property reportable or deli-
6 verable under this act. The administrator ~~may~~ SHALL NOT con-
7 tract with any other person to conduct the examination on behalf
8 of the administrator.

9 (3) If a person is treated under section 13 as the holder of
10 the property only insofar as the interest of the business associ-
11 ation in the property is concerned, the administrator, pursuant
12 to subsection (2), may examine the records of the person if the
13 administrator has given the notice required by subsection (2) to
14 both the person and the business association at least 90 days
15 before the examination.

16 ~~(4) If an examination of the records of a person results in~~
17 ~~the disclosure of property reportable and deliverable under this~~
18 ~~act, the administrator may assess the cost of the examination~~
19 ~~against the holder at the rate of \$50.00 a day for each examiner;~~
20 ~~however, the charges shall not exceed the value of the property~~
21 ~~found to be reportable and deliverable. The cost of examination~~
22 ~~made pursuant to subsection (3) shall be imposed only against the~~
23 ~~business association.~~

24 (4) ~~(5)~~ If a holder fails after the effective date of this
25 act to maintain the records required by section 32 and the
26 records of the holder available for the periods subject to this
27 act are insufficient to permit the preparation of a report, the

1 administrator may require the holder to report and pay an amount
2 as may reasonably be estimated from any available records.

3 Sec. 32. (1) A holder required to file a report under sec-
4 tion 18, as to any property for which it has obtained the last
5 known address of the owner, shall maintain a record of the name
6 and last known address of the owner for ~~10~~ 3 years after the
7 property becomes reportable, except to the extent that a shorter
8 time is provided in subsection (2) or by rule of the
9 administrator.

10 (2) A business association that sells in this state its
11 travelers checks, money orders, or other similar written instru-
12 ments, other than third-party bank checks on which the business
13 association is directly liable, or that provides those instru-
14 ments to others for sale in this state, shall maintain a record
15 of those instruments while they remain outstanding, indicating
16 the state and date of issue for 3 years after the date the prop-
17 erty is reportable.