

HOUSE BILL No. 4819

May 10, 1989, Introduced by Rep. Bennett and referred to the Committee on Liquor Control.

A bill to amend sections 5, 6, 7a, 13, 17, 18, 28, 32, 33, 40, 52, and 53 of Act No. 329 of the Public Acts of 1947, entitled as amended

"The Michigan code of escheats,"

sections 5 and 53 as amended by Act No. 96 of the Public Acts of 1983, being sections 567.15, 567.16, 567.17a, 567.23, 567.27, 567.28, 567.38, 567.42, 567.43, 567.50, 567.62, and 567.63 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 5, 6, 7a, 13, 17, 18, 28, 32, 33, 40,
2 52, and 53 of Act No. 329 of the Public Acts of 1947, sections 5
3 and 53 as amended by Act No. 96 of the Public Acts of 1983, being
4 sections 567.15, 567.16, 567.17a, 567.23, 567.27, 567.28, 567.38,
5 567.42, 567.43, 567.50, 567.62, and 567.63 of the Michigan
6 Compiled Laws, are amended to read as follows:

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

2 (a) "Person" includes a natural person, a corporation, a
3 partnership, voluntary association, estate, trust, 2 or more per-
4 sons having a joint or common interest, or any other legal or
5 commercial entity; the United States government, including any
6 official, officer, agency, department, authority, instrumentali-
7 ty, board, bureau, or court ~~thereof~~ OF THE UNITED STATES
8 GOVERNMENT, and any corporation organized by the United States
9 for public purposes; every state of the United States ~~of~~
10 ~~America~~ including this state, including any official, officer,
11 agency, department, board, commission, constitutional body or
12 court ~~thereof~~ OF ANY STATE, or any body politic and corporation
13 created by the state for public purposes; and any political sub-
14 division of the state.

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

20 (i) Money.

21 (ii) Bills of exchange.

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

23 (iv) Credits, including wages and other allowances for serv-
24 ices earned or accrued on or after January 1, 1958, and funds due
25 and payable on checks certified in this state or on written
26 instruments issued in this state on which a banking or financial
27 institution or any other holder is liable, including but not

1 limited to certificates of deposit, drafts, cashier checks, money
2 orders, and travelers checks; also proceeds or property interests
3 represented by unredeemed gift certificates.

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

6 (vi) Dividends, cash, or stock.

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

9 (viii) Amounts due and payable pursuant to the terms of any
10 policy of insurance; also moneys held and owing by any life
11 insurance company doing business in this state which shall have
12 remained unclaimed and unpaid for 7 years or more after it is
13 established from the records of such company that such moneys
14 became due and payable under ~~any~~ A life or endowment insurance
15 policy or annuity contract which has matured or terminated. A
16 life insurance policy not matured by actual proof of the prior
17 death of the insured shall be deemed to be matured, and the pro-
18 ceeds ~~thereof~~ OF THAT POLICY shall be ~~deemed to be~~ due and
19 payable within the meaning of this act if ~~such~~ THE policy is in
20 force when the insured shall have attained the limiting age under
21 the mortality table on which the reserve is based. Moneys other-
22 wise admittedly due and payable shall be ~~deemed to be~~ held and
23 owing within the meaning of this act although the policy or con-
24 tract shall 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 have been or
 8 shall hereafter lawfully be ordered refunded to consumers or
 9 other persons entitled thereto and any interest due thereon, and
 10 which have remained unclaimed by the persons entitled thereto for
 11 7 years from the date they became payable in accordance with the
 12 final determination or order providing for the refunds.

13 (xiii) DEPOSITS ON RETURNABLE CONTAINERS.

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

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

~~1 property held by a life insurance company as defined in
2 subparagraph (viii) where the last known address, according to
3 the records of the life insurance company, of the person entitled
4 to such property is within this state. If a person other than
5 the insured or annuitant is entitled to such property and no
6 address of such person is known to such company or if it is not
7 definite and certain from the records of such company what person
8 is entitled to such property, then it shall be presumed for the
9 purposes of this act that the last known address of the person
10 entitled to such property is the same as the last known address
11 of the insured or annuitant according to the records of such
12 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, INCLUDING A
17 PERSON HAVING THE RIGHT TO RETURN A RETURNABLE CONTAINER AND
18 RECEIVE THE UNREDEEMED DEPOSIT.

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

1 municipal corporation and the fiscal officers ~~thereof~~ OF THAT
2 CORPORATION; a custodian or officer appointed by a court to
3 receive, keep, handle, or disburse money or other property; a
4 public utility, insurance or service corporation; A DISTRIBUTOR;
5 and every other legal entity doing business in this state. This
6 definition shall be construed as distinguishing the term "holder"
7 of property from the term "owner" of property.

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

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

24 (g) "Escheat" means the descent or devolution of property to
25 the state under and by virtue of the constitution of the state,
26 the provisions of the general laws of this state, or the
27 provisions 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 SUCH PROPERTY, made by the owner or other person entitled there-
16 to, pursuant to the provisions of this act.

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

22 (M) "BEVERAGE" HAS THE MEANING ASCRIBED TO IT IN THE INITI-
23 ATED LAW OF 1976, BEING SECTIONS 445.571 TO 445.576 OF THE
24 MICHIGAN COMPILED LAWS.

25 (N) "BEVERAGE CONTAINER" HAS THE MEANING ASCRIBED TO IT IN
26 THE INITIATED LAW OF 1976, BEING SECTIONS 445.571 TO 445.576 OF
27 THE MICHIGAN COMPILED LAWS.

1 (O) "RETURNABLE CONTAINER" MEANS A BEVERAGE CONTAINER UPON
2 WHICH A DEPOSIT OF AT LEAST 10 CENTS HAS BEEN PAID, OR IS
3 REQUIRED TO BE PAID UPON THE REMOVAL OF THE CONTAINER FROM THE
4 SALE OR CONSUMPTION AREA, AND FOR WHICH A REFUND OF AT LEAST 10
5 CENTS IN CASH IS PAYABLE BY EVERY DEALER OR DISTRIBUTOR IN THIS
6 STATE OF THAT BEVERAGE IN BEVERAGE CONTAINERS. A BEVERAGE CON-
7 TAINER THAT IS CERTIFIED SHALL ALSO BE CONSIDERED A RETURNABLE
8 CONTAINER IF THE DEPOSIT IS AT LEAST 5 CENTS, AND THE REQUIRE-
9 MENTS OF THE PRECEDING SENTENCE ARE MET IN ALL OTHER RESPECTS.

10 (P) "DEALER" MEANS A PERSON WHO SELLS OR OFFERS FOR SALE TO
11 CONSUMERS WITHIN THIS STATE A BEVERAGE IN A BEVERAGE CONTAINER,
12 INCLUDING AN OPERATOR OF A VENDING MACHINE CONTAINING A BEVERAGE
13 IN A BEVERAGE CONTAINER.

14 (Q) "DISTRIBUTOR" MEANS A PERSON WHO SELLS BEVERAGES IN BEV-
15 ERAGE CONTAINERS TO A DEALER WITHIN THIS STATE, AND INCLUDES A
16 MANUFACTURER WHO ENGAGES IN SUCH SALES.

17 (2) THE WORD "PROPERTY" DOES NOT INCLUDE CREDITS OR DEPOSITS
18 EVIDENCED BY CASH BALANCES ON UNCLAIMED OR REFUSED PERSONAL PROP-
19 ERTY, EXCEPT DEPOSITS ON RETURNABLE CONTAINERS, NOR ANY PROPERTY,
20 EXCEPT THE ITEMS SPECIFIED IN SUBDIVISIONS (B)(i) TO (xiii), THE
21 RIGHT TO RECOVER WHICH IN A PROCEEDING BROUGHT BY THE OWNER WOULD
22 BE BARRED BY THE PROVISIONS OF ANY STATE OR FEDERAL STATUTE OF
23 LIMITATIONS. PROPERTY DOES NOT INCLUDE SEWAGE TAP OR CONNECTION
24 FEES OR CHARGES WHICH A COURT HAS ORDERED TO BE REFUNDED BY A
25 LOCAL GOVERNMENT TO PROPERTY OWNERS OR OTHER PERSONS PAYING THE
26 FEES OR CHARGES AND WHICH ARE UNCLAIMED WITHIN A PERIOD OF 7
27 YEARS FROM THE DATE OF THE COURT ORDER AND ARE USED TO RETIRE

1 JUDGMENT BONDS ISSUED TO REFUND SUCH SEWAGE TAP OR CONNECTION
2 FEES. THIS ACT SHALL APPLY TO UNCLAIMED PROPERTY HELD BY A LIFE
3 INSURANCE COMPANY AS DEFINED IN SUBDIVISION (B)(viii) WHERE THE
4 LAST KNOWN ADDRESS, ACCORDING TO THE RECORDS OF THE LIFE INSUR-
5 ANCE COMPANY, OF THE PERSON ENTITLED TO SUCH PROPERTY IS WITHIN
6 THIS STATE. IF A PERSON OTHER THAN THE INSURED OR ANNUITANT IS
7 ENTITLED TO SUCH PROPERTY AND NO ADDRESS FOR THAT PERSON IS KNOWN
8 TO THE COMPANY OR IF IT IS NOT DEFINITE AND CERTAIN FROM THE
9 RECORDS OF THE COMPANY WHAT PERSON IS ENTITLED TO THE PROPERTY,
10 THEN IT SHALL BE PRESUMED FOR THE PURPOSES OF THIS ACT THAT THE
11 LAST KNOWN ADDRESS OF THE PERSON ENTITLED TO THE PROPERTY IS THE
12 SAME AS THE LAST KNOWN ADDRESS OF THE INSURED OR ANNUITANT
13 ACCORDING TO THE RECORDS OF THE COMPANY.

14 Sec. 6. (1) Except as provided in section 7a, every holder
15 of abandoned property on or before June 30 of each year shall
16 make and file with the state board of escheats a report, in
17 duplicate, as of the last preceding January 1, containing a full,
18 true, and itemized statement of all abandoned property in his OR
19 HER possession or under his OR HER control. This requirement
20 does not apply to fiduciaries of decedent estates, nor to municipi-
21 pal corporations and the fiscal officers ~~thereof~~ OF MUNICIPAL
22 CORPORATIONS, other than counties and the fiscal officers
23 ~~thereof~~ OF COUNTIES, except when ~~such~~ A municipal corporation
24 is a holder of such property in a capacity other than a govern-
25 mental capacity, or as bailee, or by virtue of other special con-
26 tract, express or implied. Such annual report is not required as
27 to any account or item of property, evidenced by a written

1 investment contract, time certificate of deposit, or other
2 written contract maturing on a specified date, or upon notice in
3 writing to the holder by the owner, or at the end of a fixed or
4 adjusted term, except that such report shall be made and filed by
5 the holder as to any such account or item of property when the
6 owner or beneficiary fails to reduce to cash any of the benefits
7 or interest payment thereon for a full and continuous period of 7
8 years, or when ~~such~~ THE owner ~~of~~ OR beneficiary ~~shall fail~~
9 ~~or neglect~~ FAILS OR NEGLECTS for a period of 7 years after the
10 initial maturity date of the contract to claim and demand his OR
11 HER property. ~~No~~ A holder shall NOT be required to report
12 abandoned property when according to the books and records of the
13 holder the owner of ~~such~~ THE abandoned property is a nonresi-
14 dent of this state, ~~provided~~ IF that ~~such~~ holder makes a
15 report of such abandoned property to any other state under the
16 provisions of the escheats laws of that state. If the holder
17 does not make ~~such~~ a report to another state, he OR SHE shall
18 make a report of the abandoned property to this state.

19 (2) A corporation or any other legal entity organized under
20 the laws of any other state licensed to transact business in this
21 state shall be required to report only abandoned property belong-
22 ing to an owner who, according to the last known address of
23 ~~such~~ THE owner, was a resident of this state, except that
24 ~~such~~ shares of stock, or membership, or other evidences of
25 interest, and the interest, profits, dividends, or other incre-
26 ment thereon, as well as cash, as set forth in section 12, the
27 physical situs of ~~which~~ SUCH property is within this state,

1 shall be ~~deemed~~ CONSIDERED to be abandoned property and shall
2 be reported to the state board of escheats by the holder without
3 regard to the last known address of the owners.

4 (3) If no address of the owner entitled to the funds is
5 known to the holder, it is presumed that the last known address
6 of the owner is the same as the address of the place where the
7 certificate of deposit, draft, cashier check, money order, trav-
8 elers check, or other like instrument was issued or where the
9 transaction was initiated.

10 (4) A DISTRIBUTOR WHO HOLDS UNREDEEMED DEPOSITS ON RETURN-
11 ABLE CONTAINERS SHALL FILE A REPORT REQUIRED BY THIS SECTION
12 WITHOUT REGARD TO WHETHER THE LAST KNOWN ADDRESS OR RESIDENCE OF
13 THE OWNER IS KNOWN. THE OWNERS OF UNREDEEMED DEPOSITS ON RETURN-
14 ABLE CONTAINERS THAT ARE HELD BY A DISTRIBUTOR SHALL BE CONSID-
15 ERED RESIDENTS OF THIS STATE.

16 Sec. 7a. (1) Notwithstanding the provisions of sections
17 5(f), 6, and 7, ~~—~~ THE period of dormancy ~~—~~ for travelers
18 checks means the full and continuous period of 15 years from the
19 date of sale during which the instruments have remained
20 outstanding. In accordance with TITLE VI OF Public Law 93-495,
21 12 U.S.C. 2501 to 2503, if the books and records of an issuer of
22 travelers checks or money orders show that a travelers check or
23 money order was purchased in this state it shall be included in
24 the report required to be filed with the state board of escheats
25 if another address of the owner entitled to the funds is not
26 known to the issuer of the instrument. An issuer of travelers
27 checks or money orders who maintains records of the date and

1 location of the sale of the instruments shall not be required to
2 enumerate the names and addresses of the purchasers or payees in
3 reports required to be filed pursuant to this act, but may make
4 reports by serial numbers of the instruments and amounts, or by
5 gross sums. The escheats division may audit the basic records
6 for verification of reports submitted. ~~at its discretion.~~ The
7 holder at the request of the escheats division shall make the
8 basic records available for audit.

9 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, COM-
10 MENCING ON JANUARY 1, 1990 THE PERIOD OF DORMANCY FOR A DEPOSIT
11 ON A RETURNABLE CONTAINER MEANS A FULL AND CONTINUOUS PERIOD OF
12 2 YEARS FROM THE TIME A DEPOSIT IS PAID TO THE HOLDER AND DURING
13 WHICH TIME THE RETURNABLE BEVERAGE CONTAINER DEPOSIT IS NOT
14 REDEEMED. PRIOR TO JANUARY 1, 1990, THE PERIOD OF DORMANCY FOR A
15 DEPOSIT ON RETURNABLE BEVERAGE CONTAINERS SHALL BE 7 YEARS AS
16 PROVIDED IN SECTION 5(F). IF THE BOOKS AND RECORDS OF THE DIS-
17 TRIBUTOR WHO IS A HOLDER UNDER THIS ACT INDICATE THAT RETURNABLE
18 CONTAINERS WERE SOLD TO DEALERS OR DISTRIBUTORS IN THIS STATE,
19 PERTINENT ENTRIES SHALL BE INCLUDED IN THE REPORT REQUIRED TO BE
20 FILED WITH THE BOARD OF ESCHEATS UNDER SECTION 6. A DISTRIBUTOR
21 OF RETURNABLE CONTAINERS SHALL MAINTAIN RECORDS OF THE DATE AND
22 LOCATION OF THE SALE OF RETURNABLE CONTAINERS TO DEALERS IN THIS
23 STATE AND SHALL LIST SUCH INFORMATION INCLUDING THE NAME OF THE
24 DEALER OR DISTRIBUTOR IN THE REPORT REQUIRED TO BE FILED.
25 REPORTS MAY BE MADE BY SERIAL NUMBERS, OR BY GROSS SUMS. THE
26 ESCHEATS DIVISION SHALL AUDIT THE BOOKS AND RECORDS FOR
27 VERIFICATION OF REPORTS SUBMITTED. THE HOLDER AT THE REQUEST OF

1 THE ESCHEATS DIVISION SHALL MAKE THE BOOKS AND RECORDS AVAILABLE
2 FOR AUDIT.

3 (3) IN DETERMINING WHETHER PROPERTY IS ABANDONED FOR PUR-
4 POSES OF FILING A REPORT REQUIRED UNDER SECTION 6 AND OTHERWISE
5 COMPLYING WITH THIS ACT, A DISTRIBUTOR WHO IS A HOLDER SHALL
6 REPORT THE AMOUNT OF DEPOSITS RECEIVED FROM SALES OF RETURNABLE
7 CONTAINERS AND CONTENTS FOR THE YEAR FOR WHICH A REPORT IS DUE,
8 OFFSET BY THE FOLLOWING:

9 (A) THE FULL AMOUNT OF REFUNDED DEPOSITS PAID ON RETURNABLE
10 CONTAINERS THAT ARE RETURNED TO A DEALER WITHIN THE YEAR FOR
11 WHICH A REPORT IS DUE.

12 (B) THE EXCESS OF REFUNDS PAID OVER DEPOSITS RECEIVED FOR
13 EACH OF THE 2 YEARS PRIOR TO THE YEAR FOR WHICH A REPORT IS DUE
14 FOR A REPORT FILED FOR 1990 AND THEREAFTER.

15 (C) THE EXCESS OF REFUNDS PAID OVER DEPOSITS RECEIVED FOR
16 EACH OF THE 7 YEARS PRIOR TO THE YEAR FOR WHICH A REPORT IS DUE
17 FOR A REPORT FILED FOR THE YEARS FROM 1978 TO 1988.

18 (4) IN PREPARING A REPORT IN COMPLIANCE WITH SECTION 6 AND
19 SUBSECTION (3), A DISTRIBUTOR WHO IS A HOLDER MAY NOT USE THE
20 EXCESS REFUNDS OVER DEPOSITS RECEIVED AS AN OFFSET UNDER SUBSEC-
21 TION (3) MORE THAN 1 TIME OR IN PREPARING A REPORT USE REFUNDS TO
22 OFFSET DEPOSITS RECEIVED IF THE REFUND HAS BEEN RECLAIMED PURSU-
23 ANT TO SECTION 32(2) OR CLAIMED PURSUANT TO SECTION 53. AN
24 OFFSET AS PROVIDED IN SUBSECTION (3) SHALL BE DEDUCTED FROM THE
25 FIRST YEAR OF THE REPORTED PERIOD OF DORMANCY.

26 Sec. 13. Except as otherwise expressly provided in this
27 act, all property ~~, as that term is defined herein,~~ in the

1 possession or under the control of a holder and for which the
2 holder is accountable to the owner, ~~thereof~~ WHETHER DIRECTLY OR
3 INDIRECTLY THROUGH A PERSON ACTING ON BEHALF OF THE OWNER, which
4 is unpaid to, uncashed by, unclaimed, uncalled for, or abandoned
5 by such owner and against which the full period of dormancy has
6 run, shall be subject to descent and devolution to the state
7 under the provisions of this act and the same shall be duly
8 reported by the holder thereof at the time and in the manner pre-
9 scribed herein.

10 Sec. 17. (1) The state board of escheats shall see that all
11 reports by this act required are properly made at the time and in
12 the manner and form ~~herein~~ provided FOR IN THIS ACT and shall
13 take any necessary action to secure compliance with the provi-
14 sions of this act. Any holder who shall fail, neglect, or refuse
15 to make and file any report, required by this act, shall be
16 liable to the state in the penal sum of \$300.00 for each and
17 every such failure, neglect, or refusal, and an additional penal
18 sum of \$10.00 for each and every day of the period of default.
19 Such penalty may be recovered by the state in an action of
20 assumpsit, or other appropriate legal proceeding instituted by
21 THE ATTORNEY GENERAL ON BEHALF OF the state. ~~upon the relation~~
22 ~~of the attorney general.~~ The net proceeds of ~~collection of~~ any
23 judgment recovered in such an action shall be paid into the state
24 treasury to the credit of the general fund of the state. The
25 recovery of such penalty shall not relieve the defendant holder
26 from the duty of making and filing ~~said~~ THE reports REQUIRED BY
27 THIS ACT. The state, at the instance or relation of the attorney

1 general, shall have the benefit of the remedy of mandamus to
2 compel compliance with the requirements of this act relative to
3 the making and filing of ~~said~~ THE reports or the attorney gen-
4 eral may compel compliance by ~~suit or bill for discovery~~ AN
5 ACTION commenced in a court of competent jurisdiction.

6 (2) A HOLDER WHO IS A DISTRIBUTOR SHALL NOT BE CONSIDERED IN
7 VIOLATION OF THIS ACT IF THE DISTRIBUTOR FILES REPORTS REQUIRED
8 UNDER SECTION 6 FOR THE REPORTING YEARS OF 1984, 1985, AND 1986
9 WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
10 ADDED THIS SUBSECTION. COMMENCING WITH THE REPORTING YEAR OF
11 1987, A HOLDER WHO IS A DISTRIBUTOR SHALL FILE REPORTS ANNUALLY
12 IN COMPLIANCE WITH SECTIONS 6 AND 7A.

13 Sec. 18. (1) Any holder who has made and filed the report
14 of abandoned property pursuant to the provisions of this act may
15 deliver ~~such~~ THE property to the state board of escheats, or
16 may satisfy any claim or demand for which he OR SHE is account-
17 able to an owner named in ~~said~~ THE report by paying ~~such~~ THE
18 claim or demand to the state board of escheats ~~—~~ AND taking
19 proper receipt ~~therefor. Thereupon such~~ FOR THE PAYMENT. AT
20 THAT TIME THE holder shall be released and discharged from all
21 liability or accountability to the owner on account of such prop-
22 erty, except ~~such as shall have~~ THE LIABILITY OR ACCOUNTABILITY
23 THAT MAY HAVE accrued prior to the date of ~~such~~ THE voluntary
24 delivery.

25 (2) SUBSECTION (1) SHALL NOT BE CONSTRUED TO ALTER OR IN ANY
26 MANNER TRANSFER THE RESPONSIBILITIES OF A DEALER AS SET FORTH IN

1 SECTION 2(6) OF THE INITIATED LAW OF 1976, BEING SECTIONS 445.571
2 TO 445.576 OF THE MICHIGAN COMPILED LAWS.

3 Sec. 28. Whenever it shall appear to the attorney general
4 that there is property which has been unclaimed, uncalled for, or
5 abandoned by persons legally entitled ~~thereto~~ TO THAT PROPERTY
6 for a period of 7 years or more, OR FOR 2 YEARS AS PROVIDED IN
7 SECTION 7A(2), the attorney general ~~may~~ SHALL institute an
8 action in the circuit court in the name of the people of the
9 state of Michigan, for the purpose of determining the issue of
10 actual abandonment of ~~such~~ THE property, and to procure a judg-
11 ment for the descent and devolution ~~thereof~~ OF THAT PROPERTY,
12 including the increment thereon AS PROVIDED IN THIS ACT, to the
13 state of Michigan as an escheat. Such action may be commenced in
14 the circuit court of the county in which the owners, named as
15 defendants, have their last known address in the state of
16 Michigan, or in which the holder of the property resides or has
17 its principal office or place of business. The holders of such
18 property may be named as a party defendant with the owners
19 ~~thereof~~ OF THE PROPERTY, and any number of owners or holders
20 may be joined as parties defendant. ~~Process in such action~~
21 ~~shall be served upon all named holders defendant in the same~~
22 ~~manner as is provided by law, or rules of court, for service of~~
23 ~~process in other actions.~~ Process in such action shall be served
24 upon all KNOWN owners THAT ARE named as parties defendant by
25 delivering an original and true copy of summons issued out of the
26 court, together with a true copy of the plaintiff's complaint, to
27 the sheriff of the county. The sheriff, within 15 days after the

1 delivery to him OR HER of such process, shall post the true copy
2 of the summons and the true copy of the complaint on the bulletin
3 board or other panel provided for the public posting of legal
4 process or notices in or on the courthouse of his OR HER county,
5 or in the absence of such a bulletin board or other panel, then
6 upon a front door of the courthouse and make due return thereof.
7 Such service shall not be construed to be substituted service.

8 Sec. 32. (1) ~~Whenever it shall appear~~ IF in any suit or
9 proceeding instituted under ~~the provisions of~~ this act IT
10 APPEARS that property which is the subject matter of ~~such~~ THE
11 suit or proceeding has been abandoned by the owner ~~thereof~~ for
12 the full period of dormancy, as defined in this act, or that the
13 owner has failed to claim his OR HER property in the manner spec-
14 ified in section 38, ~~hereof~~, then ~~such~~ THAT property shall be
15 presumed to be abandoned property within the meaning and intent
16 of this act.

17 (2) UNREDEEMED DEPOSITS ON RETURNABLE CONTAINERS THAT ARE
18 HELD BY A DISTRIBUTOR WHO IS A HOLDER FOR THE FULL PERIOD OF DOR-
19 MANCY PROVIDED FOR SUCH PROPERTY UNDER SECTION 7A SHALL BE PRE-
20 SUMED TO BE ABANDONED PROPERTY.

21 Sec. 33. (1) ~~Abandoned~~ SUBJECT TO SUBSECTION (2),
22 ABANDONED property may be reclaimed during the pendency of a suit
23 or proceeding instituted under this act by filing a verified
24 claim ~~therefor and therein~~ FOR THE PROPERTY, signed by the
25 applicant. ~~Such~~ A claim shall be subject to allowance or dis-
26 allowance by the court in the same manner as other claims. If
27 the claim is filed by the owner OR A PERSON ACTING ON BEHALF OF

1 THE OWNER named in the proceedings and is allowed by the court
2 after due consideration of THE proofs presented, the court shall
3 make and enter an order directing and ordering a return of the
4 property or a payment over of money as the case may be without
5 deduction of administration expenses or costs of suit. If the
6 claimant is a person other than ~~said~~ THE owner NAMED IN THE
7 PROCEEDINGS, redemption shall be made after a deduction of admin-
8 istration expenses or costs of suit.

9 (2) A DISTRIBUTOR WHO IS A HOLDER SHALL BE ELIGIBLE TO
10 RECLAIM DEPOSITS ON RETURNABLE CONTAINERS IN THE MANNER PROVIDED
11 IN SUBSECTION (1) UPON A SHOWING OF BOTH OF THE FOLLOWING:

12 (A) THAT THE DISTRIBUTOR HAS PAID AS REQUIRED BY LAW AN
13 AMOUNT TO A DEALER THAT EQUALS THE ESCHEATED OR ESCHEATABLE
14 DEPOSIT HELD ON A RETURNABLE CONTAINER.

15 (B) THAT THE DISTRIBUTOR HAS FILED A REPORT PURSUANT TO SEC-
16 TIONS 6 AND 7A THAT INCLUDES, IN THE ITEMIZED STATEMENT OF ABAN-
17 DONED PROPERTY, THE DEPOSIT THE DISTRIBUTOR SEEKS TO RECLAIM.

18 (C) THAT THE DISTRIBUTOR HAS NOT USED THE AMOUNT REFUNDED TO
19 A DEALER WHICH THE DISTRIBUTOR IS SEEKING TO RECLAIM TO OFFSET
20 ANY REPORTED AMOUNT OF DEPOSITS RECEIVED IN DETERMINING THE UNRE-
21 DEEMED DEPOSITS WHICH ARE ABANDONED PROPERTY.

22 Sec. 40. (1) The state board of escheats shall organize by
23 electing a chairperson who shall hold office for a term of 2
24 years, or until a successor has been elected and qualified. Two
25 members of the board shall constitute a quorum for the transac-
26 tion of business. The board shall hold a regular meeting once
27 each month, at a time and place to be fixed by the rules of the

1 board, and special meetings as shall be called by the chairperson
2 or 2 members of the board. The board may employ clerical and
3 other assistance as it considers necessary. A member who has a
4 deputy may be represented by the deputy at a board meeting. A
5 member not having a deputy may be represented at the meeting by
6 an appointed official of the member's office.

7 (2) A person, who has personally or by agent, servant, or
8 employee secured access to the files, records, or reports in the
9 possession, custody, or control of the state board of escheats,
10 shall not utilize the information and data for the purposes of
11 seeking or receiving from another person or contract with the
12 person for a fee or compensation to disclose to the person infor-
13 mation ascertained from the files, records, or reports of the
14 state board of escheats.

15 (3) A person who violates subsection (2) is guilty of a mis-
16 demeanor punishable by a fine ~~not to exceed~~ OF NOT MORE THAN
17 \$1,000.00 or IMPRISONMENT FOR not ~~to exceed~~ MORE THAN 1 year,
18 ~~imprisonment,~~ or both. A person who is convicted of a second
19 or subsequent violation of subsection (2) is guilty of a felony,
20 punishable by imprisonment for not more than 5 years, or a fine
21 of not more than \$5,000.00, or both, for each additional
22 offense.

23 (4) An agreement for payment of compensation or assignment
24 of interest in property shall not be valid if a person who per-
25 sonally or by an agent, servant, or employee has secured access
26 to the files, records, or reports in the possession, custody, or
27 control of the state board of escheats, and thereafter, directly

1 or indirectly, undertakes to locate persons who may have an
2 interest in any property in the possession, custody, or control
3 of the state board of escheats, which agreement provides for the
4 payment fee, compensation, or assignment of an interest in the
5 property to the person, which exceeds 5% of the value of the
6 property subject to redemption, unless the agreement is in writ-
7 ing and signed by the person and the owner or those legally enti-
8 tled to claim by or through the owner as heirs, legatees, or
9 fiduciary of the estate of the owner, heir, or legatee, and a
10 copy of same is attached to the petition for redemption of the
11 escheated funds. Subsections (2), (3), and (4) shall not be con-
12 strued to prevent an owner or those legally entitled to claim by
13 or through the owner as heirs, legatees, or as a fiduciary of the
14 estate of the owner, heirs, or legatee, from asserting, at any
15 time, that an agreement entered into for disclosure of the where-
16 abouts of unclaimed, uncalled for, or abandoned property, which
17 has been escheated to the state, is based upon an excessive or
18 unjust compensation.

19 (5) State warrants that may be issued in payment and redemp-
20 tion of previously escheated property or the liquidated proceeds
21 of previously escheated property ~~—~~ may be issued in the discre-
22 tion of the state treasurer, directly to A DISTRIBUTOR WHO IS A
23 HOLDER OF UNREDEEMED DEPOSITS ON RETURNABLE CONTAINERS, the
24 person or persons entitled to the money as the owner, heir, or
25 legatee, or as fiduciary of the estate of the deceased owner,
26 heir, or legatee, and not to a named attorney-in-fact, agent,
27 assignee, or any other person regardless of a written instruction

1 to the contrary. The state treasurer need not recognize nor is
2 the state treasurer bound by any terms of a purported power of
3 attorney or assignment that may be present as having been exe-
4 cuted by a person as the purported owner, heir, or legatee or
5 fiduciary of the estate of a deceased owner, heir, or legatee,
6 who may be entitled to claim and receive the escheated property.

7 (6) The state treasurer, when forwarding the state warrants
8 covering redeemed escheated property, may also forward a copy of
9 the provisions of subsections (2), (3), (4), AND (5) ~~, and (6)~~
10 for the information and consideration of the persons to whom the
11 state warrant is addressed.

12 (7) The board shall accept delivery of all property descend-
13 ing to this state as an escheat and assigned to the board under
14 this act. The board shall install and maintain a full and com-
15 plete system of records and accounts covering all transactions
16 and proceedings conducted by it under this act. The records
17 shall contain an account of all property coming into the posses-
18 sion of the board or under its control, the nature and descrip-
19 tion of the property, and the date received; the time and manner
20 of its disposal; the amount of interest, or other increment on
21 the property, received by the board and from the sources of the
22 increments; an account of all money deposited by the board in the
23 state treasury and the date of the deposit; an account of all
24 sales of the property and the terms and conditions of the sales;
25 an account of the names of all original owners of abandoned or
26 unprotected property received; an account of all redemptions made

1 by the board; and the names and addresses of the persons to whom
2 redemption was made.

3 (8) Except those documents, files, records, and data deliv-
4 ered to the state board of escheats in its trustee capacity by
5 persons in whose possession or custody the documents, files,
6 records, and data had been privileged and confidential, for pre-
7 servation and future use and litigation, all other writings pre-
8 pared, owned, used, in the possession of, or retained by the
9 state board of escheats in the performance of an official func-
10 tion, except as exempted by law, shall be made available to the
11 public subject to the provisions of THE FREEDOM OF INFORMATION
12 ACT, Act No. 442 of the Public Acts of 1976, being sections
13 15.231 to 15.246 of the Michigan Compiled Laws.

14 (9) The state public administrator, upon recommendation and
15 approval of the state board of escheats, in writing, may autho-
16 rize a county public administrator to petition for the sale of
17 personal assets of an estate of which he or she is administrator
18 and convert the assets into cash when the board considers it to
19 be to the best interests of the estate, and of this state.
20 Similar authority may be given to the state public administrator
21 to authorize a county public administrator to sell real property
22 when the appraised value of the real property does not exceed
23 \$500.00. This act shall not be construed to deprive a county
24 public administrator of the power, under license of the probate
25 court, to sell personal property when necessary to pay debts and
26 administration expenses, or to sell real property when the
27 personal assets of the estate are insufficient to pay debts and

1 administration expenses, or to sell personal and real property in
2 accordance with laws of this state in order to prevent loss,
3 depreciation, or damage of or to the property.

4 Sec. 52. (1) All property descending to the state of
5 Michigan as an escheat, pursuant to the provisions of this act,
6 the constitution or general laws of this state, and which has
7 been duly assigned and transferred to the state of Michigan by an
8 order or decree made and entered in any proceeding or suit insti-
9 tuted under the general laws of this state or the provisions of
10 this act, shall be delivered to the board of escheats of the
11 state of Michigan to be received and held by ~~such~~ THE board as
12 trustee and conservator ~~thereof~~ OF THE PROPERTY for the use and
13 benefit of the state of Michigan and any person ~~or persons~~ who
14 may be entitled to redemption as provided in this act. ~~Said~~
15 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2), THE board shall
16 within a reasonable time thereafter cover the same, or the pro-
17 ceeds of the sale thereof, into the state treasury to the credit
18 of the ~~primary school fund to be expended for the advancement of~~
19 ~~primary training and instruction in the public schools under the~~
20 ~~direction and supervision of the state superintendent of public~~
21 ~~instruction. Provided, That all escheated real property, or the~~
22 ~~proceeds of the sale thereof, shall be held, disposed of,~~
23 ~~invested or reinvested and used in conformity with the provisions~~
24 ~~of section 12 of Article XI of the constitution of this state,~~
25 ~~and said~~ GENERAL FUND AND THE board of escheats shall be vested
26 with full power and authority to administer the funds ~~so~~
27 created and accruing, except that the investment or reinvestment

1 of ~~such~~ THE funds shall be subject to the supervision and
2 direction of the state administrative board.

3 (2) THE BOARD OF ESCHEATS SHALL TRANSFER UNREDEEMED DEPOSITS
4 ON RETURNABLE CONTAINERS THAT DESCEND TO THE STATE OF MICHIGAN AS
5 AN ESCHEAT AS FOLLOWS:

6 (A) EIGHTY PERCENT TO THE CLEAN MICHIGAN FUND CREATED IN THE
7 CLEAN MICHIGAN FUND ACT, ACT NO. 249 OF THE PUBLIC ACTS OF 1986,
8 BEING SECTIONS 299.371 TO 299.393 OF THE MICHIGAN COMPILED LAWS,
9 TO BE UTILIZED FOR PURPOSES AUTHORIZED IN THAT ACT.

10 (B) TWENTY PERCENT TO DEALERS TO DEFER THEIR EXPENSES IN
11 FULFILLING THEIR RESPONSIBILITIES UNDER THE INITIATED LAW OF
12 1976, BEING SECTIONS 445.571 TO 445.576 OF THE MICHIGAN COMPILED
13 LAWS.

14 Sec. 53. (1) All property, or the net proceeds of the sale
15 thereof, which has descended to the state as an escheat, or which
16 has been paid or delivered to the state board of escheats pursu-
17 ant to the general laws of this state or the provisions of this
18 act, shall be subject to redemption by the owner thereof, his or
19 her legal heirs, devisees, legatees, or assignees, A DISTRIBUTOR,
20 AS PROVIDED IN SUBSECTION (3), or the holders in due course of
21 negotiable instruments, in the manner provided in this section.
22 To obtain such redemption the person legally entitled ~~thereto~~
23 TO THAT PROPERTY shall make and file with the state board of
24 escheats a written petition for redemption of escheated property,
25 subscribed by him or her under oath, setting forth his or her
26 identity, place of residence, and the complete facts establishing
27 his or her preferential right to make claim for and receive the

1 property. The petition shall be supported and accompanied by
2 satisfactory proofs, consisting of certified documents and proof
3 which would be legally admissible in a court of law as evidence.

4 (2) All petitions for redemption, if in proper form and sup-
5 ported by proofs as required, shall be heard, examined, and con-
6 sidered by the board of escheats and shall be allowed or disal-
7 lowed by the board after due consideration of the proofs. If it
8 shall appear that the person entitled to a refund, his or her
9 legal heirs, devisees, legatees, or assignees, or the holders in
10 due course of negotiable instruments, would not have the benefit
11 or use or control of the money or of the property due him or her,
12 or where special circumstances make it appear desirable that pay-
13 ment should be withheld, or where it appears that the person
14 entitled to the money or property is a resident and national of a
15 foreign country, and the federal statutes or federal regulations
16 preclude the sending of moneys from the federal treasury to such
17 persons, the board of escheats may deny ~~such~~ THE application
18 and hold the money or other property for the benefit of such
19 owner, his or her legal heirs, devisees, legatees, ~~or~~ assign-
20 ees, or such person who may thereafter appear entitled ~~thereto~~
21 TO THE MONEY OR OTHER PROPERTY. Such money or other property ~~so~~
22 held shall be paid out only by further order of the board of
23 escheats. If the petition is allowed by the board, redemption
24 shall be made in the manner following:

25 (a) If redemption is to be made to an applicant who was the
26 initial owner of the property at the time the holder delivers the
27 property to the state board of escheats or at the time of

1 escheat, whichever is ~~the earlier~~ FIRST, and such property,
2 real or personal, other than money, is still in possession of the
3 board of escheats or the state, the identical property shall be
4 delivered to ~~such~~ THE owner, together with all earned increment
5 on the property realized and collected by the board after the
6 descent and assignment thereof to the state. Such delivery shall
7 be contingent upon the reimbursement of the state by the owner
8 for all expenditures made by the board for the preservation and
9 protection of the property, including payment of taxes, during
10 the time the property was in possession of the board.

11 (b) If the specific property has been sold by the board of
12 escheats and converted into cash as provided in this act, the
13 proceeds of ~~such~~ THE sale shall be paid over to ~~such~~ THE
14 applicant owner as a redemption, together with any and all earned
15 increment on the property realized and collected by the board,
16 less the amount expended by the board prior to sale for the pro-
17 tection and preservation of the property, including the payment
18 of taxes.

19 (c) If the property to be redeemed by ~~such~~ THE owner con-
20 sists wholly of money assigned to the state and delivered to the
21 board of escheats as an escheat pursuant to an order or decree of
22 court entered in proceedings instituted under the provisions of
23 this act, or delivered or paid to the board of escheats as
24 escheatable money pursuant to section 12, 18, 22, or 39 of this
25 act or section 2 or 3 of Act No. 63 of the Public Acts of 1949,
26 being sections 567.202 and 567.203 of the Michigan Compiled Laws,
27 redemption shall be made by payment to the applicant owner of the

1 full amount of the escheated or escheatable money. In addition
2 there shall be paid to ~~such~~ THE owner a sum equal to the amount
3 deducted from the assets of the owner's estate on account of
4 administration expenses, or costs of suit instituted in the cir-
5 cuit court.

6 (d) If redemption is to be made to an applicant entitled to
7 redeem other than the initial owner at the time of escheat or at
8 the time the holder delivers the property to the state board of
9 escheats, whichever is the earlier, such redemption shall be made
10 in the same manner as provided in subdivisions (a), (b), and (c)
11 of this section; except that such applicant shall not be entitled
12 to the additional payment for administration expenses and costs
13 of suit deducted from the assets of the state or earned increment
14 realized and collected by the board after the descent and assign-
15 ment of the property of the state as described in subdivisions
16 (a), (b), and (c). A DISTRIBUTOR WHO IS A HOLDER OF DEPOSITS ON
17 RETURNABLE CONTAINERS IS AN APPLICANT ENTITLED TO REDEEM, IF THE
18 DISTRIBUTOR ESTABLISHES THAT THE REQUIREMENTS IN SECTION
19 33(2)(A), (B), AND (C) ARE MET.

20 (e) Notwithstanding any other provision of this section, the
21 rights of an owner of a money order, certified check, certificate
22 of deposit, bank draft, cashier check, or travelers' check to
23 payment from any holder upon presentment of the original instru-
24 ment shall not in any way be affected nor impaired by reason of
25 the payment to the board of escheats of abandoned property here-
26 under or of property that was delivered by a holder to the board
27 of escheats pursuant to section 12, 18, 22, or 39 of this act or

1 section 2 or 3 of Act No. 63 of the Public Acts of 1949, BEING
2 SECTIONS 567.202 AND 567.203 OF THE MICHIGAN COMPILED LAWS, and
3 any holder which has paid to the board of escheats as such prop-
4 erty funds due and payable on such original instrument shall,
5 upon making payment to the person presenting such original
6 instrument appearing to holder's satisfaction to be entitled to
7 payment, and upon submitting to the board of escheats proof of
8 such payment and a photocopy of the original instrument so paid,
9 be entitled to claim reimbursement from the board of escheats of
10 the amount so paid, and the board of escheats shall reimburse the
11 holder without the deduction of any service, administration, or
12 other charge. All other claims for redemption shall be made as
13 provided in subdivisions (a) to (d).

14 (3) ~~Property~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSEC-
15 TION, PROPERTY of less than \$50.00 in value which has been held
16 by the state board of escheats for not less than 5 years after
17 the date the property escheated to the state shall not be eligi-
18 ble for redemption. However, the provisions of this subsection
19 shall not affect or impair a claim for refund made pursuant to
20 subsection (2)(e). THE MONETARY LIMITATION OF THE REDEMPTION OF
21 ESCHEATED PROPERTY CONTAINED IN THIS SUBSECTION SHALL NOT APPLY
22 TO AN APPLICANT WHO IS A DISTRIBUTOR AND A HOLDER OF DEPOSITS ON
23 RETURNABLE CONTAINERS.