

**SUBSTITUTE FOR
SENATE BILL NO. 389**

A bill to amend 1995 PA 29, entitled
"Uniform unclaimed property act,"
by amending sections 5, 6, 7, 8, 13, 15, 17, and 18 (MCL 567.225,
567.226, 567.227, 567.228, 567.233, 567.235, 567.237, and 567.238),
sections 5, 6, 7, 8, 13, 15, and 17 as amended by 2010 PA 197 and
section 18 as amended by 2020 PA 79, and by adding section 17a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) Subject to subsection (4), any sum payable on a
2 travelers check that is outstanding for more than 15 years after
3 its issuance is presumed abandoned unless the owner, within 15
4 years, has communicated in writing with the issuer concerning it or
5 otherwise indicated an interest as evidenced by a memorandum or
6 other record on file prepared by an employee of the issuer.

1 (2) Subject to subsection (4), **and except as otherwise**
2 **provided in section 17a**, any sum payable on a money order or
3 similar written instrument, other than a ~~third party~~**third-party**
4 bank check, that is outstanding for more than 3 years after its
5 issuance is presumed abandoned unless the owner, within 3 years,
6 has communicated in writing with the issuer concerning it or
7 otherwise indicated an interest as evidenced by a memorandum or
8 other record on file prepared by an employee of the issuer.

9 (3) A holder may not deduct from the amount of a travelers
10 check or money order any charge imposed by reason of the failure to
11 present the instrument for payment unless there is an enforceable
12 written contract between the issuer and the owner of the instrument
13 under which the issuer may impose a charge and the issuer regularly
14 imposes such charges and does not regularly reverse or otherwise
15 cancel them.

16 (4) A sum payable on a travelers check, money order, or
17 similar written instrument, other than a ~~third party~~**third-party**
18 bank check, described in subsections (1) and (2) may not be
19 subjected to the custody of this state as unclaimed property unless
20 1 or more of the following requirements are met:

21 (a) The records of the issuer show that the travelers check,
22 money order, or similar written instrument was purchased in this
23 state.

24 (b) The issuer has its principal place of business in this
25 state and the records of the issuer do not show the state in which
26 the travelers check, money order, or similar written instrument was
27 purchased.

28 (c) The issuer has its principal place of business in this
29 state, the records of the issuer show the state in which the

1 travelers check, money order, or similar written instrument was
2 purchased and the laws of the state of purchase do not provide for
3 the escheat or custodial taking of the property or its escheat or
4 unclaimed property law is not applicable to the property.

5 (5) Notwithstanding any other provision of this act,
6 subsection (4) applies to sums payable on travelers checks, money
7 orders, and similar written instruments presumed abandoned on or
8 after February 1, 1965, except to the extent that those sums have
9 been paid over to a state ~~prior to~~ **before** January 1, 1974.

10 Sec. 6. (1) ~~Any~~ **Except as otherwise provided in section 17a,**
11 **any** sum payable on a check, draft, or similar instrument, except
12 those subject to section 5, on which a banking or financial
13 organization is directly liable, including a cashier's check and a
14 certified check, which is outstanding for more than 3 years after
15 it was payable or after its issuance if payable on demand, is
16 presumed abandoned, unless the owner, within 3 years, has
17 communicated in writing with the banking or financial organization
18 concerning it or otherwise indicated an interest as evidenced by a
19 memorandum or other record on file prepared by an employee of the
20 banking or financial organization.

21 (2) A holder may not deduct from the amount of any instrument
22 subject to this section any charge imposed by reason of the failure
23 to present the instrument for payment unless there is an
24 enforceable written contract between the holder and the owner of
25 the instrument under which the holder may impose a charge, and the
26 holder regularly imposes such charges and does not regularly
27 reverse or otherwise cancel them.

28 Sec. 7. (1) ~~Any~~ **Except as otherwise provided in section 17a,**
29 **any** demand, savings, or matured time deposit with a banking or

1 financial organization, including a deposit that is automatically
2 renewable, and any funds paid toward the purchase of a share, a
3 mutual investment certificate, or any other interest in a banking
4 or financial organization is presumed abandoned unless the owner,
5 within 3 years, has met 1 or more of the following requirements:

6 (a) In the case of a deposit, increased or decreased its
7 amount or presented the passbook or other similar evidence of the
8 deposit for the crediting of interest.

9 (b) Communicated, in writing, with the banking or financial
10 organization concerning the property.

11 (c) Otherwise indicated an interest in the property as
12 evidenced by a memorandum or other record on file prepared by an
13 employee of the banking or financial organization.

14 (d) Owned other property to which subdivision (a), (b), or (c)
15 applies and unless the banking or financial organization
16 communicates, in writing, with the owner with regard to the
17 property that would otherwise be presumed abandoned under this
18 subsection at the address to which communications regarding the
19 other property regularly are sent.

20 (e) Had another relationship with the banking or financial
21 organization concerning which the owner has met 1 or more of the
22 following requirements:

23 (i) Communicated, in writing, with the banking or financial
24 organization.

25 (ii) Otherwise indicated an interest as evidenced by a
26 memorandum or other record on file prepared by an employee of the
27 banking or financial organization and unless the banking or
28 financial organization communicates in writing with the owner with
29 regard to the property that would otherwise be abandoned under this

1 subsection at the address to which communications regarding the
2 other relationship regularly are sent.

3 (2) For purposes of subsection (1), property includes interest
4 and dividends.

5 (3) A holder may not impose with respect to property described
6 in subsection (1) any charge due to dormancy or inactivity or cease
7 payment of interest unless all of the following requirements are
8 met:

9 (a) There is an enforceable written contract between the
10 holder and the owner of the property providing that the holder may
11 impose a charge or cease payment of interest.

12 (b) For the property of a value in excess of \$2.00, the
13 holder, ~~no~~**not** more than 3 months before the initial imposition of
14 those charges or cessation of interest, has given written notice to
15 the owner of the amount of those charges at the last known address
16 of the owner stating that those charges will be imposed or that
17 interest will cease. However, the notice required in this
18 subdivision need not be given with respect to charges imposed or
19 interest ceased before March 28, 1996.

20 (c) The holder regularly imposes such charges or ceases
21 payment of interest and does not regularly reverse or otherwise
22 cancel them or retroactively credit interest with respect to the
23 property.

24 (4) Any property described in subsection (1) that is
25 automatically renewable is matured for purposes of subsection (1)
26 15 years after the expiration of its initial time period, but in
27 the case of any renewal to which the owner consents at or about the
28 time of renewal by communicating in writing with the banking or
29 financial organization or otherwise indicating consent as evidenced

1 by a memorandum or other record on file prepared by an employee of
 2 the organization, the property is matured ~~upon~~**on** the expiration of
 3 the last time period for which consent was given. If, at the time
 4 provided for delivery to the administrator under section 20, a
 5 penalty or forfeiture in the payment of interest would result from
 6 the delivery of the property, the time for delivery is extended
 7 until the time when no penalty or forfeiture would result.

8 (5) ~~The~~**Except as otherwise provided in section 17a, the**
 9 following types of accounts are presumed abandoned 3 years after
 10 the owner or the person entitled to the funds last communicated in
 11 writing with the banking or financial organization concerning the
 12 funds or otherwise indicated an interest as evidenced by a
 13 memorandum or other record on file prepared by an employee of the
 14 banking or financial organization:

15 (a) An in trust for account described in section 2 of 1909 PA
 16 248, MCL 487.702.

17 (b) An account established ~~pursuant to the Michigan uniform~~
 18 ~~gifts to minors act, under former~~ 1959 PA 172. ~~, MCL 554.451 to~~
 19 ~~554.461.~~

20 (c) **An account established under the Michigan uniform**
 21 **transfers to minors act, 1998 PA 433, MCL 554.521 to 554.552.**

22 Sec. 8. (1) ~~Funds~~**Except as otherwise provided in subsection**
 23 **(2) and section 17a, funds** held or owing under any life or
 24 endowment insurance policy or annuity contract that has matured or
 25 terminated are presumed abandoned if unclaimed for more than 3
 26 years after the funds became due and payable as established from
 27 the records of the insurance company holding or owing the funds.
 28 ~~However, property~~

29 (2) **Property** described in subsection ~~(3) (b)~~ **(4) (b)** is presumed

1 abandoned if unclaimed for more than 2 years.

2 (3) ~~(2)~~—If a person other than the insured or annuitant is
3 entitled to the funds and an address of the person is not known to
4 the insurance company or it is not definite and certain from the
5 records of the insurance company who is entitled to the funds, it
6 is presumed that the last known address of the person entitled to
7 the funds is the same as the last known address of the insured or
8 annuitant according to the records of the insurance company.

9 (4) ~~(3)~~—For purposes of this act, a life or endowment
10 insurance policy or annuity contract not matured by actual proof of
11 the death of the insured or annuitant according to the records of
12 the insurance company is matured and the proceeds due and payable
13 if 1 or more of the following requirements are met:

14 (a) The insurance company knows that the insured or annuitant
15 has died.

16 (b) The insured has attained, or would have attained if ~~he or~~
17 ~~she~~ **the insured** were living, the limiting age under the mortality
18 table on which the reserve is based; the policy was in force at the
19 time the insured attained, or would have attained, the limiting
20 age; and neither the insured nor any other person appearing to have
21 an interest in the policy within the preceding 2 years, according
22 to the records of the insurance company, has assigned, readjusted,
23 or paid premiums on the policy, subjected the policy to a loan,
24 corresponded in writing with the insurance company concerning the
25 policy, or otherwise indicated an interest as evidenced by a
26 memorandum or other record on file prepared by an employee of the
27 insurance company.

28 (5) ~~(4)~~—For purposes of this act, the application of an
29 automatic premium loan provision or other nonforfeiture provision

1 contained in an insurance policy does not prevent a policy from
2 being matured or terminated under subsection (1) if the insured has
3 died or the insured or the beneficiary of the policy otherwise has
4 become entitled to the proceeds of the policy before the depletion
5 of the cash surrender value of the policy by the application of
6 those provisions.

7 (6) ~~(5)~~—If the laws of this state or the terms of the life
8 insurance policy require the insurance company to give notice to
9 the insured or owner that an automatic premium loan provision or
10 other nonforfeiture provision has been exercised and the notice,
11 given to an insured or owner whose last known address according to
12 the records of the insurance company is in this state, is
13 undeliverable, the insurance company ~~shall~~**must** make a reasonable
14 search to ascertain the policyholder's correct address to which the
15 notice must be mailed.

16 (7) ~~(6)~~—Notwithstanding any other provision of law, if the
17 insurance company learns of the death of the insured or annuitant
18 and the beneficiary has not communicated with the insurance company
19 within 4 months after the death of the insured or annuitant, the
20 insurance company ~~shall~~**must** take reasonable steps to pay the
21 proceeds to the beneficiary.

22 (8) ~~(7) Commencing~~**Beginning** March 28, 1998, every change of
23 beneficiary form issued by an insurance company under any life or
24 endowment insurance policy or annuity contract to an insured or
25 owner who is a resident of this state must request all of the
26 following information:

27 (a) The name of each beneficiary, or if a class of
28 beneficiaries is named, the name of each current beneficiary in the
29 class.

1 (b) The address of each beneficiary.

2 (c) The relationship of each beneficiary to the insured.

3 Sec. 13. (1) ~~Property~~ **Except as otherwise provided in section**
4 **17a, property** and any income or increment derived therefrom held in
5 a fiduciary capacity for the benefit of another person is presumed
6 abandoned unless the owner, within 3 years after it has become
7 payable or distributable, has increased or decreased the principal,
8 accepted payment of principal or income, communicated concerning
9 the property, or otherwise indicated an interest as evidenced by a
10 memorandum or other record on file prepared by the fiduciary.

11 (2) Funds in an individual retirement account or a qualified
12 retirement plan for self-employed individuals or similar account or
13 qualified plan established under the internal revenue code are not
14 payable or distributable within the meaning of subsection (1)
15 unless, under the terms of the account or qualified plan,
16 distribution of all or part of the funds would then be mandatory.

17 (3) For the purpose of this section, ~~a person~~ **an individual**
18 who holds property as an agent for a business association is deemed
19 to hold the property in a fiduciary capacity for that business
20 association alone, unless the agreement between ~~him or her~~ **the**
21 **individual** and the business association provides otherwise.

22 (4) For the purposes of this act, a person ~~who~~ **that** is deemed
23 to hold property in a fiduciary capacity for a business association
24 alone is the holder of the property only insofar as the interest of
25 the business association in the property is concerned, and the
26 business association is the holder of the property insofar as the
27 interest of any other person in the property is concerned.

28 Sec. 15. (1) Except as provided in subsection (4) **and section**
29 **17a**, a gift certificate, gift card, or credit memo is presumed

1 abandoned if either of the following ~~apply~~**applies**:

2 (a) The certificate, card, or memo is not claimed or used for
3 a period of 3 years after becoming payable or distributable.

4 (b) The certificate, card, or memo was used or claimed 1 or
5 more times without exhausting its full value, but subsequently was
6 not claimed or used for an uninterrupted period of 3 years.

7 (2) For purposes of subsection (1), a gift certificate or gift
8 card is considered to have been claimed or used if there is any
9 transaction processing activity on the gift certificate or gift
10 card, including, but not limited to, redeeming, refunding, or
11 adding value to the certificate or card. Activity initiated by the
12 issuer of the certificate or card, including, but not limited to,
13 assessing inactivity fees or similar service fees, does not
14 constitute transaction processing activity for purposes of this
15 subsection.

16 (3) In the case of a gift certificate or gift card, the owner
17 is presumed to be a gift recipient of the gift certificate or gift
18 card, and the amount presumed abandoned is the price paid by the
19 purchaser for the gift certificate or gift card, less the total of
20 any purchases or fees assessed against the certificate or card. In
21 the case of a credit memo, the amount presumed abandoned is the
22 amount credited to the recipient of the memo.

23 (4) This act does not apply to a gift certificate as defined
24 in section 3e of the Michigan consumer protection act, 1976 PA 331,
25 MCL 445.903e, that is issued for retail goods or services by a
26 person engaged in the retail sale of goods or services.

27 Sec. 17. ~~All~~**Except as otherwise provided in section 17a, all**
28 property held in a safe deposit box or any other safekeeping
29 repository in this state in the ordinary course of the holder's

1 business and proceeds resulting from the sale of the property
2 permitted by law, that remain unclaimed by the owner for more than
3 3 years after the lease or rental period on the box or other
4 repository has expired, are presumed abandoned.

5 **Sec. 17a. The dormancy period described in sections 3(1),**
6 **5(2), 6(1), 7(1) and (5), 8(1), 13(1), 15(1), and 17 is 5 years if**
7 **the owner of the property is on active duty military service or in**
8 **the reserve component on active orders.**

9 Sec. 18. (1) A person holding property presumed abandoned and
10 subject to this state's custody as unclaimed property under this
11 act shall report to the administrator concerning the property as
12 provided in this section.

13 (2) The report required by this section must be verified and
14 must include all of the following:

15 (a) The name, if known, Social Security number, if known, and
16 last known address, if any, of each person appearing from the
17 records of the holder to be the owner of property of the value of
18 \$50.00 or more presumed abandoned under this act. This subdivision
19 does not apply to travelers checks or money orders.

20 (b) For unclaimed funds of \$50.00 or more held or owing under
21 any life or endowment insurance policy or annuity contract, the
22 full name and last known address of the insured or annuitant and of
23 the beneficiary according to the records of the insurance company
24 holding or owing the funds.

25 (c) For the contents of a safe deposit box or other
26 safekeeping repository or of other tangible property, a description
27 of the property.

28 (d) The nature and identifying number, if any, or description
29 of the property and the amount appearing from the records to be

1 due. However, items of value under \$50.00 each may be reported in
2 the aggregate.

3 (e) The date the property became payable, demandable, or
4 returnable, and the date of the last transaction with the apparent
5 owner with respect to the property.

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

8 (3) If the person holding property presumed abandoned and
9 subject to this state's custody as unclaimed property under this
10 act is a successor to other persons ~~who~~**that** previously held the
11 property for the apparent owner, or the holder has changed its name
12 while holding the property, the holder ~~shall~~**must** file with the
13 report required by this section all known names and addresses of
14 each previous holder of the property.

15 (4) Except as otherwise provided in this subsection, the
16 report required by this section must be filed on or before July 1
17 of each year for the 12-month period ending on the immediately
18 preceding March 31. The administrator may postpone the date to file
19 a report on written request by any person required to file a report
20 under this section. The administrator may extend the filing date
21 for up to 60 days on written request.

22 (5) Not less than 60 days or more than 365 days before filing
23 the report required by this section, the holder in possession of
24 property presumed abandoned and subject to the state's custody as
25 unclaimed property under this act shall send written notice to the
26 apparent owner at ~~his or her~~**the owner's** last known address
27 informing ~~him or her~~**the owner** that the holder is in possession of
28 property subject to this act if all of the following requirements
29 are met:

1 (a) The holder has in its records an address for the apparent
2 owner that the holder's records do not disclose to be inaccurate.

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

5 (c) The property has a value of \$50.00 or more or, if the
6 holder filing a report under this section is reporting for the
7 current report year at least 25,000 properties over \$50.00 each,
8 the property has a value of \$100.00 or more.

9 ~~(6) The provisions of 2010 PA 197 that modified dormancy~~
10 ~~periods of this act do not apply if the owner of the property is on~~
11 ~~active duty military service.~~

12 Enacting section 1. This amendatory act applies to property
13 that is presumed abandoned and subject to this state's custody as
14 unclaimed property on or after the effective date of this
15 amendatory act.