

UNIFORM UNCLAIMED PROPERTY ACT (EXCERPT)

Act 29 of 1995

567.251a Failure of holder to report or deliver unclaimed property; notice of examination determination; request for reconsideration; notice of appeal; hearing; decision; filing action in circuit court; waiver of penalties or interest; "notice of examination determination" defined.

Sec. 31a. (1) If the administrator determines that a holder has failed to report or deliver to the administrator unclaimed property as required by this act, the administrator shall mail to the holder by certified or registered mail a notice of examination determination, which shall include the property deliverable. The notice of examination determination shall constitute a decision of the administrator. Within 90 days after the decision of the administrator is mailed, a holder that is aggrieved of the decision may bring an action in the circuit court, or within the same period, the holder may elect to contest the decision by filing a request for reconsideration with the administrator prior to bringing an action in circuit court.

(2) If the holder elects to contest the decision in subsection (1) by filing a request for reconsideration with the administrator, in lieu of filing an action in circuit court, the holder may later file an action in circuit court under the provisions of subsection (4) or (8).

(3) The request for reconsideration shall be in writing, identify the contested property, and state the reason that the holder believes the decision is in error. The administrator shall only reconsider that portion of the property due that is identified in the request for reconsideration. The administrator may delegate a reconsideration under this subsection to an individual who is employed by the department to enforce this act.

(4) At any time prior to receipt of a reconsidered decision, the holder may file with the administrator a written notice of withdrawal of the request for reconsideration. Within 90 days after the notice of withdrawal is mailed to the administrator, the holder may file an action in circuit court.

(5) The holder shall deliver to the administrator the property that is not contested. While the request for reconsideration is pending, interest continues to accrue on all undelivered property. Payment or delivery of the contested amount due or property does not waive the right to reconsideration under subsection (3).

(6) Within 60 days of filing the request for reconsideration, the holder may submit additional documentation and written submissions to the administrator in support of the reconsideration. The administrator may meet with the holder or have informal communication with the holder as part of the reconsideration process.

(7) Within 60 days of receipt of the holder's request for reconsideration or within 60 days after the receipt of additional documentation, the administrator shall mail the holder a written decision regarding the contested property. The decision shall state the reasons and authority that support the administrator's decision. The time period for a decision in this subsection may be extended by the administrator for good cause, but shall not exceed 183 days from the day the administrator received the holder's request for reconsideration. The decision shall be mailed to the holder by certified or registered mail at the address provided in the request for reconsideration. If the holder prevails as to any portion of the contested property, the administrator shall return to the holder any property that had been delivered. That property shall be returned to the holder within 60 days as of the date of the decision.

(8) Within 90 days after mailing the decision regarding reconsideration in subsection (7), the holder may contest the decision by filing an action in circuit court, unless, within that time, the holder files an appeal with the administrator. The administrator shall select a delegate to conduct the appeal. The delegate may not be employed by, or contracted with, the department to provide auditing or administrative services for the enforcement of this act other than as a delegate for an appeal. If the holder elects to contest the decision in this subsection by filing an appeal with the administrator, in lieu of filing an action in circuit court, the holder may later file an action in circuit court under the provisions of subsection (9) or (13). The delegate shall have the knowledge, skill, and ability to qualify as an administrative law examiner under the Michigan civil service commission's job specifications.

(9) At any time, the holder may file with the administrator a written notice of withdrawal of the appeal to the administrator. Within 90 days after the notice of withdrawal is mailed to the administrator, the holder may file an action in circuit court based on the decision as reconsidered by the administrator in subsection (7).

(10) The notice of appeal under subsection (8) shall state the holder's name, mailing address, and telephone number; the name of the person or persons representing the holder; the representative's mailing address and telephone number; and the reason that holder believes the reconsidered decision of the administrator was in error. The administrator's delegate shall set the time and place for conducting a hearing on the appeal and shall give the holder written notice at least 21 days before the appeal is heard. The appeal is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The holder may appear or be

represented by any person before the delegate and may present testimony and argument. At the party's own expense and with advance notice to the other party, a holder or the delegate, or both, may make an audiorecording of the appeal.

(11) The hearing on the appeal to the administrator shall be conducted by the administrator's delegate within 90 days after the filing of the appeal unless otherwise agreed to by the parties. A written recommendation shall be issued by the delegate to the administrator within 90 days of the conclusion of the hearing or the submission of any posthearing documentation, whichever is later. The written recommendation shall include the reasons and the authority that support the recommendation.

(12) Within 60 days of the date of the recommendation of the delegate, the administrator shall affirm, modify, or reject all, or portions of, the reconsidered decision. The administrator shall state the reasons and authority for any action on the decision that does not follow the delegate's recommendation. A copy of the administrator's decision and a copy of the delegate's recommendation shall be mailed to the holder by certified or registered mail at the address provided in the holder's notice of appeal. If the holder prevails as to any portion of the contested property, the administrator shall return any contested property that had been remitted to the holder, including any related amount of interest or penalty paid.

(13) Within 90 days after the administrator's decision in subsection (12) is mailed, the holder may appeal the decision by filing an action in the circuit court.

(14) A holder that has requested a waiver of penalties or interest based on reasonable cause may contest any denial of a waiver through a request for reconsideration, an appeal to the administrator, or an action in circuit court as provided in this section.

(15) As used in this section, "notice of examination determination" means a notice that states the property that is deliverable by the holder to the administrator as a result of an examination.

History: Add. 2014, Act 423, Eff. Mar. 31, 2015.