SENATE BILL No. 514

March 23, 1993, Introduced by Senator EMMONS and referred to the Committee on Finance.

A bill concerning unclaimed property; to provide for the reporting and disposition of unclaimed property; to make uniform the law concerning unclaimed property; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the "uniform unclaimed property act".

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Administrator" means the state treasurer.

(b) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(c) "Attorney general" means the department of attorney general.

(d) "Banking organization" means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or any organization defined by law as a bank or banking organization.

(e) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of 2 or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

(f) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(g) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, savings bank, or credit union.

(h) "Holder" means a person, wherever organized or domiciled, who is 1 or more of the following:

(*i*) In possession of property belonging to another.

(*ii*) A trustee.

(*iii*) Indebted to another on an obligation.

(i) "Insurance company" means an individual, association, corporation, fraternal or mutual benefit organization, or any other legal entity, whether or not for profit, that is engaged or attempting to engage in the business of making insurance or surety contracts.

(j) "Intangible property" includes all of the following:

(*i*) Money, checks, drafts, deposits, interest, dividends, and income.

(*ii*) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.

(*iii*) Stocks and other intangible ownership interests in business associations.

(*iv*) Money deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions.

(*v*) Amounts due and payable under the terms of insurance policies.

(*vi*) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(k) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

(*l*) "Owner" means a depositor, in the case of a deposit; a beneficiary, in case of a trust other than a deposit in trust; a creditor, claimant, or payee, in the case of other intangible property; or a person having a legal or equitable interest in property subject to this act. Owner includes the legal representative of the person defined as an owner in this subdivision.

(m) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

(n) "Property" means tangible or intangible personal property owned by a person.

(o) "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

(p) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

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

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

Sec. 4. Unless otherwise provided in this act or by law, property is subject to the custody of this state as unclaimed property, if the conditions raising a presumption of abandonment under sections 3 and 6 to 17 are satisfied and 1 or more of the following requirements are met:

(a) The last known address, as shown on the records of the holder, of the apparent owner is in this state.

(b) The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this state.

(c) The records of the holder do not reflect the last known address of the apparent owner, and 1 of the following is established:

(*i*) That the last known address of the person entitled to the property is in this state.

(*ii*) That the holder is domiciled in this state or is a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property.

(d) The last known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is domiciled in this state or is a government or governmental subdivision or agency of this state.

(e) The last known address, as shown on the records of the holder, cf the apparent owner is in a foreign nation and the holder is domiciled in this state or is a government or governmental subdivision or agency of this state.

(f) The transaction out of which the property arose occurred in this state, and both of the following are established:

(*i*) The last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

(*ii*) The holder is domiciled in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) For the property of a value in excess of $2.00, the holder, no more than 3 months before the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease. However, the notice required in this subdivision need not be given with respect to charges imposed or interest ceased before the effective date of this act.

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

(4) Any property described in subsection (1) that is automatically renewable is matured for purposes of subsection (1) 15 years after the expiration of its initial time period, but in the

case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery to the administrator under section 20, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

(5) The following types of accounts are presumed abandoned 15 years after the owner or the person entitled to the funds last communicated in writing with the banking or financial organization concerning the funds or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization:

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

(b) An account established pursuant to the Michigan uniform gifts to minors act, Act No. 172 of the Public Acts of 1959, being sections 554.451 to 554.461 of the Michigan Compiled Laws.

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

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

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

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

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

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

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

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

(7) Commencing 2 years after the effective date of this act, every change of beneficiary form issued by an insurance company

under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request all of the following information:

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

(b) The address of each beneficiary.

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

Sec. 8a. (1) Funds held by a provider under the prepaid funeral contract funding act, Act No. 255 of the Public Acts of 1986, being sections 328.211 to 328.235 of the Michigan Compiled Laws, that remain unclaimed for a period of 5 years after the death of the contract beneficiary or, if no contract beneficiary has been designated under the prepaid funeral contract, 5 years after the death of the owner of the prepaid funeral contract are presumed abandoned.

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

Sec. 9. A deposit, including any interest on the deposit, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than 1 year after termination of the services for which the deposit or advance payment was made is presumed abandoned.

Sec. 10. Except to the extent otherwise ordered by the court or administrative agency, any sum that a business association has been ordered to refund by a court or administrative agency that remains unclaimed by the owner for more than 1 year after it became payable in accordance with the final determination or order providing for the refund, whether or not the final determination or order requires any person entitled to a refund to make a claim for the refund, is presumed abandoned.

Sec. 11. (1) Except as provided in subsections (2) and (5), stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the business association, is presumed abandoned and, with respect to the interest, the business association is the holder, if a dividend, distribution, or other sum payable as a result of the interest remains unclaimed by the owner for 7 years and the owner, within 7 years, has not met any of the following requirements:

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

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

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

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

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

(5) This act does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not, within 15 years, communicated in any manner described in subsection (1).

Sec. 12. Property distributable in the course of a dissolution of a business association that remains unclaimed by the owner for more than 1 year after the date specified for final distribution is presumed abandoned.

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

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

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

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

Sec. 14. Property held for the owner by a court, state, or other government, governmental subdivision or agency, public corporation, or public authority that remains unclaimed by the owner for more than 1 year after becoming payable or distributable is presumed abandoned.

Sec. 15. (1) A gift certificate or a credit memo issued in the ordinary course of an issuer's business that remains unclaimed by the owner for more than 5 years after becoming payable or distributable is presumed abandoned.

(2) In the case of a gift certificate, the amount presumed abandoned is the price paid by the purchaser for the gift certificate. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

Sec. 16. Unpaid wages, including wages represented by unpresented payroll checks, owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than 1 year after becoming payable are presumed abandoned.

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

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

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

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

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

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

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

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

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

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

(4) Except as otherwise provided in this subsection, the report shall be filed before November 1 of each year for the 12-month period ending on the immediately preceding June 30. The administrator may postpone the date to file a report, on written request by any person required to file a report under this section.

(5) Not more than 120 days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to the state's custody as unclaimed

property under this act shall send written notice to the apparent owner at his or her last known address informing him or her that the holder is in possession of property subject to this act if all of the following requirements are met:

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

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

(c) The property has a value of $50.00 or more.

Sec. 19. (1) The administrator shall cause a notice to be published not later than June 1 of the year immediately following the report required by section 18 at least once a week for 2 consecutive weeks in a newspaper of general circulation in the county of this state in which is located the last known address of any person named in the notice. If no address is listed or the address is outside this state, the notice must be published in the county in which the holder of the property has its principal place of business within this state.

(2) The published notice shall be entitled "notice of names of persons appearing to be owners of abandoned property" and contain all of the following:

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

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

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

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

(4) This section is not applicable to sums payable on travelers checks, money orders, and other written instruments presumed abandoned under section 5.

Sec. 20. (1) A person who is required to file a report under section 18 shall at the time for filing the report pay or deliver to the administrator all abandoned property that is required to be reported under section 18.

(2) The holder of an interest under section 11 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the administrator. Upon delivery of a duplicate certificate to the administrator, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with the provision of section 21 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the administrator, for any losses or damages resulting to any person

by the issuance and delivery to the administrator of the duplicate certificate.

Sec. 21. (1) Upon the payment or delivery of property to the administrator, the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the administrator in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which may arise or be made in respect to the property after the payment or delivery to the administrator.

(2) A holder who has paid money to the administrator pursuant to this act may make payment to any person appearing to the holder to be entitled to payment and, upon filing proof of payment and proof that the payee was entitled to the payment, the administrator shall promptly reimburse the holder for the payment without imposing any fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a travelers check or money order, the holder shall be reimbursed under this subsection upon filing proof that the instrument was duly presented and that payment was made to a person who appeared to the holder to be entitled to payment. The holder shall be reimbursed for payment made under this subsection even if the payment was made to a person whose claim was barred under section 30(1).

(3) A holder who has delivered property, including a certificate of any interest in a business association, other than money to the administrator pursuant to this act, may reclaim the

property if still in the possession of the administrator, without paying any fee or other charge, upon filing proof that the owner has claimed the property from the holder.

(4) The administrator may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

(5) If the holder pays or delivers property to the administrator in good faith and another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.

(6) For the purposes of this section, "good faith" means all of the following:

(a) That payment or delivery was made in a reasonable attempt to comply with this act.

(b) That the person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to him or her, that the property was abandoned for the purposes of this act.

(c) That there is no showing that the records under which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(7) Property removed from a safe deposit box or other safekeeping repository is received by the administrator subject

to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The administrator shall reimburse or pay the holder out of the proceeds remaining after deducting the administrator's selling cost.

(8) For purposes of section 7(1)(e), a banking or financial organization is considered to have acted in good faith if it has made a reasonable search of its records as determined by the commercial standards of practice in the industry and reasonably determined that the banking or financial organization does not have another relationship with the apparent owner.

Sec. 22. If property other than money is paid or delivered to the administrator under this act, the owner is entitled to receive from the administrator any dividends, interest, or other increments realized or accruing on the property at or before liquidation or conversion of the property into money.

Sec. 23. (1) Except as provided in subsections (2) and (3), the administrator, within 3 years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever city in the state affords, in the judgment of the administrator, the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if, in the judgment of the administrator, the bid is insufficient. If, in the judgment of the administrator, the probable cost of sale exceeds the value of the property, the property need not be offered for sale. Any sale held under this section shall be preceded by a single publication of notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

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

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

(4) Unless the administrator considers it to be in the best interest of the state to do otherwise, all securities presumed abandoned under section 11 and delivered to the administrator shall be held for at least 3 years before the administrator may sell them. If the administrator sells any securities presumed abandoned under section 11 before the expiration of the 3-year period, any person making a claim under this act before the end of the 3-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any amounts deducted under section 24(2). A person making a claim under this act after the expiration of the 3-year period is entitled to receive either the securities delivered to the

administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from sale, less any amounts deducted under section 24(2), but no person has any claim under this act against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

(5) The purchaser of property at any sale conducted by the administrator under this act takes the property free of all claims of the owner or previous holder of the property and of all persons claiming through or under the owner or previous holder. The administrator shall execute all documents necessary to complete the transfer of ownership.

Sec. 24. (1) Except as otherwise provided by this section, the administrator shall promptly deposit in the general fund of this state all funds received under this act, including the proceeds from the sale of abandoned property under section 23. The administrator shall retain in a separate trust fund an amount not less than $100,000.00 from which prompt payment of claims allowed under this act shall be made. When making the deposit, the administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or contract listed in the report of an insurance company, the number of the policy or contract, the name of the insurance company, and the amount due. The name of the owner or apparent owner and a gross description of the property only shall be available for public inspection at all reasonable business hours.

(2) Before making any deposit to the credit of the general fund, the administrator may deduct any of the following:

(a) Costs in connection with the sale of abandoned property.

(b) Costs of mailing and publication in connection with any abandoned property.

(c) Reasonable service charges.

(d) Costs incurred in examining records of holders of property and in collecting the property from those holders.

(3) The administrator shall transfer to the senior care respite fund created in the older Michiganians act, Act No. 180 of the Public Acts of 1981, being sections 400.581 to 400.594 of the Michigan Compiled Laws, funds that escheat to this state pursuant to section 403a of the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being section 550.1403a of the Michigan Compiled Laws.

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

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

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

(3) If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, plus any additional amount required by section 22. If the claim is for property presumed abandoned under section 11 that was sold by the administrator within 3 years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater. If the property claimed was interest bearing to the owner on the date of surrender by the holder, the administrator also shall pay interest at a rate of 6% a year or any lesser rate the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the administrator and ceases on the earlier of the expiration of 10 years after delivery or the date on which payment is made to the owner. No interest on interest bearing property is payable for any period before the effective date of this act.

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

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

Sec. 26. (1) At any time after property has been paid or delivered to the administrator under this act, another state may recover the property if 1 or more of the following requirements are met:

(a) The property was subjected to custody by this state because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed abandoned under this act, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state.

(b) The last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state.

(c) The records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state.

(d) The property was subjected to custody by this state under section 4(f) and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state.

(e) The property is the sum payable on a travelers check, money order, or other similar instrument that was subjected to custody by this state under section 5, and the instrument was purchased in the other state, and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.

(2) The claim of another state, under the laws of that state, to recover escheated or abandoned property shall be presented in a form prescribed by the administrator, who shall decide the claim within 90 days after it is presented. The administrator shall allow the claim if the administrator determines that the other state is entitled to the property under subsection (1).

(3) The administrator shall require a state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim for the property.

Sec. 27. A person who is aggrieved by a decision of the administrator or whose claim has not been acted upon within 90 days after its filing may bring an action to establish the claim in the circuit court, naming the administrator as a defendant. The action shall be brought within 90 days after the decision of the administrator or within 180 days after the filing of the claim if the administrator has failed to act on it. If the aggrieved person establishes the claim in an action against the administrator, the court shall award the claimant costs and reasonable attorney's fees.

Sec. 28. (1) The administrator may decline to receive property reported under this act that the administrator considers to have a value less than the expense of giving notice and of public sale. If the administrator declines to receive the property, the administrator shall authorize the holder of the property to destroy or otherwise dispose of the property at any time the holder chooses. An action or proceeding shall not be maintained against a holder for or on account of any action taken by the holder in destroying or otherwise disposing of the property pursuant to the authorization of the administrator.

(2) A holder may report and deliver property to the administrator before the property is otherwise presumed abandoned if the owner has failed to exercise dominion or control, to assert a right of ownership or possession, to make presentment or demand payment, or to do any other act in relation to or concerning that property for a period of 2 years. Property received by the administrator under this subsection is presumed abandoned and shall be disposed of pursuant to section 23.

Sec. 29. If the administrator determines after investigation that any property delivered under this act has insubstantial commercial value, the administrator may destroy or otherwise dispose of the property at any time. An action or proceeding shall not be maintained against the state or any officer or against the holder for or on account of any action taken by the administrator under this section.

Sec. 30. (1) The expiration, before or after the effective date of this act, of any period of time specified by contract, statute, or court order, during which a claim for money or property can be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property, does not prevent the money or property from being presumed abandoned or affect any duty to file a report or to pay or deliver abandoned property to the administrator as required by this act.

(2) An action or proceeding shall not be commenced by the administrator with respect to any duty of a holder under this act more than 10 years after the duty arose.

Sec. 31. (1) The administrator may require a person who has not filed a report under this act to file a verified report stating whether the person is holding any unclaimed property reportable or deliverable under this act.

(2) The administrator, at reasonable times and upon reasonable notice, may examine the records of a person to determine whether the person has complied with the provisions of this act. The administrator may conduct the examination even if the person believes he or she is not in possession of any property reportable or deliverable under this act.

(3) If a person is treated under section 13 as the holder of the property only insofar as the interest of the business association in the property is concerned, the administrator, pursuant to subsection (2), may examine the records of the person if the administrator has given the notice required by subsection (2) to

both the person and the business association at least 90 days before the examination.

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

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

Sec. 32. (1) A holder required to file a report under section 18, as to any property for which it has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for 10 years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (2) or by rule of the administrator.

(2) A business association that sells in this state its travelers checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides those instruments to others for sale in this state, shall maintain a

record of those instruments while they remain outstanding, indicating the state and date of issue for 3 years after the date the property is reportable.

Sec. 33. The administrator may bring an action in a court of competent jurisdiction to enforce this act.

Sec. 34. (1) The administrator may enter into an agreement with another state to exchange information needed to enable this or another state to audit or otherwise determine unclaimed property that this state or another state may be entitled to subject to a claim of custody. The administrator by rule may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

(2) To avoid conflicts between the administrator's procedures and the procedures of administrators in other jurisdictions that enact the uniform unclaimed property act, the administrator, so far as is consistent with the purposes, policies, and provisions of this act, before adopting, amending, or repealing rules, shall advise and consult with administrators in other jurisdictions that enact substantially the uniform unclaimed property act and take into consideration the rules of administrators in other jurisdictions that enact the uniform unclaimed property act.

(3) The administrator may join with other states to seek enforcement of this act against a person who is or may be holding property reportable under this act.

(4) At the request of another state, the attorney general of this state may bring an action in the name of the administrator of the other state in a court of competent jurisdiction to

enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in bringing the action.

(5) The administrator may request that the attorney general of another state or any other person bring an action in the name of the administrator in the other state. This state shall pay all expenses including attorney's fees in any action under this subsection. The administrator may agree to pay the person bringing the action attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Expenses paid pursuant to this subsection shall not be deducted from the amount that is subject to the claim by the owner under this act.

Sec. 35. (1) A person who fails to pay or deliver property within the time prescribed by this act shall pay to the administrator interest at the current monthly rate of 1 percentage point above the adjusted prime rate per annum per month on the property or value of the property from the date the property should have been paid or delivered. The term "adjusted prime rate" means the average predominant prime rate quoted by not less than 3 commercial banks to large businesses, as determined by the department of treasury. The adjusted prime rate is to be based on the average prime rate charged by not less than 3 commercial banks during the 12-month period ending on September 30. The resulting current monthly interest rate based on the 12-month period ending

September 30 will become effective on January 1 of the following year.

(2) A person who willfully fails to render any report or perform other duties required under this act shall pay a civil penalty of $100.00 for each day the report is withheld or the duty is not performed, but not more than $5,000.00.

(3) A person who willfully fails to pay or deliver property to the administrator as required under this act shall pay a civil penalty equal to 25% of the value of the property that should have been paid or delivered.

(4) A person who willfully refuses after written demand by the administrator to pay or deliver property to the administrator as required under this act is guilty of a misdemeanor and upon conviction may be punished by a fine of not less than $500.00, nor more than $25,000.00, or imprisonment for not more than 6 months, or both.

(5) The administrator or an authorized representative of the administrator may waive interest and civil fines imposed under this section.

Sec. 36. An agreement to pay compensation to recover or assist in the recovery of property reported under section 18, made within 24 months after the date payment or delivery is made under section 20, is unenforceable.

Sec. 37. This act does not apply to any property held, due, and owing in a foreign country and arising out of a foreign transaction.

Sec. 38. (1) This act does not relieve a holder of a duty that arose before the effective date of this act to report, pay, or deliver property. A holder who did not comply with the law in effect before the effective date of this act is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this subsection, subject to section 30(2).

(2) The initial report filed under this act for property that was not required to be reported before the effective date of this act but that is subject to this act must include all items of property that would have been presumed abandoned during the 10-year period preceding the effective date of this act as if this act had been in effect during that period.

Sec. 39. The administrator is the successor to the state board of escheats created by former Act No. 329 of the Public Acts of 1947. A reference to the state board of escheats in any other provision of law is considered a reference to the administrator under this act.

Sec. 40. The administrator may promulgate rules necessary to carry out the provisions of this act under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

Sec. 41. This act shall be applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

Sec. 42. This act shall not apply to unclaimed, lost, or abandoned property, if the loss, abandonment, or failure to claim the property is the subject of another statute of this state that specifies to whom ownership of the property shall devolve.

Sec. 43. Act No. 329 of the Public Acts of 1947, being sections 567.11 to 567.76 of the Michigan Compiled Laws, is repealed.

Sec. 44. This act shall take effect January 1, 1994.