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House Bill 4703 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Representative Jeff Farrington
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

The bill would add Section 31a to the Uniform Unclaimed Property Act to establish procedures for an administrative reconsideration and appeal of the State Treasurer's determination of the liability of a holder (a person in possession of unclaimed property), and allow a holder to bring an action or appeal in circuit court, as follows:

- The State Treasurer (referred to in the Act as the administrator) would have to mail a notice of examination determination to the holder, upon determining that the holder had failed to report or deliver unclaimed property as required by the Act.
- The holder could bring an action in the circuit court if aggrieved by the decision, or file a request for reconsideration with the State Treasurer before bringing an action in court.
- At any time before receiving a reconsidered decision, the holder could withdraw the request for reconsideration, and then file an action in circuit court within 60 days.
- The holder would have to deliver uncontested property to the State Treasurer, and interest would continue to accrue on all undelivered property while a request for reconsideration was pending.
- The holder could submit additional documentation within 60 days after requesting reconsideration.
- The Treasurer could meet with the holder or have informal communications with the holder as part of the reconsideration process.
- The Treasurer would have to mail the holder a written decision on the contested property within 60 days after receiving the request for reconsideration or additional documentation (subject to an extension of up to 183 days from the date the request for reconsideration was received).
- Within 60 days after the decision, the Treasurer would have to return to the holder any property that had been delivered if the holder prevailed as to any portion of the contested property.
- Within 90 days after the decision was mailed, the holder could contest the Treasurer's decision by filing an action in circuit court unless, within that period, the holder filed an appeal with the Treasurer.
- The holder could withdraw the appeal at any time, and file an action in circuit court within 90 days after mailing the notice of withdrawal.
- The Treasurer would have to appoint a delegate to conduct an appeal.
- The delegate could not be employed by, or contracted with, the Department of Treasury to provide auditing or administrative services for the enforcement of the Act except as a delegate for an appeal, and would have to be able to qualify as an administrative law examiner under the Civil Service Commission's job specifications.
- Within 90 days after the appeal was filed, the delegate would have to conduct a hearing on the appeal, which would not be subject to the Administrative Procedures Act, and issue a written recommendation to the State Treasurer within 90 days after the hearing concluded or any posthearing documentation was submitted.

- Within 60 days after the date of the recommendation, the Treasurer would have to affirm, modify, or reject all, or portions of, the reconsidered decision.
- If the holder prevailed as to any portion of the contested property, the Treasurer would have to return any contested property that had been remitted, including any related interest or penalty paid.
- Within 90 days after the Treasurer's decision was mailed to the holder, the holder could appeal the decision by filing an action in circuit court.

The bill also specifies that a holder that had requested a waiver of penalties or interest based on reasonable cause could contest any denial of a waiver through a request for reconsideration, an appeal to the State Treasurer, or an action in circuit court, as provided in Section 31a.

The bill would define "notice of examination determination" as a notice stating the property that is deliverable by the holder to the administrator as a result of an examination.

Proposed MCL 567.251a

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an unknown impact on State revenue from unclaimed property and would increase the administrative costs of the Department of Treasury. An administrative reconsideration of unclaimed property findings and an appeal conducted by an independent delegate could delay or reduce State collections of unclaimed property, which would reduce revenue to the General Fund by an unknown amount. The proposed reconsideration and appeal to a delegate also would increase the costs of the Department by an indeterminate amount due to the cost of conducting the hearings. The Department would incur additional costs to conduct reconsideration and appeal hearings, or defend itself in court, against a claim by a holder of unclaimed property related to a denial of a waiver of penalties and interest. The reconsideration and appeal process likely would reduce use of the existing circuit court appeal process.

The May 2014 Consensus Revenue Estimating Conference estimated State General Fund revenue from unclaimed property at \$40.0 million in FY 2014-15.

Date Completed: 12-11-14

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.