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BILL ANALYSIS

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Senate Bill 1340 (as enrolled)  
Sponsor: Senator Michael Switalski  
Senate Committee: Appropriations  
House Committee: Appropriations

**PUBLIC ACT 385 of 2004**

Date Completed: 1-12-05

**CONTENT**

**The bill amended the Uniform Unclaimed Property Act to do the following:**

- **Provide for unclaimed stock in a business association to be presumed abandoned if the owner of the interest has not claimed a dividend or other distribution for over three years (rather than seven), and the business does not know of the owner's location.**
- **Shorten the period of time after which stock enrolled in an automatic reinvestment plan may be considered abandoned.**
- **Revise requirements concerning the publication of a notice about abandoned property, and require information to be included on the Department of Treasury website.**

Unclaimed Stock

The bill repealed Section 11 of the Act, which governed the abandonment of stock or other intangible ownership interest in a business association. Under that section, this type of interest was presumed abandoned if a dividend, distribution, or other sum payable as a result of the interest remained unclaimed by the owner for seven years and the owner, within the seven years, had not communicated with the business association regarding the interest or amount payable. (The Act defines "business association" as a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit.)

The bill enacted Section 11a, under which any stock, share, or other intangible ownership interest in a business association is presumed abandoned if both of the following apply:

- For more than three years, the owner of the interest has not claimed a dividend, distribution, or other sum payable as a result of the interest, or has not communicated with the association regarding the interest or amount payable.
- The association does not know the owner's location at the end of the three-year period.

The bill specifies that the return of official shareholder notifications or communications by the postal service as undeliverable is evidence that the association does not know of the owner's location.

Section 11a does not apply to any stock or other intangible ownership interest enrolled in a plan providing for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest, unless either of the following applies:

- 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 communicated with the association within three years.
- Three years have elapsed since the owner's location became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner has not

-- communicated with the association within three years.

(Section 11 did not apply to stock or any other intangible ownership interest enrolled in an automatic reinvestment plan unless the records showed, with respect to any intangible ownership interest not enrolled in the plan, that the owner had not communicated within 15 years.)

The bill states that Section 11a applies both to the underlying stock, share, or other intangible ownership interest of an owner, and any stock, share, or other intangible ownership interest of which the business is in possession of the certificate or other evidence or indicia of ownership, and to the stock, share, or other ownership interest of dividend- and nondividend-paying business associations whether or not the interest is represented by a certificate.

As provided under Section 11, at the time an interest is presumed abandoned, any dividend, distribution, or other sum held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

Under Section 11, an ownership interest was not presumed abandoned unless there had been at least seven dividends, distributions, or other sums paid during the seven-year period, and the owner had claimed none of them. The bill does not include a similar provision.

#### Publication; Website

Under the Act, a person holding property presumed abandoned must submit an annual report to the State Treasurer (the "administrator"). Previously, the State Treasurer then had to publish a notice in a newspaper of general circulation in the county containing the last known address of any person named in the notice. The notice was required to include the names of the people listed in the report, a statement that any person with an interest in the property could obtain information about it by submitting an inquiry to the State Treasurer, and a statement informing a property owner how to file a claim for the property.

The bill requires the State Treasurer, instead, to publish a notice in a newspaper with statewide circulation once every six months. The notice must contain all of the following:

- A statement of the number of new properties that have been added to the Department of Treasury website, and a statement that the list of new properties will be available for at least one year.
- The Department's website address, which must enable people to search for their abandoned property.
- The Department's telephone number for people wishing to contact the Department via telephone in search of their abandoned property.
- A statement that anyone interested in searching the Department's website may search the internet at his or her local public library.

The website must contain all of the following:

- The name of any person for whom property has been added to the unclaimed property division database.
- A statement that any person having an interest in the property may obtain information about it by addressing an inquiry to the State Treasurer.
- A claim form.
- A statement informing an owner of property held by the State Treasurer how to file a claim to receive the property.

MCL 567.231a & 567.239

#### **BACKGROUND**

Under Article X, Section 4 of the State Constitution, procedures relating to escheats and the custody and disposition of escheated property must be prescribed by law. Escheated property is tangible or intangible property that reverts to the State in the absence of legal owners or claimants because the owner died leaving no known heirs, has disappeared or been missing for a continuous period of at least five years, or has abandoned the property. The Uniform Unclaimed Property Act was enacted in 1995 to replace the Michigan Code of Escheats. The Act creates a presumption of abandonment when property remains unclaimed by the owner for a number of years (usually five) and certain conditions are met. The State must keep abandoned property (or its equivalent in money) for potential claimants in perpetuity. A person may file a claim for the redemption of his or her property at any time.

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

According to the Department of Treasury, which administers the unclaimed property program, the bill's changes regarding unclaimed stock will generate a one-time boost in revenue from unclaimed property of \$8.0 million in FY 2004-05. This revenue will go into the General Fund/General Purpose budget.

The FY 2004-05 budget for the unclaimed property division in the Department of Treasury, included a \$250,000 reduction based on the bill's changes to publication requirements.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.