

## UNIFORM UNCLAIMED PROPERTY ACT (EXCERPT)

Act 29 of 1995

### **567.251 Verified report of unclaimed property being held; examination of records to determine compliance with act; notice; audit; incomplete records; cost of examination; failure to maintain records; insufficient records for preparation of report; issuance of check in streamlined process; "substantially complete records" defined.**

Sec. 31. (1) The administrator may require a person who has not filed a report under this act or a person who the administrator believes has filed an inactive, incomplete, or false report, to file a verified report in a form specified by the administrator. The report shall state whether the person is holding any unclaimed property reportable or deliverable under this act, describe unclaimed property not previously reported or as to which the administrator has made inquiry, and specifically identify and state the amounts of property that may be in issue.

(2) The administrator, at reasonable times and upon reasonable notice, may examine the records of a person to determine whether the person has complied with this act. The administrator may conduct the examination even if the person believes he or she is not in possession of any property reportable or deliverable under this act. The administrator may contract with any other person to conduct the examination on behalf of the administrator.

(3) If a person is treated under section 13 as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection (2), may examine the records of the person if the administrator has given the notice required by subsection (2) to both the person and the business association at least 90 days before the examination.

(4) Any examination performed by the administrator or his or her duly authorized agents must be performed in accordance with the generally accepted auditing standards to the extent applicable to unclaimed property examinations. A person who has been audited by the administrator or his or her duly authorized agents or a person whose books, records, and papers have been examined by the administrator or his or her duly authorized agents shall be provided a complete copy in printed or electronic format of the audit report, which shall 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 which formed a basis for the findings. Not later than 6 months after the effective date of the amendatory act that added this subsection, the administrator shall electronically file a request for rule-making with the office of regulatory reinvention pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to initiate rules on auditing standards.

(5) When the person being examined does not have substantially complete records, the administrator or his or her duly authorized agents may determine the amount of any abandoned or unclaimed property due and owing based upon a reasonable method of estimation consistent with the standards described in subsection (4). If the person being examined has filed all the required reports and has maintained substantially complete records, then all of the following apply to the examination:

(a) The examination shall include a review of the person's books and records.

(b) The examination shall not be based on an estimate.

(c) The administrator or his or her duly authorized agents shall consider all evidence presented by the holder to remediate the findings.

(6) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this act, the administrator may assess the cost of the examination against the holder at the rate of \$50.00 a day for each examiner; however, the charges shall not exceed the value of the property actually found to be reportable and deliverable. The cost of examination made pursuant to subsection (3) shall be imposed only against the business association.

(7) If a holder fails after the effective date of this act to maintain the records required by section 32 and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay an amount as may reasonably be estimated from any available records.

(8) For an eligible holder that has elected to follow the streamlined process described in section 31b, examinations shall not include checks voided within 180 days from the date of issuance of the check.

(9) As used in this section, "substantially complete records" means 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 shall not be made solely as a percentage of the total overall individual records to be examined, but also on a materiality level of value of the records. The lack of greater than 10% of records in 1 particular property class to be examined does not result in the extrapolation of error



in those areas in which a person has filed all the required reports and has maintained at least 90% of the overall records for that particular property class. Substantially complete records are not meant to be an absolute measurement of all available records.

**History:** 1995, Act 29, Eff. Mar. 28, 1996;—Am. 1997, Act 195, Imd. Eff. Dec. 30, 1997;—Am. 2013, Act 148, Eff. Mar. 14, 2014;—Am. 2015, Act 242, Imd. Eff. Dec. 22, 2015.

**Compiler's note:** Enacting section 1 of Act 242 of 2015 provides:

"Enacting section 1. This amendatory act is retroactive and applies to audits in progress as of August 15, 2015, but does not retroactively apply to contested determinations in litigation before the date of enactment of this amendatory act."