



SENATE BILL No. 1148

September 17, 1996, Introduced by Senator EMMONS and referred to the Committee on Finance.

A bill to amend sections 11, 19, 23, 25, and 31 of Act No. 29 of the Public Acts of 1995, entitled "Uniform unclaimed property act," being sections 567.231, 567.239, 567.243, 567.245, and 567.251 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 11, 19, 23, 25, and 31 of Act No. 29 of
2 the Public Acts of 1995, being sections 567.231, 567.239,
3 567.243, 567.245, and 567.251 of the Michigan Compiled Laws, are
4 amended to read as follows:

5 Sec. 11. (1) Except as provided in subsections (2) and (5),
6 stock or other intangible ownership interest in a business
7 association, the existence of which is evidenced by records
8 available to the business association, is presumed abandoned and,

1 with respect to the interest, the business association is the
2 holder, if a dividend, distribution, or other sum payable as a
3 result of the interest remains unclaimed by the owner for ~~7~~ 5
4 years and the owner, within ~~7~~ 5 years, has not met any of the
5 following requirements:

6 (a) Communicated, in writing, with the business association
7 regarding the interest or a dividend, distribution, or other sum
8 payable as a result of the interest.

9 (b) Otherwise communicated with the business association
10 regarding the interest or a dividend, distribution, or other sum
11 payable as a result of the interest, as evidenced by a memorandum
12 or other record on file with the business association prepared by
13 an employee of the business association.

14 (2) At the expiration of a ~~7-year~~ 5-YEAR period following
15 the failure of the owner to claim a dividend, distribution, or
16 other sum payable to the owner as a result of the interest, the
17 interest is not presumed abandoned unless there have been at
18 least ~~7~~ 5 dividends, distributions, or other sums paid during
19 the period, none of which has been claimed by the owner. If ~~7~~
20 5 dividends, distributions, or other sums are paid during the
21 ~~7-year~~ 5-YEAR period, the period leading to a presumption of
22 abandonment commences on the date payment of the first such
23 unclaimed dividend, distribution, or other sum became due and
24 payable. If ~~7~~ 5 dividends, distributions, or other sums are
25 not paid during the presumptive period, the period continues to
26 run until there have been ~~7~~ 5 dividends, distributions, or
27 other sums that have not been claimed by the owner.

1 (3) The running of the ~~7-year~~ 5-YEAR period of abandonment
2 ceases immediately upon the occurrence of a communication
3 referred to in subsection (1). If any future dividend, distribu-
4 tion, or other sum payable to the owner as a result of the inter-
5 est is subsequently not claimed by the owner, a new period of
6 abandonment commences and relates back to the time a subsequent
7 dividend, distribution, or other sum became due and payable.

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

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

20 Sec. 19. (1) The administrator shall cause a notice to be
21 published not later than ~~June~~ JULY 1 of the year immediately
22 following the report required by section 18 ~~at least once a week~~
23 ~~for 2 consecutive weeks~~ in a newspaper of general circulation in
24 the county of this state in which is located the last known
25 address of any person named in the notice. If no address is
26 listed or the address is outside this state, the notice must be

1 published in the county in which the holder of the property has
2 its principal place of business within this state.

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

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

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

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

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

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

21 Sec. 23. (1) Except as provided in ~~subsections (2) and~~
22 SUBSECTION (3), the administrator, ~~within~~ NOT LATER THAN 3
23 years after the receipt of abandoned property, shall sell it to
24 the highest bidder at public sale in whatever city in the state
25 affords, in the judgment of the administrator, the most favorable
26 market for the property involved. The administrator may decline
27 the highest bid and reoffer the property for sale if, in the

1 judgment of the administrator, the bid is insufficient. If, in
2 the judgment of the administrator, the probable cost of sale
3 exceeds the value of the property, the property need not be
4 offered for sale. Any sale held under this section shall be pre-
5 ceded by a single publication of notice, at least 3 weeks in
6 advance of sale, in a newspaper of general circulation in the
7 county in which the property is to be sold.

8 (2) Securities listed on an established stock exchange shall
9 be sold at prices prevailing at the time of sale on the
10 exchange. Securities not listed on an established stock exchange
11 may be sold over the counter at prices prevailing at the time of
12 sale or by any other method the administrator considers
13 advisable.

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

19 (3) ~~(4)~~ Unless the administrator considers it to be in the
20 best interest of the state to do otherwise, all securities pre-
21 sumed abandoned under ~~section 11~~ THIS ACT and delivered to the
22 administrator shall be ~~held for at least 3 years before the~~
23 ~~administrator may sell them. If the administrator sells any~~
24 ~~securities presumed abandoned under section 11 before the expira-~~
25 ~~tion of the 3 year period, any person making a claim under this~~
26 ~~act before the end of the 3 year period is entitled to either the~~
27 ~~proceeds of the sale of the securities or the market value of the~~

~~1 securities at the time the claim is made, whichever amount is~~
~~2 greater, less any amounts deducted under section 24(2). A person~~
~~3 making a claim under this act after the expiration of the 3 year~~
~~4 period is entitled to receive either the securities delivered to~~
~~5 the administrator by the holder, if they still remain in the~~
~~6 hands of the administrator, or the proceeds received from sale,~~
~~7 less any amounts deducted under section 24(2), but no~~ SOLD
8 WITHIN 1 YEAR OF THE RECEIPT OF THE SECURITIES. A person ~~has~~
9 ~~any~~ MAKING A claim under this act against the state, the holder,
10 any transfer agent, registrar, or other person acting for or on
11 behalf of a holder ~~for~~ IS NOT ENTITLED TO any appreciation in
12 the value of the property occurring after delivery by the holder
13 to the administrator.

14 (4) ~~(5)~~ The purchaser of property at any sale conducted by
15 the administrator under this act takes the property free of all
16 claims of the owner or previous holder of the property and of all
17 persons claiming through or under the owner or previous holder.
18 The administrator shall execute all documents necessary to com-
19 plete the transfer of ownership.

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

24 (2) The administrator shall consider each claim within 90
25 days after it is filed and give written notice to the claimant if
26 the claim is denied in whole or in part. The notice may be given
27 by mailing it to the last address, if any, stated in the claim as

1 the address to which notices are to be sent. If no address for
2 notices is stated in the claim, the notice may be mailed to the
3 last address, if any, of the claimant as stated in the claim. No
4 notice of denial need be given if the claim fails to state either
5 the last address to which notices are to be sent or the address
6 of the claimant.

7 (3) If a claim is allowed, the administrator shall pay over
8 or deliver to the claimant the property or the amount the admin-
9 istrator actually received or the net proceeds if it has been
10 sold by the administrator, plus any additional amount required by
11 section 22. ~~If the claim is for property presumed abandoned~~
12 ~~under section 11 that was sold by the administrator within 3~~
13 ~~years after the date of delivery, the amount payable for that~~
14 ~~claim is the value of the property at the time the claim was made~~
15 ~~or the net proceeds of sale, whichever is greater.~~ If the prop-
16 erty claimed was interest bearing to the owner on the date of
17 surrender by the holder, the administrator also shall pay inter-
18 est at a rate of 6% a year or any lesser rate the property earned
19 while in the possession of the holder. Interest begins to accrue
20 when the INTEREST BEARING property is delivered to the adminis-
21 trator and ceases on the earlier of the expiration of 10 years
22 after delivery or the date on which payment is made to the
23 owner. No interest on interest bearing property is payable for
24 any period before the effective date of this act.

25 (4) Any holder who pays the owner for property that has been
26 delivered to the state and which, if claimed from the
27 administrator, would be subject to subsection (3) shall add

1 interest as provided in that subsection. The added interest must
2 be repaid to the holder by the administrator in the same manner
3 as the principal.

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

13 (2) The administrator, at reasonable times and upon reason-
14 able notice, may examine the records of a person to determine
15 whether the person has complied with ~~the provisions of~~ this
16 act. The administrator may conduct the examination even if the
17 person believes he or she is not in possession of any property
18 reportable or deliverable under this act. THE ADMINISTRATOR MAY
19 CONTRACT WITH ANY OTHER PERSON TO CONDUCT THE EXAMINATION ON
20 BEHALF OF THE ADMINISTRATOR.

21 (3) If a person is treated under section 13 as the holder of
22 the property only insofar as the interest of the business associ-
23 ation in the property is concerned, the administrator, pursuant
24 to subsection (2), may examine the records of the person if the
25 administrator has given the notice required by subsection (2) to
26 both the person and the business association at least 90 days
27 before the examination.

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

9 (5) If a holder fails after the effective date of this act
10 to maintain the records required by section 32 and the records of
11 the holder available for the periods subject to this act are
12 insufficient to permit the preparation of a report, the adminis-
13 trator may require the holder to report and pay an amount as may
14 reasonably be estimated from any available records.

15 Section 2. Section 43 of Act No. 29 of the Public Acts of
16 1995, being section 567.263 of the Michigan Compiled Laws, is
17 repealed.