

HOUSE BILL No. 4745

May 1, 1989, Introduced by Reps. Runco, Weeks, Middaugh, Porreca, Emmons, DeMars, Bandstra, Munsell, Willis Bullard, Perry Bullard, Sikkema, Van Singel, Kosteva, Krause, Oxender, Griffin, Rocca, Maynard, Bartnik, Dutko, Hart, Webb, Varga, Gubow, Strand, Crandall, Honigman, Sparks, Law, Fitzgerald, Bankes, Bender and Camp and referred to the Committee on Public Health.

A bill to amend sections 5 and 52 of Act No. 329 of the Public Acts of 1947, entitled as amended

"The Michigan code of escheats,"

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:

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

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

6 (a) "Person" includes a natural person, a corporation, a
7 partnership, voluntary association, estate, trust, 2 or more
8 persons having a joint or common interest, or any other legal or
9 commercial entity; the United States government, including any

1 official, officer, agency, department, authority,
2 instrumentality, board, bureau, or court ~~thereof~~ OF THE UNITED
3 STATES GOVERNMENT, and any corporation organized by the United
4 States for public purposes; every state of the United States ~~of~~
5 ~~America~~ including this state, including any official, officer,
6 agency, department, board, commission, constitutional body or
7 court ~~thereof~~ OF ANY STATE, or any body politic and corporation
8 created by the state for public purposes; and any political sub-
9 division of the state.

10 (b) "Property", EXCEPT AS OTHERWISE PROVIDED IN
11 SUBSECTION (2), means personal property, of every kind or
12 description, tangible or intangible, in the possession or under
13 the control of a holder, ~~as hereinafter defined,~~ and includes,
14 but not by way of limitation:

15 (i) Money.

16 (ii) Bills of exchange.

17 (iii) Stocks, bonds, and other securities.

18 (iv) Credits, including wages and other allowances for serv-
19 ices earned or accrued on or after January 1, 1958, and funds due
20 and payable on checks certified in this state or on written
21 instruments issued in this state on which a banking or financial
22 institution or any other holder is liable, including but not
23 limited to certificates of deposit, drafts, cashier checks, money
24 orders, and travelers checks; also proceeds or property interests
25 represented by unredeemed gift certificates. CREDITS ALSO
26 INCLUDE CHECKS OR OTHER SIMILAR WRITTEN INSTRUMENTS AS DESCRIBED
27 IN SECTION 403A OF THE NONPROFIT HEALTH CARE CORPORATION REFORM

1 ACT, ACT NO. 350 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS
2 550.1101 TO 550.1704 OF THE MICHIGAN COMPILED LAWS.

3 (v) Deposits, howsoever evidenced, including accrued inter-
4 est and increments thereon.

5 (vi) Dividends, cash, or stock.

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

8 (viii) Amounts due and payable pursuant to the terms of
9 ~~any~~ A policy of insurance; also ~~moneys~~ MONEY held and owing
10 by any life insurance company doing business in this state which
11 ~~shall~~ have remained unclaimed and unpaid for 7 years or more
12 after it is established from the records of ~~such~~ THE company
13 that ~~such moneys~~ THE MONEY became due and payable under ~~any~~ A
14 life or endowment insurance policy or annuity contract ~~which~~
15 THAT has matured or terminated. A life insurance policy not
16 matured by actual proof of the prior death of the insured shall
17 be deemed to be matured, and the proceeds ~~thereof~~ OF THAT
18 POLICY shall be ~~deemed to be~~ due and payable within the meaning
19 of this act if ~~such~~ THE policy is in force when the insured
20 ~~shall have~~ HAS attained the limiting age under the mortality
21 table on which the reserve is based. ~~Moneys~~ MONEY otherwise
22 admittedly due and payable shall ~~be deemed to~~ be held and owing
23 within the meaning of this act although the policy or contract
24 ~~shall~~ HAS not ~~have~~ been surrendered as required.

25 (ix) Security deposits.

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

4 (xi) Funds to redeem stocks and bonds.

5 (xii) Amounts refundable from excess or increased rates or
6 charges ~~heretofore or hereafter~~ collected by a corporation for
7 utility services lawfully furnished by it ~~, which~~ THAT have
8 been or shall ~~hereafter lawfully~~ be ordered refunded to consum-
9 ers or other persons entitled ~~thereto and any interest due~~
10 ~~thereon, and which~~ TO THEM, AND THAT have remained unclaimed by
11 the persons entitled ~~thereto~~ TO THEM for 7 years from the date
12 they became payable in accordance with the final determination or
13 order providing for the refunds. PROPERTY DEFINED IN THIS SUB-
14 PARAGRAPH INCLUDES INTEREST DUE ON THE REFUNDS.

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

17 ~~The word "property" does not include credits or deposits~~
18 ~~evidenced by cash balances on unclaimed or refused personal prop-~~
19 ~~erty, nor any property, except the items specified in subpara-~~
20 ~~graphs (i) to (xii), the right to recover which in a proceeding~~
21 ~~brought by the owner would be barred by the provisions of any~~
22 ~~statute of limitations, state or federal. "Property" does not~~
23 ~~include sewage tap or connection fees or charges which a court~~
24 ~~has ordered to be refunded by a local government to property~~
25 ~~owners or other persons paying the fees or charges and which are~~
26 ~~unclaimed within a period of 7 years from the date of the court~~
27 ~~order and are used to retire judgment bonds issued to refund such~~

~~1 sewage tap or connection fees. This act shall apply to unclaimed
2 property held by a life insurance company as defined in subpara-
3 graph (viii) where the last known address, according to the
4 records of the life insurance company, of the person entitled to
5 such property is within this state. If a person other than the
6 insured or annuitant is entitled to such property and no address
7 of such person is known to such company or if it is not definite
8 and certain from the records of such company what person is enti-
9 tled to such property, then it shall be presumed for the purposes
10 of this act that the last known address of the person entitled to
11 such property is the same as the last known address of the
12 insured or annuitant according to the records of such company.~~

13 (c) "Owner", in addition to its commonly accepted meaning,
14 means ~~and includes~~ any person ~~, as defined in subdivision~~
15 ~~(a),~~ having the legal or equitable title or right to make demand
16 to property coming within the purview of this act.

17 (d) "Holder" means any person ~~, as defined in subdivision~~
18 ~~(a),~~ having possession, custody, or control of the property of
19 another person, and includes, but not by way of limitation, a
20 bank, either state or national; a savings and loan association; a
21 credit union; a trust company; a depository; a bailee; a trustee;
22 a receiver or other liquidating officer; a fiduciary; a federal
23 or state governmental department, official, officer, board,
24 public corporation, commission, constitutional body, court,
25 institution or agency, or political subdivision of the state; a
26 municipal corporation and ~~the~~ ITS fiscal officers; ~~thereof,~~ a
27 custodian or officer appointed by a court to receive, keep,

1 handle, or disburse money or other property; a public utility,
2 insurance or service corporation; and every other legal entity
3 doing business in this state. This definition shall be construed
4 as distinguishing the term "holder" of property from the term
5 "owner" of property.

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

8 (f) "Period of dormancy", except as provided in section 7a,
9 means the full and continuous period of 7 years, during which an
10 owner has ceased, failed, or neglected to exercise dominion or
11 control over his or her property or to assert a right of owner-
12 ship or possession; or to make presentment and demand for payment
13 and satisfaction; or to do any other act in relation to or con-
14 cerning such property. This definition ~~shall be construed as~~
15 ~~excluding any act or doing~~ DOES NOT INCLUDE AN ACT of a holder
16 of abandoned property THAT IS not done at the express request or
17 authorization of the owner. In the case of a life insurance
18 policy not matured by actual proof of the prior death of the
19 insured, the period of dormancy shall ~~commence to run from~~
20 BEGIN RUNNING AT the time that the insured ~~shall have attained~~
21 ATTAINS the limiting age under the mortality table on which the
22 reserve is based, provided the policy is in force at that time.

23 (g) "Escheat" means the descent or devolution of property to
24 the state under and by virtue of the constitution of the state,
25 the provisions of the general laws of this state, or the provi-
26 sions of this act.

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

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

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

13 (k) "Redemption" means the reclamation of escheated or
14 escheatable property, or the proceeds of the sale ~~thereof~~ OF
15 THE PROPERTY, made by the owner or other person entitled
16 ~~thereto~~ TO THE PROPERTY, pursuant to the provisions of this
17 act.

18 (l) "Unprotected property" means ~~and refers to~~ property
19 which the owner has mislaid or left unprotected against loss,
20 damage, waste, or deterioration under circumstances indicating
21 the disappearance of the owner or an abandonment of the
22 property.

23 (2) AS USED IN THIS ACT, THE WORD "PROPERTY" DOES NOT
24 INCLUDE CREDITS OR DEPOSITS EVIDENCED BY CASH BALANCES ON
25 UNCLAIMED OR REFUSED PERSONAL PROPERTY, NOR ANY PROPERTY, EXCEPT
26 THE ITEMS SPECIFIED IN SUBSECTION (1)(B)(i) TO (xiii), THAT THE
27 OWNER COULD NOT RECOVER BECAUSE OF THE PROVISIONS OF ANY STATE OR

1 FEDERAL STATUTE OF LIMITATIONS. "PROPERTY" DOES NOT INCLUDE
2 SEWAGE TAP OR CONNECTION FEES OR CHARGES THAT A COURT HAS ORDERED
3 TO BE REFUNDED BY A LOCAL GOVERNMENT TO PROPERTY OWNERS OR OTHER
4 PERSONS PAYING THE FEES OR CHARGES AND THAT ARE UNCLAIMED WITHIN
5 A PERIOD OF 7 YEARS FROM THE DATE OF THE COURT ORDER AND ARE USED
6 TO RETIRE JUDGMENT BONDS ISSUED TO REFUND SUCH SEWAGE TAP OR CON-
7 NECTION FEES. THIS ACT SHALL APPLY TO UNCLAIMED PROPERTY HELD BY
8 A LIFE INSURANCE COMPANY AS DEFINED IN SUBSECTION (1)(B)(viii)
9 WHERE THE LAST KNOWN ADDRESS, ACCORDING TO THE RECORDS OF THE
10 LIFE INSURANCE COMPANY, OF THE PERSON ENTITLED TO SUCH PROPERTY
11 IS WITHIN THIS STATE. IF A PERSON OTHER THAN THE INSURED OR
12 ANNUITANT IS ENTITLED TO SUCH PROPERTY AND NO ADDRESS FOR THAT
13 PERSON IS KNOWN TO SUCH COMPANY OR IF IT IS NOT DEFINITE AND CER-
14 TAIN FROM THE RECORDS OF THE COMPANY WHAT PERSON IS ENTITLED TO
15 THE PROPERTY, THEN IT SHALL BE PRESUMED FOR THE PURPOSES OF THIS
16 ACT THAT THE LAST KNOWN ADDRESS OF THE PERSON ENTITLED TO THE
17 PROPERTY IS THE SAME AS THE LAST KNOWN ADDRESS OF THE INSURED OR
18 ANNUITANT ACCORDING TO THE RECORDS OF THE COMPANY.

19 Sec. 52. (1) All property descending to the state of
20 Michigan as an escheat, pursuant to the provisions of this act,
21 the constitution, or general laws of this state, ~~and which~~ THAT
22 has been duly assigned and transferred to the state of Michigan
23 by an order or decree made and entered in ~~any~~ A proceeding or
24 suit instituted under the general laws of this state or the pro-
25 visions of this act, shall be delivered to the ~~board of escheats~~
26 ~~of the state of Michigan to be received and held by such board as~~
27 ~~trustee and conservator thereof~~ DEPARTMENT OF TREASURY TO BE

1 HELD for the use and benefit of the state of Michigan and any
2 person ~~or persons~~ who may be entitled to redemption as provided
3 in this act. ~~Said board shall within a reasonable time thereaf-~~
4 ~~ter cover the same, or the proceeds of the sale thereof, into the~~
5 ~~state treasury to the credit of the primary school fund to be~~
6 ~~expended for the advancement of primary training and instruction~~
7 ~~in the public schools under the direction and supervision of the~~
8 ~~state superintendent of public instruction: Provided, That all~~
9 ~~escheated real property, or the proceeds of the sale thereof,~~
10 ~~shall be held, disposed of, invested or reinvested and used in~~
11 ~~conformity with the provisions of section 12 of Article XI of the~~
12 ~~constitution of this state, and said board of escheats shall be~~
13 ~~vested with full power and authority to~~ EXCEPT AS OTHERWISE PRO-
14 VIDED IN SUBSECTION (2), THE DEPARTMENT OF TREASURY SHALL DEPOSIT
15 THE PROPERTY, OR THE PROCEEDS OF THE SALE OF THE PROPERTY, IN THE
16 STATE TREASURY TO THE CREDIT OF THE GENERAL FUND. THE DEPARTMENT
17 OF TREASURY MAY administer the funds ~~so~~ created and accruing
18 ~~, except that the investment or reinvestment of such funds shall~~
19 ~~be~~ PURSUANT TO THIS SECTION, subject to the supervision and
20 direction of the state administrative board.

21 (2) THE DEPARTMENT OF TREASURY SHALL TRANSFER PROPERTY THAT
22 DESCENDS TO THE STATE OF MICHIGAN AS AN ESCHEAT PURSUANT TO
23 SECTION 403A OF THE NONPROFIT HEALTH CARE CORPORATION REFORM ACT,
24 ACT NO. 350 OF THE PUBLIC ACTS OF 1980, BEING SECTION 550.1403A
25 OF THE MICHIGAN COMPILED LAWS, AS FOLLOWS:

26 (A) 10% TO THE GENERAL FUND TO BE HELD FOR THE BENEFIT OF
27 PERSONS ENTITLED TO REDEMPTION.

1 (B) 90% TO THE SENIOR CARE RESPITE FUND CREATED IN THE OLDER
2 MICHIGANIANS ACT, ACT NO. 180 OF THE PUBLIC ACTS OF 1981, BEING
3 SECTIONS 400.581 TO 400.594 OF THE MICHIGAN COMPILED LAWS.

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

7 (a) Senate Bill No. ____ or House Bill No. 4744 (request
8 no. 02763'89).

9 (b) Senate Bill No. ____ or House Bill No. 4746 (request
10 no. 02764'89).