

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 388

A bill to amend 1995 PA 29, entitled
"Uniform unclaimed property act,"
by amending sections 2, 15, and 30 (MCL 567.222, 567.235, and
567.250).

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 held,
6 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,
7 partnership, or association for business purposes of 2 or more
8 individuals, whether or not for profit, including a banking
9 organization, financial organization, insurance company, or
10 utility.

11 (f) "Domicile" means the state of incorporation of a
12 corporation and the state of the principal place of business of an
13 unincorporated person.

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

17 (h) "Holder" means a person, wherever organized or domiciled,
18 who is 1 or more of the following:

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

20 (ii) A trustee.

21 (iii) Indebted to another on an obligation.

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

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

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

3 (ii) Credit balances, customer overpayments, ~~gift certificates,~~
4 security deposits, refunds, credit memos, unpaid wages, unused
5 airline tickets, and unidentified remittances.

6 (iii) EXCEPT AS PROVIDED IN SECTIONS 15(4) AND 30(1), GIFT
7 CERTIFICATES AND GIFT CARDS.

8 (iv) ~~(iii)~~ Stocks and other intangible ownership interests in
9 business associations.

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

12 (vi) ~~(v)~~ Amounts due and payable under the terms of insurance
13 policies.

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

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

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

1 subdivision.

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

7 (n) "Property" means tangible or intangible personal property
8 owned by a person.

9 (o) "State" means any state, district, commonwealth,
10 territory, insular possession, or any other area subject to the
11 legislative authority of the United States.

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

17 Sec. 15. (1) ~~A-EXCEPT AS PROVIDED IN SUBSECTION (4), A gift~~
18 ~~certificate, GIFT CARD, or a credit memo issued in the ordinary~~
19 ~~course of an issuer's business that remains unclaimed by the owner~~
20 **IS PRESUMED ABANDONED IF EITHER OF THE FOLLOWING APPLY:**

21 (A) **THE CERTIFICATE, CARD, OR MEMO IS NOT CLAIMED OR USED for**
22 ~~more than A PERIOD OF 5 years after becoming payable or~~
23 ~~distributable. is presumed abandoned.~~

24 (B) **THE CERTIFICATE, CARD, OR MEMO WAS USED OR CLAIMED 1 OR**
25 **MORE TIMES WITHOUT EXHAUSTING ITS FULL VALUE, BUT SUBSEQUENTLY WAS**
26 **NOT CLAIMED OR USED FOR AN UNINTERRUPTED PERIOD OF 5 YEARS.**

27 (2) **FOR PURPOSES OF SUBSECTION (1), A GIFT CERTIFICATE OR GIFT**

1 CARD IS CONSIDERED TO HAVE BEEN CLAIMED OR USED IF THERE IS ANY
2 TRANSACTION PROCESSING ACTIVITY ON THE GIFT CERTIFICATE OR GIFT
3 CARD INCLUDING, BUT NOT LIMITED TO, REDEEMING, REFUNDING, OR ADDING
4 VALUE TO THE CERTIFICATE OR CARD. ACTIVITY INITIATED BY THE ISSUER
5 OF THE CERTIFICATE OR CARD, INCLUDING, BUT NOT LIMITED TO,
6 ASSESSING INACTIVITY FEES OR SIMILAR SERVICE FEES, DOES NOT
7 CONSTITUTE TRANSACTION PROCESSING ACTIVITY FOR PURPOSES OF THIS
8 SUBSECTION.

9 (3) ~~(2)~~—In the case of a gift certificate OR GIFT CARD, THE
10 OWNER IS PRESUMED TO BE A GIFT RECIPIENT OF THE GIFT CERTIFICATE OR
11 GIFT CARD, AND the amount presumed abandoned is the price paid by
12 the purchaser for the gift certificate OR GIFT CARD, LESS THE TOTAL
13 OF ANY PURCHASES OR FEES ASSESSED AGAINST THE CERTIFICATE OR CARD.
14 In the case of a credit memo, the amount presumed abandoned is the
15 amount credited to the recipient of the memo.

16 (4) THIS ACT DOES NOT APPLY TO A GIFT CERTIFICATE AS DEFINED
17 IN SECTION 3E OF THE MICHIGAN CONSUMER PROTECTION ACT, 1976 PA 331,
18 MCL 445.903E, THAT IS ISSUED FOR RETAIL GOODS OR SERVICES BY A
19 PERSON ENGAGED IN THE RETAIL SALE OF GOODS OR SERVICES.

20 Sec. 30. (1) The expiration, before or after the effective
21 date of this act, of any period of time specified by contract,
22 statute, or court order, during which a claim for money or property
23 can be made or during which an action or proceeding may be
24 commenced or enforced to obtain payment of a claim for money or to
25 recover property, does not prevent the money or property from being
26 presumed abandoned or affect any duty to file a report or to pay or
27 deliver abandoned property to the administrator as required by this

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act. **THIS SUBSECTION DOES NOT APPLY TO GIFT CARDS OR GIFT
CERTIFICATES.**

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

Enacting section 1. This amendatory act takes effect [September
30],
2008.

Enacting section 2. This amendatory act does not take effect
unless all of the following bills of the 94th Legislature are
enacted into law:

(a) House Bill No. 4050.

(b) House Bill No. 4317.

(c) House Bill No. 4680.