

S.B. 340

(As amended December 9, 1997)

A bill to amend 1995 PA 29, entitled
"Uniform unclaimed property act,"
by amending sections 11, 18, 19, 20, 23, 25, and 31 (MCL 567.231,
567.238, 567.239, 567.240, 567.243, 567.245, and 567.251); and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) Except as provided in subsections (2) and (5),
2 stock or other intangible ownership interest in a business asso-
3 ciation, the existence of which is evidenced by records available
4 to the business association, is presumed abandoned and, with
5 respect to the interest, the business association is the holder,
6 if a dividend, distribution, or other sum payable as a result of
7 the interest remains unclaimed by the owner for [7] years and
8 the owner, within [7] years, has not met any of the following
9 requirements:

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1 (a) Communicated, in writing, with the business association
2 regarding the interest or a dividend, distribution, or other sum
3 payable as a result of the interest.

4 (b) Otherwise communicated with the business association
5 regarding the interest or a dividend, distribution, or other sum
6 payable as a result of the interest, as evidenced by a memorandum
7 or other record on file with the business association prepared by
8 an employee of the business association.

9 (2) At the expiration of a [7-year] period following
10 the failure of the owner to claim a dividend, distribution, or
11 other sum payable to the owner as a result of the interest, the
12 interest is not presumed abandoned unless there have been at
13 least [7] dividends, distributions, or other sums paid during
14 the period, none of which has been claimed by the owner. If
15 [7] dividends, distributions, or other sums are paid during the
16 [7-year] period, the period leading to a presumption of
17 abandonment commences on the date payment of the first such
18 unclaimed dividend, distribution, or other sum became due and
19 payable. If [7] dividends, distributions, or other sums are
20 not paid during the presumptive period, the period continues to
21 run until there have been [7] dividends, distributions, or
22 other sums that have not been claimed by the owner.

23 (3) The running of the [7-year] period of abandonment
24 ceases immediately upon the occurrence of a communication
25 referred to in subsection (1). If any future dividend, distribu-
26 tion, or other sum payable to the owner as a result of the
27 interest is subsequently not claimed by the owner, a new period

1 of abandonment commences and relates back to the time a
2 subsequent dividend, distribution, or other sum became due and
3 payable.

4 (4) At the time an interest is presumed abandoned under this
5 section, any dividend, distribution, or other sum then held for
6 or owing to the owner as a result of the interest, and not previ-
7 ously presumed abandoned, is presumed abandoned.

8 (5) This act does not apply to any stock or other intangible
9 ownership interest enrolled in a plan that provides for the auto-
10 matic reinvestment of dividends, distributions, or other sums
11 payable as a result of the interest unless the records available
12 to the administrator of the plan show, with respect to any intan-
13 gible ownership interest not enrolled in the reinvestment plan,
14 that the owner has not, within 15 years, communicated in any
15 manner described in subsection (1).

16 Sec. 18. (1) A person holding property presumed abandoned
17 and subject to the state's custody as unclaimed property under
18 this act shall report to the administrator concerning the prop-
19 erty as provided in this section.

20 (2) The report shall be verified and shall include all of
21 the following:

22 (a) The name, if known, social security number, if known,
23 and last known address, if any, of each person appearing from the
24 records of the holder to be the owner of property of the value of
25 \$50.00 or more presumed abandoned under this act. This subdivi-
26 sion does not apply to travelers checks and money orders.

1 (b) In the case of unclaimed funds of \$50.00 or more held or
2 owing under any life or endowment insurance policy or annuity
3 contract, the full name and last known address of the insured or
4 annuitant and of the beneficiary according to the records of the
5 insurance company holding or owing the funds.

6 (c) In the case of the contents of a safe deposit box or
7 other safekeeping repository or of other tangible property, a
8 description of the property and the place where it is held and
9 may be inspected by the administrator and any amounts owing to
10 the holder.

11 (d) The nature and identifying number, if any, or descrip-
12 tion of the property and the amount appearing from the records to
13 be due. However, items of value under \$50.00 each may be
14 reported in the aggregate.

15 (e) The date the property became payable, demandable, or
16 returnable, and the date of the last transaction with the appar-
17 ent owner with respect to the property.

18 (f) Other information the administrator requires by rule as
19 necessary for the administration of this act.

20 (3) If the person holding property presumed abandoned and
21 subject to the state's custody as unclaimed property under this
22 act is a successor to other persons who previously held the prop-
23 erty for the apparent owner, or the holder has changed its name
24 while holding the property, the holder shall file with the report
25 all known names and addresses of each previous holder of the
26 property.

1 (4) Except as otherwise provided in this subsection, the
2 report shall be filed on or before ~~December 31~~ NOVEMBER 1 of
3 each year for the 12-month period ending on the immediately pre-
4 ceding June 30. The administrator may postpone the date to file
5 a report, on written request by any person required to file a
6 report under this section. THE ADMINISTRATOR MAY EXTEND THE
7 FILING DATE FOR UP TO 60 DAYS AFTER THE DEADLINE IF AN ESTIMATED
8 PAYMENT IS PAID ON OR BEFORE THE DEADLINE FOR THE 12-MONTH PERIOD
9 ENDING ON THE IMMEDIATELY PRECEDING JUNE 30. REMITTANCE OF AN
10 ESTIMATED PAYMENT WITHOUT A REPORT ON OR BEFORE THE DEADLINE
11 SHALL BE CONSIDERED A REQUEST FOR EXTENSION. A REQUEST FOR
12 EXTENSION OF TIME TO FILE THE REPORT IS NOT A REQUEST FOR AN
13 EXTENSION OF TIME TO REMIT PAYMENTS. INTEREST AND PENALTIES WILL
14 NOT ACCRUE DURING THE EXTENSION PERIOD AGAINST A PERSON WHO
15 REMITS AN ESTIMATED PAYMENT. THE ADMINISTRATOR SHALL DETERMINE
16 HOW ESTIMATED PAYMENTS ARE TO BE REMITTED.

17 (5) Not LESS THAN 60 DAYS OR more than ~~120~~ 365 days before
18 filing the report required by this section, the holder in posses-
19 sion of property presumed abandoned and subject to the state's
20 custody as unclaimed property under this act shall send written
21 notice to the apparent owner at his or her last known address
22 informing him or her that the holder is in possession of property
23 subject to this act if all of the following requirements are
24 met:

25 (a) The holder has in its records an address for the appar-
26 ent owner that the holder's records do not disclose to be
27 inaccurate.

1 (b) The claim of the apparent owner is not barred by the
2 statute of limitations.

3 (c) The property has a value of \$50.00 or more OR, IF THE
4 HOLDER FILING A REPORT UNDER THIS SECTION IS REPORTING FOR THE
5 CURRENT REPORT YEAR AT LEAST 25,000 PROPERTIES OVER \$50.00 EACH,
6 THE PROPERTY HAS A VALUE OF \$100.00 OR MORE.

7 Sec. 19. (1) The administrator shall cause a notice to be
8 published not later than ~~June~~ NOVEMBER 1 of the year immedi-
9 ately following the report required by section 18 ~~at least once~~
10 ~~a week for 2 consecutive weeks~~ in a newspaper of general circu-
11 lation in the county of this state in which is located the last
12 known address of any person named in the notice. If no address
13 is listed or the address is outside this state, the notice must
14 be published in the county in which the holder of the property
15 has its principal place of business within this state OR ANOTHER
16 COUNTY AS DETERMINED BY THE ADMINISTRATOR.

17 (2) The published notice shall be entitled "notice of names
18 of persons appearing to be owners of abandoned property" and con-
19 tain all of the following:

20 (a) The names, in alphabetical order, ~~and last known~~
21 ~~address, if any,~~ of persons listed in the report and entitled to
22 notice within the county as specified in subsection (1).

23 (b) A statement that information concerning the property may
24 be obtained by any person possessing an interest in the property
25 by addressing an inquiry to the administrator.

1 (c) A statement informing an owner of property held by the
2 administrator on how to file a claim with the administrator to
3 receive his or her property.

4 (3) The administrator is not required to publish in the
5 notice any items of less than \$50.00 unless the administrator
6 considers their publication to be in the public interest.

7 (4) This section is not applicable to sums payable on trav-
8 elers checks, money orders, and other written instruments pre-
9 sumed abandoned under section 5.

10 Sec. 20. (1) A person who is required to file a report
11 under section 18 shall at the time for filing the report pay or
12 deliver to the administrator all abandoned property that is
13 required to be reported under section 18 OR ANY BALANCE OWING IF
14 AN ESTIMATED PAYMENT WAS MADE UNDER SECTION 18.

15 (2) The holder of an interest under section 11 shall deliver
16 a duplicate certificate or other evidence of ownership if the
17 holder does not issue certificates of ownership to the
18 administrator. Upon delivery of a duplicate certificate to the
19 administrator, the holder and any transfer agent, registrar, or
20 other person acting for or on behalf of a holder in executing or
21 delivering the duplicate certificate is relieved of all liability
22 of every kind in accordance with the provision of section 21 to
23 every person, including any person acquiring the original certif-
24 icate or the duplicate of the certificate issued to the adminis-
25 trator, for any losses or damages resulting to any person by the
26 issuance and delivery to the administrator of the duplicate
27 certificate.

1 Sec. 23. (1) Except as provided in subsections (2) and (3),
2 the administrator, ~~within~~ NOT LATER THAN 3 years after the
3 receipt of abandoned property, shall sell it to the highest
4 bidder at public sale in whatever city in the state affords, in
5 the judgment of the administrator, the most favorable market for
6 the property involved. The administrator may decline the highest
7 bid and reoffer the property for sale if, in the judgment of the
8 administrator, the bid is insufficient. If, in the judgment of
9 the administrator, the probable cost of sale exceeds the value of
10 the property, the property need not be offered for sale. Any
11 sale held under this section shall be preceded by a single publi-
12 cation of notice, at least 3 weeks in advance of sale, in a news-
13 paper of general circulation in the county in which the property
14 is to be sold.

15 (2) Securities listed on an established stock exchange shall
16 be sold at prices prevailing at the time of sale on the
17 exchange. Securities not listed on an established stock exchange
18 may be sold over the counter at prices prevailing at the time of
19 sale or by any other method the administrator considers
20 advisable.

21 ~~-(3) Unless the administrator considers it to be in the best~~
22 ~~interest of the state to do otherwise, all securities, other than~~
23 ~~those presumed abandoned under section 11, delivered to the~~
24 ~~administrator shall be held for at least 1 year before the admin-~~
25 ~~istrator may sell them.~~

26 (3) ~~-(4)~~ Unless the administrator considers it to be in the
27 best interest of the state to do otherwise, all securities

1 presumed abandoned under ~~section 11~~ THIS ACT and delivered to
2 the administrator shall be ~~held for at least 3 years before the~~
3 ~~administrator may sell them. If the administrator sells any~~
4 ~~securities presumed abandoned under section 11 before the expira-~~
5 ~~tion of the 3-year period, any person making a claim under this~~
6 ~~act before the end of the 3-year period is entitled to either the~~
7 ~~proceeds of the sale of the securities or the market value of the~~
8 ~~securities at the time the claim is made, whichever amount is~~
9 ~~greater, less any amounts deducted under section 24(2). A person~~
10 ~~making a claim under this act after the expiration of the 3-year~~
11 ~~period is entitled to receive either the securities delivered to~~
12 ~~the administrator by the holder, if they still remain in the~~
13 ~~hands of the administrator, or the proceeds received from sale,~~
14 ~~less any amounts deducted under section 24(2), but no~~ SOLD
15 WITHIN 1 YEAR OF THE RECEIPT OF THE SECURITIES. A person ~~has~~
16 ~~any~~ MAKING A claim under this act against the state, the holder,
17 any transfer agent, registrar, or other person acting for or on
18 behalf of a holder ~~for~~ IS NOT ENTITLED TO any appreciation in
19 the value of the property occurring after delivery by the holder
20 to the administrator.

21 (4) ~~(5)~~ The purchaser of property at any sale conducted by
22 the administrator under this act takes the property free of all
23 claims of the owner or previous holder of the property and of all
24 persons claiming through or under the owner or previous holder.
25 The administrator shall execute all documents necessary to com-
26 plete the transfer of ownership.

1 Sec. 25. (1) A person, excluding another state, claiming an
2 interest in any property paid or delivered to the administrator
3 under this act, may file with the administrator a claim on a form
4 prescribed by the administrator and verified by the claimant.

5 (2) The administrator shall consider each claim within 90
6 days after it is filed and give written notice to the claimant if
7 the claim is denied in whole or in part. The notice may be given
8 by mailing it to the last address, if any, stated in the claim as
9 the address to which notices are to be sent. If no address for
10 notices is stated in the claim, the notice may be mailed to the
11 last address, if any, of the claimant as stated in the claim. No
12 notice of denial need be given if the claim fails to state either
13 the last address to which notices are to be sent or the address
14 of the claimant.

15 (3) If a claim is allowed, the administrator shall pay over
16 or deliver to the claimant the property or the amount the admin-
17 istrator actually received or the net proceeds if it has been
18 sold by the administrator, plus any additional amount required by
19 section 22. ~~If the claim is for property presumed abandoned~~
20 ~~under section 11 that was sold by the administrator within 3~~
21 ~~years after the date of delivery, the amount payable for that~~
22 ~~claim is the value of the property at the time the claim was made~~
23 ~~or the net proceeds of sale, whichever is greater.~~ If the prop-
24 erty claimed was interest bearing to the owner on the date of
25 surrender by the holder, AND IF THE DATE OF SURRENDER IS ON OR
26 AFTER MARCH 28, 1996, the administrator also shall pay interest
27 at a rate of 6% a year or any lesser rate the property earned

1 while in the possession of the holder. Interest begins to accrue
2 when the INTEREST BEARING property is delivered to the adminis-
3 trator and ceases on the earlier of the expiration of 10 years
4 after delivery or the date on which payment is made to the
5 owner. No interest on interest bearing property is payable for
6 any period before ~~the effective date of this act~~ MARCH 28,
7 1996.

8 (4) Any holder who pays the owner for property that has been
9 delivered to the state and which, if claimed from the administra-
10 tor, would be subject to subsection (3) shall add interest as
11 provided in that subsection. The added interest must be repaid
12 to the holder by the administrator in the same manner as the
13 principal.

14 Sec. 31. (1) The administrator may require a person who has
15 not filed a report under this act OR A PERSON WHO THE ADMINISTRA-
16 TOR BELIEVES HAS FILED AN INACTIVE, INCOMPLETE, OR FALSE REPORT,
17 to file a verified report ~~stating~~ IN A FORM SPECIFIED BY THE
18 ADMINISTRATOR. THE REPORT SHALL STATE whether the person is
19 holding any unclaimed property reportable or deliverable under
20 this act, DESCRIBE UNCLAIMED PROPERTY NOT PREVIOUSLY REPORTED OR
21 AS TO WHICH THE ADMINISTRATOR HAS MADE INQUIRY, AND SPECIFICALLY
22 IDENTIFY AND STATE THE AMOUNTS OF PROPERTY THAT MAY BE IN ISSUE.

23 (2) The administrator, at reasonable times and upon reason-
24 able notice, may examine the records of a person to determine
25 whether the person has complied with ~~the provisions of~~ this
26 act. The administrator may conduct the examination even if the
27 person believes he or she is not in possession of any property

1 reportable or deliverable under this act. THE ADMINISTRATOR MAY
2 CONTRACT WITH ANY OTHER PERSON TO CONDUCT THE EXAMINATION ON
3 BEHALF OF THE ADMINISTRATOR.

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

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

19 (5) If a holder fails after the effective date of this act
20 to maintain the records required by section 32 and the records of
21 the holder available for the periods subject to this act are
22 insufficient to permit the preparation of a report, the adminis-
23 trator may require the holder to report and pay an amount as may
24 reasonably be estimated from any available records.

25 Enacting section 1. Section 43 of the uniform unclaimed
26 property act, 1995 PA 29, MCL 567.263, is repealed.

[Enacting section 2. This amendatory act takes effect May 1,
1997.]