

Legislative Analysis



ESCHEATS ACT: COMMERCIAL TRANSACTIONS

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House Bill 4563 (Substitute H-1)

Sponsor: Rep. Aric Nesbitt

Committee: Commerce

Complete to 6-7-11

A SUMMARY OF HOUSE BILL 4563 AS REPORTED FROM COMMITTEE

The Uniform Unclaimed Property Act establishes a system whereby the state becomes the perpetual custodian of abandoned or unclaimed property until the property owner claims the property (or the value of the property), which the property owner, or an heir, can do at any time. Under the act, many types of real and intangible property that are held by another entity are presumed abandoned if they remain unclaimed after a certain period of time. The applicable dormancy period varies by type of property. This is sometimes referred to as the escheats process.

House Bill 4563 would amend the act to stipulate that the act "does not apply to any property issued, held, due, or owing in any transaction between two or more business associations or other business entities."

MCL 567.221 & 567.265

FISCAL IMPACT:

House Bill 4563 would have an indeterminate impact on state government. To the extent that the bill lowers unclaimed property collections from commercial transactions between two business associations or entities the bill would have a negative effect on annual Department of Treasury unclaimed property revenue from this source. Additional information will be provided when it becomes available.

BACKGROUND INFORMATION:

This excerpt from testimony provided to the House Commerce Committee by a representative from Consumers Energy summarizes the proponents' arguments in support of this legislation:

Unclaimed property laws require that property held by one person but rightfully owned by another person who cannot be located be turned over to the state to be held for its rightful owner. Although this requirement should be retained as an important protection for individuals, it imposes an unnecessary and undue burden on businesses engaged in business-to-business transactions. The lack of an exemption for business-to-business transactions in current law gives rise to audit abuse where the focus, often by contingent fee third-party audit firms, is on creating state assessments based on minor theoretical

discrepancies in ancient paperwork rather than on restoring truly unclaimed property to its rightful owner. Businesses today are fully capable of tracking their own accounts and resolving paperwork discrepancies as part of their ongoing business relationships.

A representative of the Michigan Chamber of Commerce testified:

To maintain our economic competitiveness, Michigan must continue to improve its business climate in a variety of ways, including the administration of unclaimed property. Often overlooked, but significantly impacting the bottom line of many companies, the tracking and reporting of abandoned property costs Michigan's job providers millions of dollars every year.

The Chamber spokesperson also said that

Business-to business credit balances are so common in commercial transactions that requiring such items to be turned over to the state unnecessarily increases the cost of doing business . . . Unfortunately many states view it as a source of revenue.

No one testified in support of the current system before the House Commerce Committee.

POSITIONS:

Among those testifying in support of the bill were the Perrigo Company, the Michigan Chamber of Commerce, and McNaughton-McKay Electric. (5-17-11)

According to committee minutes, the following indicated support at the 5-17-11 committee meeting: the Michigan Grocers Association, Meijer, Spartan Stores, the National Federation of Independent Business (NFIB), and Consumers Engery.

The Department of Treasury indicated a position of neutrality. (5-17-11)

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