



**Senate Fiscal Agency**  
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House Bill 4289 (Substitute H-2 as passed by the House)  
Sponsor: Representative Aric Nesbitt  
House Committee: Tax Policy  
Senate Committee: Finance

Date Completed: 10-2-13

### **CONTENT**

**The bill would amend the Uniform Unclaimed Property Act to establish auditing standards for examinations by the State Treasurer of a person's records to determine compliance with the Act; and allow the amount of unclaimed property due and owing to be based on an estimation if the person did not have substantially complete records.**

The Act specifies the conditions under which property is considered abandoned, and provides for the disposition, sale, reclaiming, and reimbursement for sale of abandoned property. The Act creates a general presumption of abandonment of property that is held, issued, or owing in the ordinary course of business and remains unclaimed by the owner for more than three years. The Act also provides for the abandonment of specific types of property. Abandoned property must be delivered to the custody of the State, and subsequently may be claimed by the owner.

The Act authorizes the administrator (the State Treasurer), at reasonable times and upon reasonable notice, to examine the records of a person to determine whether the person has complied with the Act. The administrator may contract with any other person to conduct the examination.

Under the bill, any examination performed by the administrator or his or her duly authorized agents would have to be performed in accordance with the generally accepted auditing standards to the extent applicable to unclaimed property examinations. A person who had been audited by the administrator or his or her agents, or a person whose books, records, and papers had been examined by the administrator or his or her agents, would have to be given a complete copy of the audit report in printed or electronic format.

The report would have to identify in detail the work performed, the property types reviewed, any estimation techniques employed, calculations showing the potential amount of property due, and a statement of findings, as well as all other correspondence and documentation that formed a basis for the findings.

Within one year of the bill's enactment, the administrator would have to promulgate administrative rules on audit standards.

When the person being examined did not have substantially complete records, the administrator or his or her agents could determine the amount of any abandoned or unclaimed property due and owing based upon a reasonable method of estimation consistent with the standards under the rules. If the person had filed all the requested reports and maintained substantially complete records, all of the following would apply:

- The examination would have to include a review of the person's books and records.
- The examination could not be based on an estimate.
- The administrator or his or her agents would have to consider all evidence presented by the holder to remediate the findings.

The bill would define "substantially complete records" as at least 90% of the records necessary for unclaimed property examination purposes as defined under the principles of internal controls. The determination of substantially complete records could not be made solely as a percentage of the total overall individual records to be examined, but would have to be made also on a materiality level of value of the records. The lack of more than 10% of records in one particular property class to be examined would not result in the extrapolation of error in those areas in which a person had filed all the required reports and had maintained at least 90% of the overall records for that particular property class. Substantially complete records would not be meant to be an absolute measurement of all available records.

MCL 567.251

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would increase the costs of the Department of Treasury by an unknown amount due to the proposed requirement to promulgate rules on audit standards for unclaimed property audits. The proposed limits on the use of estimation in audits would have an unknown impact on the General Fund, which receives revenue from unclaimed property turned over to the State pursuant to the Act. Payments to verified owners of that property are paid from the General Fund. The table below summarizes the estimated unclaimed property received by the State, net of verified claims paid to owners of the property. The revenue increased sharply in FY 2010-11 and FY 2011-12 due to acceleration of dates for remitting unclaimed property to the State pursuant to Public Act 197 of 2010 and additional audits. The table also shows the amount of the unclaimed property that was recovered by private auditors pursuant to contracts with the Department of Treasury and the cost of those audits. The budget for the Department limits the payments to private auditors to not more than 12.0% of collections.

Estimated General Fund Net Revenue from Unclaimed Property and the  
Amount Recovered by Audit Firms on Contract  
(millions)

	Unclaimed Property Revenue/(Expense) to the General Fund	Amount of Unclaimed Property Recovered by Private Contractors	Costs of Private Contractors
FY 2009-10	\$38.9	\$8.9	\$0.8
FY 2010-11 <sup>a)</sup>	215.4	8.7	0.9
FY 2011-12 <sup>a)</sup>	142.8	23.9	2.4
FY 2012-13 Est.	34.2	N/A	N/A
FY 2013-14 Est. <sup>b)</sup>	(3.8)	N/A	N/A
FY 2014-15 Est. <sup>b)</sup>	(3.8)	N/A	N/A
<sup>a)</sup> Acceleration of unclaimed property collections was implemented in FY 2010-11 and FY 2011-12.			
<sup>b)</sup> State pay-outs of previously unclaimed property are expected to exceed receipts due to the previous acceleration of collections.			
Source: May 2013 Consensus Revenue Estimating Conference and Department of Treasury unclaimed property reports pursuant to budget act boilerplate Sec. 919.			

Fiscal Analyst: Elizabeth Pratt

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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.