

Act No. 208
Public Acts of 2008
Approved by the Governor
July 10, 2008
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Cassis, Pappageorge, Kuipers, Basham, Birkholz, George, Gleason, Allen, Hunter and Kahn

ENROLLED SENATE BILL No. 388

AN ACT to amend 1995 PA 29, entitled "An act 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," by amending sections 2, 15, and 30 (MCL 567.222, 567.235, and 567.250).

The People of the State of Michigan enact:

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

- (a) "Administrator" means the state treasurer.
- (b) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.
- (c) "Attorney general" means the department of attorney general.
- (d) "Banking organization" means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or any organization defined by law as a bank or banking organization.
- (e) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of 2 or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.
- (f) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.
- (g) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, savings bank, or credit union.
- (h) "Holder" means a person, wherever organized or domiciled, who is 1 or more of the following:
 - (i) In possession of property belonging to another.
 - (ii) A trustee.
 - (iii) Indebted to another on an obligation.

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

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

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

(ii) Credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.

(iii) Except as provided in sections 15(4) and 30(1), gift certificates and gift cards.

(iv) Stocks and other intangible ownership interests in business associations.

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

(vi) Amounts due and payable under the terms of insurance policies.

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

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

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

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

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

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

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

Sec. 15. (1) Except as provided in subsection (4), a gift certificate, gift card, or credit memo is presumed abandoned if either of the following apply:

(a) The certificate, card, or memo is not claimed or used for a period of 5 years after becoming payable or distributable.

(b) The certificate, card, or memo was used or claimed 1 or more times without exhausting its full value, but subsequently was not claimed or used for an uninterrupted period of 5 years.

(2) For purposes of subsection (1), a gift certificate or gift card is considered to have been claimed or used if there is any transaction processing activity on the gift certificate or gift card including, but not limited to, redeeming, refunding, or adding value to the certificate or card. Activity initiated by the issuer of the certificate or card, including, but not limited to, assessing inactivity fees or similar service fees, does not constitute transaction processing activity for purposes of this subsection.

(3) In the case of a gift certificate or gift card, the owner is presumed to be a gift recipient of the gift certificate or gift card, and the amount presumed abandoned is the price paid by the purchaser for the gift certificate or gift card, less the total of any purchases or fees assessed against the certificate or card. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

(4) This act does not apply to a gift certificate as defined in section 3e of the Michigan consumer protection act, 1976 PA 331, MCL 445.903e, that is issued for retail goods or services by a person engaged in the retail sale of goods or services.

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor