

DORMANCY PERIODS FOR UNCLAIMED PROPERTY OF ACTIVE-DUTY MILITARY PERSONNEL

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Senate Bills 388 and 389 (S-1) as passed by the Senate

Sponsor: Sen. Veronica Klinefelt

1st House Committee: Insurance and Financial Services

2nd House Committee: Military, Veterans and Homeland Security

Senate Committee: Veterans and Emergency Services

Complete to 2-5-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bills 388 and 389 would change **dormancy periods** for certain kinds of unclaimed property owned by active-duty members of the armed forces and reserves. The bills would extend, from three years to five, dormancy periods that now apply to certain kinds of property owned by an individual on active orders in the reserve component of the armed forces. Most of these five-year dormancy periods already now apply under the act to property owned by an individual on active duty military service (not including the reserves), and they would continue to do so under the bills. In a few cases, though, the bills would shorten the dormancy periods that now apply to property owned by those individuals.

The Uniform Unclaimed Property Act, enacted in 1995, replaced the 1947 Michigan Code of Escheats with a model uniform act that was developed by the National Conference on Uniform State Laws (also known as the Uniform Law Commission, or ULC).¹ Adoption of the uniform act was intended to simplify and streamline Michigan’s process for unclaimed property, while also promoting uniformity with the system used in other states. Reportedly, 27 other states had adopted the uniform law by 1995.²

Under the act, generally speaking, if an owner of property does not take any action on that property for a specified continuous number of years (in most cases, three years), the property is considered abandoned and is transferred (“escheated”) to the state, which becomes its legal custodian.³ The state maintains unclaimed property or its equivalent value for property owners in perpetuity—owners or heirs always have the right to claim the property.⁴ The **dormancy period** is how long property can be continuously inactive or unclaimed before it is presumed to be abandoned and is escheated to the state. A dormancy period generally starts on the date of the last contact by the owner with the holder of the property (the “dormancy date” or “date of last activity”).⁵

¹ Section 4 of Article X of the state constitution requires procedures for escheated property to be prescribed by law. The ULC website is here: <https://www.uniformlaws.org/home>

² <https://www.legislature.mi.gov/documents/1995-1996/billanalysis/Senate/pdf/1995-SFA-0390-E.pdf>

³ Many different types of property can be escheated, such as inheritances with no known heir, inactive bank accounts, insurance benefits, money orders, travelers checks, unused gift cards, refund checks, payroll checks, the contents of safe deposit boxes. What constitutes an action taken by an owner indicating their interest in that property is specified in law and might include, for example, making a deposit or withdrawal, sending a written memorandum to the holder of the property, or claiming the property outright.

⁴ See <https://unclaimedproperty.michigan.gov/>

⁵ See https://unclaimedproperty.michigan.gov/docs/MI_2023_Manual_for_Reporting_Unclaimed_Property.pdf Appendix A, on page 36, lists types of property and their applicable dormancy periods under current law.

Public Act 197 of 2010 amended the act to shorten the dormancy period for most kinds of unclaimed property to three years, from previous statutory lengths of five, seven, or 15 years.⁶ However, language was also included to provide that the changes made to dormancy periods by 2010 PA 197 did not apply if the owner of the property was on active duty military service outside the United States. (In 2020, the “outside the United States” requirement was removed.⁷) This means that, for applicable property owned by individuals on active duty military service as described above, the dormancy periods for unclaimed property are set at five, seven, or 15 years—whatever they were before the changes made by the 2010 act.

Senate Bill 389 would amend the Uniform Unclaimed Property Act to eliminate the provision described above that exempts property owned by active-duty servicemembers from all of the dormancy period changes made by 2010 PA 197. In place of that provision, the bill would list several sections of the act that now prescribe three-year dormancy periods for different kinds of property. Under the bill, for an owner of property who is on active duty military service or in the reserve component on active orders, those periods would be five years instead of three.

The exemption from the three-year dormancy periods enacted by 2010 PA 197 does not now apply to property owned by individuals in the reserves, so the bill would thus increase, from three years to five, the dormancy periods that apply to that property.

For property owned by individuals on active duty military service, the dormancy periods that now apply are those that were in effect *before* enactment of 2010 PA 197. In most cases, the three-year dormancy periods listed in the bill were five-year periods before 2010, so the bill’s provision of a five-year period for those kinds of unclaimed property owned by individuals on active duty would be the same as the five-year period that now applies.

However, not all of the dormancy periods for property owned by active-duty servicemembers are currently set at five years. The dormancy period that applies to any sum payable on an outstanding money order or similar written instrument, other than a third-party bank check, is now seven years if the owner is on active duty military service. The bill’s change to a five-year period would thus be a reduction in this instance.

Similarly, the dormancy period for the following types of accounts is currently 15 years if the owner is an individual on active duty military service (and under the bill would be five years):

- An account in trust described in section 2 of 1909 PA 248.⁸
- An account established under the Michigan Uniform Transfers to Minors Act (or under its predecessor act, the Michigan Uniform Gifts to Minors Act).⁹

The table below shows the types of property the bill would apply to and the applicable dormancy periods for owners of property on active duty military service or on active orders in the reserves under both current law and the bill.

⁶ <http://legislature.mi.gov/doc.aspx?2010-HB-6421>

⁷ <http://legislature.mi.gov/doc.aspx?2019-SB-0125>

⁸ <http://legislature.mi.gov/doc.aspx?mcl-487-702>

⁹ The Michigan Uniform Gifts to Minors Act, enacted in 1959, was repealed and replaced in 1998 by the Michigan Uniform Transfers to Minors Act. The bill would update references to the acts accordingly. For a description of the 1998 changes: <https://www.legislature.mi.gov/documents/1997-1998/billanalysis/House/pdf/1997-HLA-5643-A.pdf>

| Provision | Property type | Dormancy period | | |
|---------------|---|-----------------------------------|-----------------------------------|--|
| | | Current law and SB 389: Generally | Current law: Active duty military | SB 389: Active duty military and reserves on active orders |
| Section 3(1) | Property held, issued, or owing in the ordinary course of a holder's business, including any income or increment derived from it, less any lawful charges | 3 years | 5 years | 5 years |
| Section 5(2) | Amount payable on an outstanding money order or similar instrument, except a third party bank check | 3 years | 7 years | 5 years |
| Section 6(1) | Amount payable on an outstanding check, draft, or similar instrument (except those under section 5) on which a banking or financial organization is directly liable, including a cashier's check or certified check | 3 years | 5 years | 5 years |
| Section 7(1) | A demand, savings, or matured time deposit with a banking or financial organization, including a deposit that is automatically renewable, and any funds paid toward a share, a mutual investment certificate, or any other interest in such an organization | 3 years | 5 years | 5 years |
| Section 7(5) | An in trust for account under section 2 of 1909 PA 248 or an account established under the Uniform Transfers to Minors Act or its predecessor act | 3 years | 15 years | 5 years |
| Section 8(1) | Funds held or owing under a life or endowment insurance policy or annuity contract that has matured or terminated | 3 years | 5 years | 5 years |
| Section 13(1) | Property and any income or increment derived from it held in a fiduciary capacity for benefit of another person | 3 years | 5 years | 5 years |
| Section 15(1) | Gift certificates, gift cards, or credit memos | 3 years | 5 years | 5 years |
| Section 17 | Property held in a safe deposit box or another safekeeping repository and proceeds resulting from the sale of the property as allowed by law | 3 years | 5 years | 5 years |

The bill would apply to property that is presumed abandoned and subject to the state's custody on or after the bill's effective date.

MCL 567.225 et seq.

Senate Bill 388 would amend the Credit Union Act to provide that the dormancy periods prescribed under the Uniform Unclaimed Property Act determine the length of time a member can have an account that is designated as inactive under the Credit Union Act before the money or other property in the account is escheated to the state.

The Credit Union Act provides procedures and requirements for designating an account with a domestic credit union as inactive. Currently, a member may have an inactive designation on their account for three years, after which time the credit union must deliver the money or property in the account to the state as provided in the Uniform Unclaimed Property Act and terminate any membership based on the account.

The bill would change the current three-year period to “the time frame prescribed in the Uniform Unclaimed Property Act.”

MCL 490.355

FISCAL IMPACT:

Senate Bills 388 and 389 would have an indeterminate fiscal impact on the state and no fiscal impact on local governments. While under the bills’ provisions some property may be remitted to the state as unclaimed under revised timelines, this is not expected to have a significant change to the number of properties that will ultimately be determined as unclaimed.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.