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BILL ANALYSIS

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Senate Bill 1340 (as introduced 8-4-04)  
Sponsor: Senator Michael Switalski  
Committee: Appropriations

Date Completed: 9-8-04

### **CONTENT**

**The bill would amend the Uniform Unclaimed Property Act to provide for unclaimed stock in a business association to be presumed abandoned if the owner of the interest did not claim a dividend or other distribution for over three years (rather than seven), and the business not know of the owner's location. The bill also would shorten the period of time after which stock enrolled in an automatic reinvestment plan may be considered abandoned.**

The bill would repeal Section 11 of the Act, which governs the abandonment of stock or other intangible ownership interest in a business association. Presently, this type of interest is presumed abandoned if a dividend, distribution, or other sum payable as a result of the interest remains unclaimed by the owner for seven years and the owner, within the seven years, has not communicated with the business association regarding the interest or amount payable. (The Act defines "business association" as a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit.)

The bill would enact Section 11a, under which any stock, share, or other intangible ownership interest in a business association would be presumed abandoned if both of the following applied:

- For more than three years, the owner of the interest had not claimed a dividend, distribution, or other sum payable as a result of the interest, or had not communicated with the association regarding the interest or amount payable.
- The association did not know the owner's location at the end of the three-year period.

The bill specifies that the return of official shareholder notifications or communications by the postal service as undeliverable would be evidence that the association did not know of the owner's location.

Section 11a would not apply to any stock or other intangible ownership interest enrolled in a plan providing for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest, unless either of the following applied:

- The records available to the administrator of the plan showed, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner had not communicated with the association within three years.
- Three years had elapsed since the owner's location became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner had not communicated with the association within three years.

(Currently, Section 11 does not apply to stock or any other intangible ownership interest enrolled in an automatic reinvestment plan unless the records show, with respect to any intangible ownership interest not enrolled in the plan, that the owner has not communicated within 15 years.)

The bill states that Section 11a would apply both to the underlying stock, share, or other intangible ownership interest of an owner, and any stock, share, or other intangible ownership interest of which the business was in possession of the certificate or other evidence or indicia of ownership, and to the stock, share, or other ownership interest of dividend- and nondividend-paying business associations whether or not the interest was represented by a certificate.

As currently provided, at the time an interest was presumed abandoned, any dividend, distribution, or other sum held for or owing to the owner as a result of the interest, and not previously presumed abandoned, would be presumed abandoned.

Under Section 11, an ownership interest is not presumed abandoned unless there have been at least seven dividends, distributions, or other sums paid during the seven-year period, and the owner has claimed none of them. The bill does not include a similar provision.

In addition, the bill would amend provisions requiring the publication of a notice that property is presumed abandoned. Under the Act, a person holding property presumed abandoned must report to the State Treasurer, who then must have a notice published in a newspaper in the county containing the last known address of any person named in the notice. The published notice must contain specified information, including a statement that any person having an interest in the property may obtain information about it by addressing an inquiry to the State Treasurer. Under the bill, the statement would have to indicate that a person could obtain information about the property by addressing or "submitting" an inquiry.

MCL 567.239 et al.

## **BACKGROUND**

Under Article X, Section 4 of the State Constitution, procedures relating to escheats and the custody and disposition of escheated property must be prescribed by law. Escheated property is tangible or intangible property that reverts to the State in the absence of legal owners or claimants because the owner died leaving no known heirs, has disappeared or been missing for a continuous period of at least five years, or has abandoned the property. The Uniform Unclaimed Property Act was enacted in 1995 to replace the Michigan Code of Escheats. The Act creates a presumption of abandonment when property remains unclaimed by the owner for a number of years (usually five) and certain conditions are met. The State must keep abandoned property (or its equivalent in money) for potential claimants in perpetuity. A person may file a claim for the redemption of his or her property at any time.

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

According to the Department of Treasury, which administers the unclaimed property program, the bill would generate a one-time boost in revenue from unclaimed property of \$8.0 million in FY 2004-05. This revenue would go into the General Fund/General Purpose budget.

Fiscal Analyst: Jay Wortley

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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.