

SENATE BILL NO. 389

June 14, 2023, Introduced by Senators KLINEFELT, POLEHANKI, WOJNO, BAYER, CHANG, SHINK, GEISS, MCCANN and CHERRY and referred to the Committee on Veterans and Emergency Services.

A bill to amend 1995 PA 29, entitled "Uniform unclaimed property act," by amending sections 5, 6, 7, 8, 8a, 13, 15, 17, and 18 (MCL 567.225, 567.226, 567.227, 567.228, 567.228a, 567.233, 567.235, 567.237, and 567.238), sections 5, 6, 7, 8, 8a, 13, 15, and 17 as amended by 2010 PA 197 and section 18 as amended by 2020 PA 79, and by adding section 17a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) Subject to subsection (4), any sum payable on a

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

6 (2) Subject to subsection (4), **and except as otherwise**
7 **provided in section 17a**, any sum payable on a money order or
8 similar written instrument, other than a ~~third party~~ **third-party**
9 bank check, that is outstanding for more than 3 years after its
10 issuance is presumed abandoned unless the owner, within 3 years,
11 has communicated in writing with the issuer concerning it or
12 otherwise indicated an interest as evidenced by a memorandum or
13 other record on file prepared by an employee of the issuer.

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

21 (4) A sum payable on a travelers check, money order, or
22 similar written instrument, other than a ~~third party~~ **third-party**
23 bank check, described in subsections (1) and (2) may not be
24 subjected to the custody of this state as unclaimed property unless
25 1 or more of the following requirements are met:

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

29 (b) The issuer has its principal place of business in this

1 state and the records of the issuer do not show the state in which
2 the travelers check, money order, or similar written instrument was
3 purchased.

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

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

15 Sec. 6. (1) ~~Any~~ **Except as otherwise provided in section 17a,**
16 **any** sum payable on a check, draft, or similar instrument, except
17 those subject to section 5, on which a banking or financial
18 organization is directly liable, including a cashier's check and a
19 certified check, which is outstanding for more than 3 years after
20 it was payable or after its issuance if payable on demand, is
21 presumed abandoned, unless the owner, within 3 years, has
22 communicated in writing with the banking or financial organization
23 concerning it or otherwise indicated an interest as evidenced by a
24 memorandum or other record on file prepared by an employee of the
25 banking or financial organization.

26 (2) A holder may not deduct from the amount of any instrument
27 subject to this section any charge imposed by reason of the failure
28 to present the instrument for payment unless there is an
29 enforceable written contract between the holder and the owner of

1 the instrument under which the holder may impose a charge, and the
2 holder regularly imposes such charges and does not regularly
3 reverse or otherwise cancel them.

4 Sec. 7. (1) ~~Any~~ **Except as otherwise provided in section 17a,**
5 **any** demand, savings, or matured time deposit with a banking or
6 financial organization, including a deposit that is automatically
7 renewable, and any funds paid toward the purchase of a share, a
8 mutual investment certificate, or any other interest in a banking
9 or financial organization is presumed abandoned unless the owner,
10 within 3 years, has met 1 or more of the following requirements:

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

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

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

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

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

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

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

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

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

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

17 (b) For the property of a value in excess of \$2.00, the
18 holder, ~~no~~**not** more than 3 months before the initial imposition of
19 those charges or cessation of interest, has given written notice to
20 the owner of the amount of those charges at the last known address
21 of the owner stating that those charges will be imposed or that
22 interest will cease. However, the notice required in this
23 subdivision need not be given with respect to charges imposed or
24 interest ceased before March 28, 1996.

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

29 (4) Any property described in subsection (1) that is

1 automatically renewable is matured for purposes of subsection (1)
2 15 years after the expiration of its initial time period, but in
3 the case of any renewal to which the owner consents at or about the
4 time of renewal by communicating in writing with the banking or
5 financial organization or otherwise indicating consent as evidenced
6 by a memorandum or other record on file prepared by an employee of
7 the organization, the property is matured upon the expiration of
8 the last time period for which consent was given. If, at the time
9 provided for delivery to the administrator under section 20, a
10 penalty or forfeiture in the payment of interest would result from
11 the delivery of the property, the time for delivery is extended
12 until the time when no penalty or forfeiture would result.

13 (5) ~~The~~ **Except as otherwise provided in section 17a, the**
14 following types of accounts are presumed abandoned 3 years after
15 the owner or the person entitled to the funds last communicated in
16 writing with the banking or financial organization concerning the
17 funds or otherwise indicated an interest as evidenced by a
18 memorandum or other record on file prepared by an employee of the
19 banking or financial organization:

20 (a) An in trust for account described in section 2 of 1909 PA
21 248, MCL 487.702.

22 (b) An account established ~~pursuant to the Michigan uniform~~
23 ~~gifts to minors act, under former~~ 1959 PA 172. , ~~MCL 554.451 to~~
24 ~~554.461.~~

25 Sec. 8. (1) ~~Funds~~ **Except as otherwise provided in subsection**
26 **(2) and section 17a, funds** held or owing under any life or
27 endowment insurance policy or annuity contract that has matured or
28 terminated are presumed abandoned if unclaimed for more than 3
29 years after the funds became due and payable as established from

1 the records of the insurance company holding or owing the funds.

2 ~~However, property~~

3 **(2) Property** described in subsection ~~(3) (b)~~ **(4) (b)** is presumed
4 abandoned if unclaimed for more than 2 years.

5 **(3)** ~~(2)~~—If a person other than the insured or annuitant is
6 entitled to the funds and an address of the person is not known to
7 the insurance company or it is not definite and certain from the
8 records of the insurance company who is entitled to the funds, it
9 is presumed that the last known address of the person entitled to
10 the funds is the same as the last known address of the insured or
11 annuitant according to the records of the insurance company.

12 **(4)** ~~(3)~~—For purposes of this act, a life or endowment
13 insurance policy or annuity contract not matured by actual proof of
14 the death of the insured or annuitant according to the records of
15 the insurance company is matured and the proceeds due and payable
16 if 1 or more of the following requirements are met:

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

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

1 insurance company.

2 (5) ~~(4)~~ For purposes of this act, the application of an
3 automatic premium loan provision or other nonforfeiture provision
4 contained in an insurance policy does not prevent a policy from
5 being matured or terminated under subsection (1) if the insured has
6 died or the insured or the beneficiary of the policy otherwise has
7 become entitled to the proceeds of the policy before the depletion
8 of the cash surrender value of the policy by the application of
9 those provisions.

10 (6) ~~(5)~~ If the laws of this state or the terms of the life
11 insurance policy require the insurance company to give notice to
12 the insured or owner that an automatic premium loan provision or
13 other nonforfeiture provision has been exercised and the notice,
14 given to an insured or owner whose last known address according to
15 the records of the insurance company is in this state, is
16 undeliverable, the insurance company ~~shall~~**must** make a reasonable
17 search to ascertain the policyholder's correct address to which the
18 notice must be mailed.

19 (7) ~~(6)~~ Notwithstanding any other provision of law, if the
20 insurance company learns of the death of the insured or annuitant
21 and the beneficiary has not communicated with the insurance company
22 within 4 months after the death of the insured or annuitant, the
23 insurance company ~~shall~~**must** take reasonable steps to pay the
24 proceeds to the beneficiary.

25 (8) ~~(7) Commencing~~**Beginning** March 28, 1998, every change of
26 beneficiary form issued by an insurance company under any life or
27 endowment insurance policy or annuity contract to an insured or
28 owner who is a resident of this state must request all of the
29 following information:

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

4 (b) The address of each beneficiary.

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

6 Sec. 8a. (1) ~~Funds~~ **Except as otherwise provided in section**
7 **17a, funds** held by a provider under the prepaid funeral ~~contract~~
8 ~~funding and cemetery sales~~ act, 1986 PA 255, MCL 328.211 to
9 328.235, that remain unclaimed for a period of 3 years after the
10 death of the contract beneficiary or, if no contract beneficiary
11 has been designated under the prepaid ~~funeral~~ contract, 3 years
12 after the death of the owner of the prepaid ~~funeral~~ contract are
13 presumed abandoned.

14 (2) ~~Funds~~ **Except as otherwise provided in section 17a, funds**
15 held ~~pursuant to~~ **in accordance with** 1954 PA 70, MCL 328.201 to
16 328.204, are presumed abandoned, after a period of 3 years, unless
17 the owner or person entitled to the funds has communicated in
18 writing with the banking or financial organization concerning the
19 funds or otherwise indicated in interest as evidenced by a
20 memorandum or other record on file prepared by an employee of the
21 banking or financial organization.

22 Sec. 13. (1) ~~Property~~ **Except as otherwise provided in section**
23 **17a, property** and any income or increment derived therefrom held in
24 a fiduciary capacity for the benefit of another person is presumed
25 abandoned unless the owner, within 3 years after it has become
26 payable or distributable, has increased or decreased the principal,
27 accepted payment of principal or income, communicated concerning
28 the property, or otherwise indicated an interest as evidenced by a
29 memorandum or other record on file prepared by the fiduciary.

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

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

12 (4) For the purposes of this act, a person ~~who~~ **that** is deemed
 13 to hold property in a fiduciary capacity for a business association
 14 alone is the holder of the property only insofar as the interest of
 15 the business association in the property is concerned, and the
 16 business association is the holder of the property insofar as the
 17 interest of any other person in the property is concerned.

18 Sec. 15. (1) Except as provided in subsection (4) **and section**
 19 **17a**, a gift certificate, gift card, or credit memo is presumed
 20 abandoned if either of the following ~~apply~~ **applies**:

21 (a) The certificate, card, or memo is not claimed or used for
 22 a period of 3 years after becoming payable or distributable.

23 (b) The certificate, card, or memo was used or claimed 1 or
 24 more times without exhausting its full value, but subsequently was
 25 not claimed or used for an uninterrupted period of 3 years.

26 (2) For purposes of subsection (1), a gift certificate or gift
 27 card is considered to have been claimed or used if there is any
 28 transaction processing activity on the gift certificate or gift
 29 card, including, but not limited to, redeeming, refunding, or

1 adding value to the certificate or card. Activity initiated by the
2 issuer of the certificate or card, including, but not limited to,
3 assessing inactivity fees or similar service fees, does not
4 constitute transaction processing activity for purposes of this
5 subsection.

6 (3) In the case of a gift certificate or gift card, the owner
7 is presumed to be a gift recipient of the gift certificate or gift
8 card, and the amount presumed abandoned is the price paid by the
9 purchaser for the gift certificate or gift card, less the total of
10 any purchases or fees assessed against the certificate or card. In
11 the case of a credit memo, the amount presumed abandoned is the
12 amount credited to the recipient of the memo.

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

17 Sec. 17. ~~All~~ **Except as otherwise provided in section 17a, all**
18 property held in a safe deposit box or any other safekeeping
19 repository in this state in the ordinary course of the holder's
20 business and proceeds resulting from the sale of the property
21 permitted by law, that remain unclaimed by the owner for more than
22 3 years after the lease or rental period on the box or other
23 repository has expired, are presumed abandoned.

24 **Sec. 17a. (1) The dormancy period described in sections 3(1),**
25 **6(1), 7(1) 8(1), 8a(1), 13(1), 15(1), and 17 is 5 years if the**
26 **owner of the property is on active duty military service or in the**
27 **reserve component on active orders.**

28 (2) **The dormancy period described in section 5(2) is 7 years**
29 **if the owner of the property is on active duty military service or**

1 in the reserve component on active orders.

2 (3) The dormancy period described in sections 7(5) and 8a(2)
3 is 15 years if the owner of the property is on active duty military
4 service or in the reserve component on active orders.

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

9 (2) The report required by this section must be verified and
10 must include all of the following:

11 (a) The name, if known, Social Security number, if known, and
12 last known address, if any, of each person appearing from the
13 records of the holder to be the owner of property of the value of
14 \$50.00 or more presumed abandoned under this act. This subdivision
15 does not apply to travelers checks or money orders.

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

21 (c) For the contents of a safe deposit box or other
22 safekeeping repository or of other tangible property, a description
23 of the property.

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

28 (e) The date the property became payable, demandable, or
29 returnable, and the date of the last transaction with the apparent

1 owner with respect to the property.

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

4 (3) If the person holding property presumed abandoned and
5 subject to this state's custody as unclaimed property under this
6 act is a successor to other persons ~~who~~**that** previously held the
7 property for the apparent owner, or the holder has changed its name
8 while holding the property, the holder ~~shall~~**must** file with the
9 report required by this section all known names and addresses of
10 each previous holder of the property.

11 (4) Except as otherwise provided in this subsection, the
12 report required by this section must be filed on or before July 1
13 of each year for the 12-month period ending on the immediately
14 preceding March 31. The administrator may postpone the date to file
15 a report on written request by any person required to file a report
16 under this section. The administrator may extend the filing date
17 for up to 60 days on written request.

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

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

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

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

5 ~~(6) The provisions of 2010 PA 197 that modified dormancy~~
6 ~~periods of this act do not apply if the owner of the property is on~~
7 ~~active duty military service.~~

8 Enacting section 1. This amendatory act applies to property
9 that is presumed abandoned and subject to this state's custody as
10 unclaimed property on or after the effective date of this
11 amendatory act.