

Act No. 195
Public Acts of 1997
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997

Introduced by Senator Emmons

ENROLLED SENATE BILL No. 340

AN ACT to amend 1995 PA 29, entitled "An act 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 acts and parts of acts," by amending sections 11, 18, 19, 20, 23, 25, and 31 (MCL 567.231, 567.238, 567.239, 567.240, 567.243, 567.245, and 567.251); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

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. 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 on or 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. The administrator may extend the filing date for up to 60 days after the deadline if an estimated payment is paid on or before the deadline for the 12-month period ending on the immediately preceding June 30. Remittance of an estimated payment without a report on or before the deadline shall be considered a request for extension. A request for extension of time to file the report is not a request for an extension of time to remit payments. Interest and penalties will not accrue during the extension period against a person who remits an estimated payment. The administrator shall determine how estimated payments are to be remitted.

(5) Not less than 60 days or more than 365 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 or, if the holder filing a report under this section is reporting for the current report year at least 25,000 properties over \$50.00 each, the property has a value of \$100.00 or more.

Sec. 19. (1) The administrator shall cause a notice to be published not later than November 1 of the year immediately following the report required by section 18 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 or another county as determined by the administrator.

(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, 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 or any balance owing if an estimated payment was made 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. 23. (1) Except as provided in subsections (2) and (3), the administrator, not later than 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 presumed abandoned under this act and delivered to the administrator shall be sold within 1 year of the receipt of the securities. A person making a claim under this act against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder is not entitled to any appreciation in the value of the property occurring after delivery by the holder to the administrator.

(4) 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. 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 property claimed was interest bearing to the owner on the date of surrender by the holder, and if the date of surrender is on or after March 28, 1996, 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 interest bearing 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 March 28, 1996.

(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. 31. (1) The administrator may require a person who has not filed a report under this act or a person who the administrator believes has filed an inactive, incomplete, or false report, to file a verified report in a form specified by

the administrator. The report shall state whether the person is holding any unclaimed property reportable or deliverable under this act, describe unclaimed property not previously reported or as to which the administrator has made inquiry, and specifically identify and state the amounts of property that may be in issue.

(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 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. The administrator may contract with any other person to conduct the examination on behalf of the administrator.

(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.

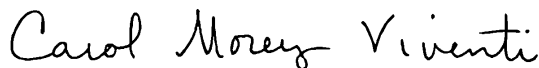
(4) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this act, the administrator may assess the cost of the examination against the holder at the rate of \$50.00 a day for each examiner; however, the charges shall not exceed the value 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.

Enacting section 1. Section 43 of the uniform unclaimed property act, 1995 PA 29, MCL 567.263, is repealed.

Enacting section 2. This amendatory act takes effect May 1, 1997.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.