

HOUSE BILL No. 6421

September 8, 2010, Introduced by Rep. Durhal and referred to the Committee on Tax Policy.

A bill to amend 1995 PA 29, entitled
"Uniform unclaimed property act,"
by amending sections 3, 5, 6, 7, 8, 8a, 13, 15, 17, and 18 (MCL
567.223, 567.225, 567.226, 567.227, 567.228, 567.228a, 567.233,
567.235, 567.237, and 567.238), section 15 as amended by 2008 PA
208 and section 18 as amended by 1997 PA 195.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) Except as otherwise provided by this act, all
2 property, including any income or increment derived from the
3 property, less any lawful charges, that is held, issued, or owing
4 in the ordinary course of a holder's business and remains unclaimed
5 by the owner for more than ~~5~~3 years after it becomes payable or
6 distributable is presumed abandoned.

1 (2) Property is payable or distributable for the purpose of
2 this act, notwithstanding the owner's failure to make demand or to
3 present any instrument or document required to receive payment.

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

10 (2) Subject to subsection (4), any sum payable on a money
11 order or similar written instrument, other than a third party bank
12 check, that is outstanding for more than ~~7~~-3 years after its
13 issuance is presumed abandoned unless the owner, within ~~7~~-3 years,
14 has communicated in writing with the issuer concerning it or
15 otherwise indicated an interest as evidenced by a memorandum or
16 other record on file prepared by an employee of the issuer.

17 (3) A holder may not deduct from the amount of a travelers
18 check or money order any charge imposed by reason of the failure to
19 present the instrument for payment unless there is an enforceable
20 written contract between the issuer and the owner of the instrument
21 under which the issuer may impose a charge and the issuer regularly
22 imposes such charges and does not regularly reverse or otherwise
23 cancel them.

24 (4) A sum payable on a travelers check, money order, or
25 similar written instrument, other than a third party bank check,
26 described in subsections (1) and (2) may not be subjected to the
27 custody of this state as unclaimed property unless 1 or more of the

1 following requirements are met:

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

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

9 (c) The issuer has its principal place of business in this
10 state, the records of the issuer show the state in which the
11 travelers check, money order, or similar written instrument was
12 purchased and the laws of the state of purchase do not provide for
13 the escheat or custodial taking of the property or its escheat or
14 unclaimed property law is not applicable to the property.

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

20 Sec. 6. (1) Any sum payable on a check, draft, or similar
21 instrument, except those subject to section 5, on which a banking
22 or financial organization is directly liable, including a cashier's
23 check and a certified check, which is outstanding for more than ~~5-3~~
24 years after it was payable or after its issuance if payable on
25 demand, is presumed abandoned, unless the owner, within ~~5-3~~ years,
26 has communicated in writing with the banking or financial
27 organization concerning it or otherwise indicated an interest as

1 evidenced by a memorandum or other record on file prepared by an
2 employee of the banking or financial organization.

3 (2) A holder may not deduct from the amount of any instrument
4 subject to this section any charge imposed by reason of the failure
5 to present the instrument for payment unless there is an
6 enforceable written contract between the holder and the owner of
7 the instrument under which the holder may impose a charge, and the
8 holder regularly imposes such charges and does not regularly
9 reverse or otherwise cancel them.

10 Sec. 7. (1) Any demand, savings, or matured time deposit with
11 a banking or financial organization, including a deposit that is
12 automatically renewable, and any funds paid toward the purchase of
13 a share, a mutual investment certificate, or any other interest in
14 a banking or financial organization is presumed abandoned unless
15 the owner, within ~~5~~3 years, has met 1 or more of the following
16 requirements:

17 (a) In the case of a deposit, increased or decreased its
18 amount or presented the passbook or other similar evidence of the
19 deposit for the crediting of interest.

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

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

25 (d) Owned other property to which subdivision (a), (b), or (c)
26 applies and unless the banking or financial organization
27 communicates, in writing, with the owner with regard to the

1 property that would otherwise be presumed abandoned under this
2 subsection at the address to which communications regarding the
3 other property regularly are sent.

4 (e) Had another relationship with the banking or financial
5 organization concerning which the owner has met 1 or more of the
6 following requirements:

7 (i) Communicated, in writing, with the banking or financial
8 organization.

9 (ii) Otherwise indicated an interest as evidenced by a
10 memorandum or other record on file prepared by an employee of the
11 banking or financial organization and unless the banking or
12 financial organization communicates in writing with the owner with
13 regard to the property that would otherwise be abandoned under this
14 subsection at the address to which communications regarding the
15 other relationship regularly are sent.

16 (2) For purposes of subsection (1), property includes interest
17 and dividends.

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

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

25 (b) For the property of a value in excess of \$2.00, the
26 holder, no more than 3 months before the initial imposition of
27 those charges or cessation of interest, has given written notice to

1 the owner of the amount of those charges at the last known address
2 of the owner stating that those charges will be imposed or that
3 interest will cease. However, the notice required in this
4 subdivision need not be given with respect to charges imposed or
5 interest ceased before ~~the effective date of this act~~ **MARCH 28,**
6 **1996.**

7 (c) The holder regularly imposes such charges or ceases
8 payment of interest and does not regularly reverse or otherwise
9 cancel them or retroactively credit interest with respect to the
10 property.

11 (4) Any property described in subsection (1) that is
12 automatically renewable is matured for purposes of subsection (1)
13 15 years after the expiration of its initial time period, but in
14 the case of any renewal to which the owner consents at or about the
15 time of renewal by communicating in writing with the banking or
16 financial organization or otherwise indicating consent as evidenced
17 by a memorandum or other record on file prepared by an employee of
18 the organization, the property is matured upon the expiration of
19 the last time period for which consent was given. If, at the time
20 provided for delivery to the administrator under section 20, a
21 penalty or forfeiture in the payment of interest would result from
22 the delivery of the property, the time for delivery is extended
23 until the time when no penalty or forfeiture would result.

24 (5) The following types of accounts are presumed abandoned ~~15~~
25 3 years after the owner or the person entitled to the funds last
26 communicated in writing with the banking or financial organization
27 concerning the funds or otherwise indicated an interest as

1 evidenced by a memorandum or other record on file prepared by an
2 employee of the banking or financial organization:

3 (a) An in trust for account described in section 2 of ~~Act No.~~
4 ~~248 of the Public Acts of 1909, being section 487.702 of the~~
5 ~~Michigan Compiled Laws 1909 PA 248, MCL 487.702.~~

6 (b) An account established pursuant to the Michigan uniform
7 gifts to minors act, ~~Act No. 172 of the Public Acts of 1959, being~~
8 ~~sections 554.451 to 554.461 of the Michigan Compiled Laws 1959 PA~~
9 ~~172, MCL 554.451 TO 554.461.~~

10 Sec. 8. (1) Funds held or owing under any life or endowment
11 insurance policy or annuity contract that has matured or terminated
12 are presumed abandoned if unclaimed for more than ~~5-3~~ years after
13 the funds became due and payable as established from the records of
14 the insurance company holding or owing the funds. However, property
15 described in subsection (3)(b) is presumed abandoned if unclaimed
16 for more than 2 years.

17 (2) If a person other than the insured or annuitant is
18 entitled to the funds and an address of the person is not known to
19 the insurance company or it is not definite and certain from the
20 records of the insurance company who is entitled to the funds, it
21 is presumed that the last known address of the person entitled to
22 the funds is the same as the last known address of the insured or
23 annuitant according to the records of the insurance company.

24 (3) For purposes of this act, a life or endowment insurance
25 policy or annuity contract not matured by actual proof of the death
26 of the insured or annuitant according to the records of the
27 insurance company is matured and the proceeds due and payable if 1

1 or more of the following requirements are met:

2 (a) The insurance company knows that the insured or annuitant
3 has died.

4 (b) The insured has attained, or would have attained if he or
5 she were living, the limiting age under the mortality table on
6 which the reserve is based; the policy was in force at the time the
7 insured attained, or would have attained, the limiting age; and
8 neither the insured nor any other person appearing to have an
9 interest in the policy within the preceding 2 years, according to
10 the records of the insurance company, has assigned, readjusted, or
11 paid premiums on the policy, subjected the policy to a loan,
12 corresponded in writing with the insurance company concerning the
13 policy, or otherwise indicated an interest as evidenced by a
14 memorandum or other record on file prepared by an employee of the
15 insurance company.

16 (4) For purposes of this act, the application of an automatic
17 premium loan provision or other nonforfeiture provision contained
18 in an insurance policy does not prevent a policy from being matured
19 or terminated under subsection (1) if the insured has died or the
20 insured or the beneficiary of the policy otherwise has become
21 entitled to the proceeds of the policy before the depletion of the
22 cash surrender value of the policy by the application of those
23 provisions.

24 (5) If the laws of this state or the terms of the life
25 insurance policy require the insurance company to give notice to
26 the insured or owner that an automatic premium loan provision or
27 other nonforfeiture provision has been exercised and the notice,

1 given to an insured or owner whose last known address according to
2 the records of the insurance company is in this state, is
3 undeliverable, the insurance company shall make a reasonable search
4 to ascertain the policyholder's correct address to which the notice
5 must be mailed.

6 (6) Notwithstanding any other provision of law, if the
7 insurance company learns of the death of the insured or annuitant
8 and the beneficiary has not communicated with the insurance company
9 within 4 months after the death of the insured or annuitant, the
10 insurance company shall take reasonable steps to pay the proceeds
11 to the beneficiary.

12 (7) Commencing ~~2 years after the effective date of this act~~
13 **MARCH 28, 1998**, every change of beneficiary form issued by an
14 insurance company under any life or endowment insurance policy or
15 annuity contract to an insured or owner who is a resident of this
16 state must request all of the following information:

17 (a) The name of each beneficiary, or if a class of
18 beneficiaries is named, the name of each current beneficiary in the
19 class.

20 (b) The address of each beneficiary.

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

22 Sec. 8a. (1) Funds held by a provider under the prepaid
23 funeral contract funding act, ~~Act No. 255 of the Public Acts of~~
24 ~~1986, being sections 328.211 to 328.235 of the Michigan Compiled~~
25 ~~Laws 1986 PA 255, MCL 328.211 TO 328.235~~, that remain unclaimed for
26 a period of ~~5~~3 years after the death of the contract beneficiary
27 or, if no contract beneficiary has been designated under the

1 prepaid funeral contract, 5-3 years after the death of the owner of
2 the prepaid funeral contract are presumed abandoned.

3 (2) Funds held pursuant to ~~Act No. 70 of the Public Acts of~~
4 ~~1954, being sections 328.201 to 328.204 of the Michigan Compiled~~
5 ~~Laws 1954 PA 70, MCL 328.201 TO 328.204~~, are presumed abandoned,
6 after a period of 15-3 years, unless the owner or person entitled
7 to the funds has communicated in writing with the banking or
8 financial organization concerning the funds or otherwise indicated
9 in interest as evidenced by a memorandum or other record on file
10 prepared by an employee of the banking or financial organization.

11 Sec. 13. (1) Property and any income or increment derived
12 therefrom held in a fiduciary capacity for the benefit of another
13 person is presumed abandoned unless the owner, within 5-3 years
14 after it has become payable or distributable, has increased or
15 decreased the principal, accepted payment of principal or income,
16 communicated concerning the property, or otherwise indicated an
17 interest as evidenced by a memorandum or other record on file
18 prepared by the fiduciary.

19 (2) Funds in an individual retirement account or a qualified
20 retirement plan for self-employed individuals or similar account or
21 qualified plan established under the internal revenue code are not
22 payable or distributable within the meaning of subsection (1)
23 unless, under the terms of the account or qualified plan,
24 distribution of all or part of the funds would then be mandatory.

25 (3) For the purpose of this section, a person who holds
26 property as an agent for a business association is deemed to hold
27 the property in a fiduciary capacity for that business association

1 alone, unless the agreement between him or her and the business
2 association provides otherwise.

3 (4) For the purposes of this act, a person who is deemed to
4 hold property in a fiduciary capacity for a business association
5 alone is the holder of the property only insofar as the interest of
6 the business association in the property is concerned, and the
7 business association is the holder of the property insofar as the
8 interest of any other person in the property is concerned.

9 Sec. 15. (1) Except as provided in subsection (4), a gift
10 certificate, gift card, or credit memo is presumed abandoned if
11 either of the following apply:

12 (a) The certificate, card, or memo is not claimed or used for
13 a period of ~~5~~3 years after becoming payable or distributable.

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

17 (2) For purposes of subsection (1), a gift certificate or gift
18 card is considered to have been claimed or used if there is any
19 transaction processing activity on the gift certificate or gift
20 card including, but not limited to, redeeming, refunding, or adding
21 value to the certificate or card. Activity initiated by the issuer
22 of the certificate or card, including, but not limited to,
23 assessing inactivity fees or similar service fees, does not
24 constitute transaction processing activity for purposes of this
25 subsection.

26 (3) In the case of a gift certificate or gift card, the owner
27 is presumed to be a gift recipient of the gift certificate or gift

1 card, and the amount presumed abandoned is the price paid by the
2 purchaser for the gift certificate or gift card, less the total of
3 any purchases or fees assessed against the certificate or card. In
4 the case of a credit memo, the amount presumed abandoned is the
5 amount credited to the recipient of the memo.

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

10 Sec. 17. All property held in a safe deposit box or any other
11 safekeeping repository in this state in the ordinary course of the
12 holder's business and proceeds resulting from the sale of the
13 property permitted by law, that remain unclaimed by the owner for
14 more than ~~5~~3 years after the lease or rental period on the box or
15 other repository has expired, are presumed abandoned.

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

20 (2) The report shall be verified and shall include all of the
21 following:

22 (a) The name, if known, social security number, if known, and
23 last known address, if any, of each person appearing from the
24 records of the holder to be the owner of property of the value of
25 \$50.00 or more presumed abandoned under this act. This subdivision
26 does not apply to travelers checks and money orders.

27 (b) In the case of unclaimed funds of \$50.00 or more held or

1 owing under any life or endowment insurance policy or annuity
2 contract, the full name and last known address of the insured or
3 annuitant and of the beneficiary according to the records of the
4 insurance company holding or owing the funds.

5 (c) In the case of the contents of a safe deposit box or other
6 safekeeping repository or of other tangible property, a description
7 of the property and the place where it is held and may be inspected
8 by the administrator and any amounts owing to the holder.

9 (d) The nature and identifying number, if any, or description
10 of the property and the amount appearing from the records to be
11 due. However, items of value under \$50.00 each may be reported in
12 the aggregate.

13 (e) The date the property became payable, demandable, or
14 returnable, and the date of the last transaction with the apparent
15 owner with respect to the property.

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

18 (3) If the person holding property presumed abandoned and
19 subject to the state's custody as unclaimed property under this act
20 is a successor to other persons who previously held the property
21 for the apparent owner, or the holder has changed its name while
22 holding the property, the holder shall file with the report all
23 known names and addresses of each previous holder of the property.

24 (4) Except as otherwise provided in this subsection, the
25 report shall be filed on or before November 1 of each year for the
26 12-month period ending on the immediately preceding June 30.

27 **HOWEVER, IN 2011, THE REPORT SHALL BE FILED ON OR BEFORE JULY 1,**

1 2011 FOR THE 9-MONTH PERIOD ENDING ON MARCH 31, 2011, AND FOR YEARS
2 ENDING AFTER DECEMBER 31, 2011, THE REPORT SHALL BE FILED ON OR
3 BEFORE JULY 1 OF EACH YEAR FOR THE 12-MONTH PERIOD ENDING ON THE
4 IMMEDIATELY PRECEDING MARCH 31. The administrator may postpone the
5 date to file a report, on written request by any person required to
6 file a report under this section. The administrator may extend the
7 filing date for up to 60 days after the deadline if an estimated
8 payment is paid on or before the deadline for the ~~12-month~~
9 **APPLICABLE** period. ~~ending on the immediately preceding June 30.~~

10 Remittance of an estimated payment without a report on or before
11 the deadline shall be considered a request for extension. A request
12 for extension of time to file the report is not a request for an
13 extension of time to remit payments. Interest and penalties will
14 not accrue during the extension period against a person who remits
15 an estimated payment. The administrator shall determine how
16 estimated payments are to be remitted.

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

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

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

House Bill No. 6421 as amended September 16, 2010

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

(6) THERE IS APPROPRIATED FROM FUNDS GENERATED BY UNCLAIMED PROPERTIES DEPOSITED UNDER THIS ACT THE SUM OF \$4,800,000.00 TO THE DEPARTMENT OF TREASURY FOR ADMINISTRATION AND PUBLIC AWARENESS OF UNCLAIMED PROPERTY FILING AND COMPLIANCE REQUIREMENTS CREATED BY THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. THIS APPROPRIATION IS ALLOTTED FOR EXPENDITURE ON AND AFTER OCTOBER 1, 2010. THE APPROPRIATION AUTHORIZED IN THIS SUBSECTION IS A WORK PROJECT APPROPRIATION, AND ANY UNENCUMBERED OR UNALLOTTED FUNDS ARE CARRIED FORWARD INTO THE FOLLOWING YEAR. THE FOLLOWING IS IN COMPLIANCE WITH SECTION 451A(1) OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL 18.1451A:

(A) THE PURPOSE OF THE PROJECT IS TO PROVIDE TECHNICAL AND ADMINISTRATIVE SUPPORT FOR THE 2011 UNCLAIMED PROPERTY PROGRAM IN THE DEPARTMENT OF TREASURY. COSTS RELATED TO THIS PROJECT WILL INCLUDE, BUT ARE NOT LIMITED TO:

(i) INFORMATION TECHNOLOGY SYSTEM CHANGES.

(ii) STAFFING-RELATED COSTS.

(iii) COSTS TO PROMOTE PUBLIC AWARENESS.

(iv) ANY OTHER COSTS RELATED TO IMPLEMENTATION OF THE PROGRAM.

(B) THE WORK PROJECT WILL BE ACCOMPLISHED THROUGH THE USE OF INTERAGENCY AGREEMENTS, GRANTS, STATE EMPLOYEES, AND CONTRACTS. [CONTRACTS, IF ANY, FOR THE WORK PROJECT AUTHORIZED BY THIS SUBSECTION SHALL BE SUBJECT TO COMPETITIVE SOLICITATION OF BIDS FROM THE PRIVATE SECTOR IN COMPLIANCE WITH SECTION 261 OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL 18.1261.]

(C) THE TOTAL ESTIMATED COMPLETION COST OF THE PROJECT IS \$4,800,000.00.

1 (D) THE EXPECTED COMPLETION DATE IS SEPTEMBER 30, 2012.

2 Enacting section 1. This amendatory act applies to property
3 presumed abandoned and subject to the state's custody as unclaimed
4 property under this act reportable to the state for any period
5 ending after June 30, 2010.