

Act No. 173
Public Acts of 1990
Approved by the Governor
July 2, 1990
Filed with the Secretary of State
July 2, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Barns, Hart, Webb, Gire and Varga

Reps. Allen, Alley, Bandstra, Bankes, Bartnik, Bender, Berman, Willis Bullard, Camp, Clack, DeBeaussaert, DeMars, Dolan, Dunaskiss, Emmons, Gagliardi, Giese, Gilmer, Gnodtke, Gubow, Harrison, Hickner, Hoekman, Honigman, Hood, Jaye, Johnson, Jonker, Keith, Kosteva, Krause, Law, London, Martin, Mathieu, Maynard, Middaugh, Murphy, Muxlow, Niederstadt, O'Neill, Ouwinga, Owen, Oxender, Pitoniak, Porreca, Pridnia, Randall, Rocca, Runco, Scott, Sikkema, Sofio, Spaniola, Sparks, Stabenow, Stacey, Stallworth, Stopczynski, Stupak, Trim, Van Singel, Walberg, Wartner, Weeks, Joe Young, Jr., Joe Young, Sr. and Richard A. Young named co-sponsors

ENROLLED HOUSE BILL No. 5067

AN ACT to amend sections 5 and 52 of Act No. 329 of the Public Acts of 1947, entitled as amended "An act to create a state board of escheats; to prescribe its powers and duties; to provide for the descent and devolution of escheated and abandoned property; to provide for the discovery, marshalling, protection, conservation and disposition of escheatable, abandoned and escheated property; to prescribe the procedure to declare escheatable and abandoned property escheated; to protect the rights and interests of owners and holders of escheatable, abandoned and escheated property in and to such property; to prescribe the procedure for the administration of this act and to prescribe penalties for violations of certain of its provisions; and to remove the bar of general

statutes of limitation as a defense to proceedings instituted under this act in certain cases," section 5 as amended by Act No. 96 of the Public Acts of 1983, being sections 567.15 and 567.62 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 5 and 52 of Act No. 329 of the Public Acts of 1947, section 5 as amended by Act No. 96 of the Public Acts of 1983, being sections 567.15 and 567.62 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 5. (1) As used in this act:

(a) "Person" includes a natural person, a corporation, a partnership, voluntary association, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity; the United States government, including any official, officer, agency, department, authority, instrumentality, board, bureau, or court of the United States government, and any corporation organized by the United States for public purposes; every state of the United States including this state, including any official, officer, agency, department, board, commission, constitutional body or court of any state, or any body politic and corporation created by the state for public purposes; and any political subdivision of the state.

(b) "Property", except as otherwise provided in subsection (2), means personal property, of every kind or description, tangible or intangible, in the possession or under the control of a holder, and includes, but not by way of limitation:

(i) Money.

(ii) Bills of exchange.

(iii) Stocks, bonds, and other securities.

(iv) Credits, including wages and other allowances for services earned or accrued on or after January 1, 1958, and funds due and payable on checks certified in this state or on written instruments issued in this state on which a banking or financial institution or any other holder is liable, including but not limited to certificates of deposit, drafts, cashier checks, money orders, and travelers checks; also proceeds or property interests represented by unredeemed gift certificates. Credits also include checks or other similar written instruments as described in section 403a of the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws.

(v) Deposits, howsoever evidenced, including accrued interest and increments thereon.

(vi) Dividends, cash, or stock.

(vii) Certificates of membership in a corporation or association.

(viii) Amounts due and payable pursuant to the terms of a policy of insurance; also money held and owing by any life insurance company doing business in this state which have remained unclaimed and unpaid for 7 years or more after it is established from the records of the company that the money became due and payable under a life or endowment insurance policy or annuity contract that has matured or terminated. A life insurance policy not matured by actual proof of the prior death of the insured shall be deemed to be matured, and the proceeds of that policy shall be due and payable within the meaning of this act if the policy is in force when the insured has attained the limiting age under the mortality table on which the reserve is based. Money otherwise admittedly due and payable shall be held and owing within the meaning of this act although the policy or contract has not been surrendered as required.

(ix) Security deposits.

(x) Funds deposited by a holder with fiscal agents or fiduciaries for payment to an owner of dividends, coupon interest, and liquidation value of stocks and bonds.

(xi) Funds to redeem stocks and bonds.

(xii) Amounts refundable from excess or increased rates or charges collected by a corporation for utility services lawfully furnished by it that have been or shall be ordered refunded to consumers or other persons entitled to them, and that have remained unclaimed by the persons entitled to them for 7 years from the date they became payable in accordance with the final determination or order providing for the refunds. Property defined in this subparagraph includes interest due on the refunds.

(xiii) All other liquidated choses-in-action of whatsoever kind or character.

(c) "Owner", in addition to its commonly accepted meaning, means any person having the legal or equitable title or right to make demand to property coming within the purview of this act.

(d) "Holder" means any person having possession, custody, or control of the property of another person, and includes, but not by way of limitation, a bank, either state or national; a savings and loan association; a credit

union; a trust company; a depository; a bailee; a trustee; a receiver or other liquidating officer; a fiduciary; a federal or state governmental department, official, officer, board, public corporation, commission, constitutional body, court, institution or agency, or political subdivision of the state; a municipal corporation and its fiscal officers; a custodian or officer appointed by a court to receive, keep, handle, or disburse money or other property; a public utility, insurance or service corporation; and every other legal entity doing business in this state. This definition shall be construed as distinguishing the term "holder" of property from the term "owner" of property.

(e) "Abandoned property" means property against which a full period of dormancy has run.

(f) "Period of dormancy", except as provided in section 7a, means the full and continuous period of 7 years, during which an owner has ceased, failed, or neglected to exercise dominion or control over his or her property or to assert a right of ownership or possession; or to make presentment and demand for payment and satisfaction; or to do any other act in relation to or concerning such property. This definition does not include an act of a holder of abandoned property that is not done at the express request or authorization of the owner. In the case of a life insurance policy not matured by actual proof of the prior death of the insured, the period of dormancy shall begin running at the time that the insured attains the limiting age under the mortality table on which the reserve is based, provided the policy is in force at that time.

(g) "Escheat" means the descent or devolution of property to the state under and by virtue of the constitution of the state, the provisions of the general laws of this state, or the provisions of this act.

(h) "Escheatable property" means property which is subject to escheat to the state under and by virtue of the provisions of the constitution of the state, the general laws of this state, or the provisions of this act.

(i) "Escheated property" means property which has descended to the state as an escheat.

(j) "Appropriation" means the act of the state, through its duly constituted officers or agencies, in taking or accepting possession or custody of abandoned, unprotected, unclaimed, or lost property as conservator for later disposition by descent to the state as an escheat or redemption by the owner as provided in this act.

(k) "Redemption" means the reclamation of escheated or escheatable property, or the proceeds of the sale of the property, made by the owner or other person entitled to the property, pursuant to the provisions of this act.

(l) "Unprotected property" means property which the owner has mislaid or left unprotected against loss, damage, waste, or deterioration under circumstances indicating the disappearance of the owner or an abandonment of the property.

(2) As used in this act, the word "property" does not include credits or deposits evidenced by cash balances on unclaimed or refused personal property, nor any property, except the items specified in subsection (1)(b)(i) to (xiii), that the owner could not recover because of the provisions of any state or federal statute of limitations. "Property" does not include sewage tap or connection fees or charges that a court has ordered to be refunded by a local government to property owners or other persons paying the fees or charges and that are unclaimed within a period of 7 years from the date of the court order and are used to retire judgment bonds issued to refund such sewage tap or connection fees. This act shall apply to unclaimed property held by a life insurance company as described in subsection (1)(b)(viii) where the last known address, according to the records of the life insurance company, of the person entitled to such property is within this state. If a person other than the insured or annuitant is entitled to such property and no address for that person is known to such company or if it is not definite and certain from the records of the company what person is entitled to the property, then it shall be presumed for the purposes of this act that the last known address of the person entitled to the property is the same as the last known address of the insured or annuitant according to the records of the company.

Sec. 52. (1) All property descending to the state of Michigan as an escheat, pursuant to the provisions of this act, the constitution, or general laws of this state, that has been duly assigned and transferred to the state of Michigan by an order or decree made and entered in a proceeding or suit instituted under the general laws of this state or the provisions of this act, shall be delivered to the department of treasury to be held for the use and benefit of the state of Michigan and any person who may be entitled to redemption as provided in this act. Except as otherwise provided in subsection (2), the department of treasury shall deposit the property, or the proceeds of the sale of the property, in the state treasury to the credit of the general fund. The department of treasury may administer the funds created and accruing pursuant to this section, subject to the supervision and direction of the state administrative board.

(2) The department of treasury shall transfer property that descends to the state of Michigan as an escheat pursuant to section 403a of the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being section 550.1403a of the Michigan Compiled Laws, as follows:

(a) 10% to the general fund to be held for the benefit of persons entitled to redemption.

(b) 90% to the senior care respite fund created in the older Michiganians act, Act No. 180 of the Public Acts of 1981, being sections 400.581 to 400.594 of the Michigan Compiled Laws.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

- (a) Senate Bill No. 372.
- (b) Senate Bill No. 374.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.