

# HOUSE BILL No. 6067

November 29, 2012, Introduced by Rep. McMillin and referred to the Committee on Commerce.

A bill to amend 1995 PA 29, entitled  
"Uniform unclaimed property act,"  
by amending sections 3, 5, 6, 7, 8, 8a, 13, 15, 17, and 18 (MCL  
567.223, 567.225, 567.226, 567.227, 567.228, 567.228a, 567.233,  
567.235, 567.237, and 567.238), as amended by 2010 PA 197.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

7       (2) Subject to subsection (4), any sum payable on a money  
8 order or similar written instrument, other than a third party bank  
9 check, that is outstanding for more than ~~3-7~~ years after its  
10 issuance is presumed abandoned unless the owner, within ~~3-7~~ 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 bank check,  
23 described in subsections (1) and (2) may not be subjected to the  
24 custody of this state as unclaimed property unless 1 or more of the  
25 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

1 state.

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

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

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

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

27 (2) A holder may not deduct from the amount of any instrument

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

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

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

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

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

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

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

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

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

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

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

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

22 (b) For the property of a value in excess of \$2.00, the  
23 holder, no more than 3 months before the initial imposition of  
24 those charges or cessation of interest, has given written notice to  
25 the owner of the amount of those charges at the last known address  
26 of the owner stating that those charges will be imposed or that  
27 interest will cease. However, the notice required in this

1 subdivision need not be given with respect to charges imposed or  
2 interest ceased before March 28, 1996.

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

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

20 (5) The following types of accounts are presumed abandoned ~~3~~  
21 15 years after the owner or the person entitled to the funds last  
22 communicated in writing with the banking or financial organization  
23 concerning the funds or otherwise indicated an interest as  
24 evidenced by a memorandum or other record on file prepared by an  
25 employee of the banking or financial organization:

26 (a) An in trust for account described in section 2 of 1909 PA  
27 248, MCL 487.702.

1 (b) An account established pursuant to the Michigan uniform  
2 gifts to minors act, 1959 PA 172, MCL 554.451 to 554.461.

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

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

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

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

24 (b) The insured has attained, or would have attained if he or  
25 she were living, the limiting age under the mortality table on  
26 which the reserve is based; the policy was in force at the time the  
27 insured attained, or would have attained, the limiting age; and

1 neither the insured nor any other person appearing to have an  
2 interest in the policy within the preceding 2 years, according to  
3 the records of the insurance company, has assigned, readjusted, or  
4 paid premiums on the policy, subjected the policy to a loan,  
5 corresponded in writing with the insurance company concerning the  
6 policy, or otherwise indicated an interest as evidenced by a  
7 memorandum or other record on file prepared by an employee of the  
8 insurance company.

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

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

26 (6) Notwithstanding any other provision of law, if the  
27 insurance company learns of the death of the insured or annuitant



1 and the beneficiary has not communicated with the insurance company  
2 within 4 months after the death of the insured or annuitant, the  
3 insurance company shall take reasonable steps to pay the proceeds  
4 to the beneficiary.

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

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

13 (b) The address of each beneficiary.

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

15 Sec. 8a. (1) Funds held by a provider under the prepaid  
16 funeral contract funding act, 1986 PA 255, MCL 328.211 to 328.235,  
17 that remain unclaimed for a period of ~~3~~—5 years after the death of  
18 the contract beneficiary or, if no contract beneficiary has been  
19 designated under the prepaid funeral contract, 3 years after the  
20 death of the owner of the prepaid funeral contract are presumed  
21 abandoned.

22 (2) Funds held pursuant to 1954 PA 70, MCL 328.201 to 328.204,  
23 are presumed abandoned, after a period of ~~3~~—15 years, unless the  
24 owner or person entitled to the funds has communicated in writing  
25 with the banking or financial organization concerning the funds or  
26 otherwise indicated in interest as evidenced by a memorandum or  
27 other record on file prepared by an employee of the banking or

1 financial organization.

2       Sec. 13. (1) Property and any income or increment derived  
3 therefrom held in a fiduciary capacity for the benefit of another  
4 person is presumed abandoned unless the owner, within ~~3~~5 years  
5 after it has become payable or distributable, has increased or  
6 decreased the principal, accepted payment of principal or income,  
7 communicated concerning the property, or otherwise indicated an  
8 interest as evidenced by a memorandum or other record on file  
9 prepared by the fiduciary.

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

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

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

27       Sec. 15. (1) Except as provided in subsection (4), a gift

1 certificate, gift card, or credit memo is presumed abandoned if  
2 either of the following apply:

3 (a) The certificate, card, or memo is not claimed or used for  
4 a period of ~~3~~–5 years after becoming payable or distributable.

5 (b) The certificate, card, or memo was used or claimed 1 or  
6 more times without exhausting its full value, but subsequently was  
7 not claimed or used for an uninterrupted period of ~~3~~–5 years.

8 (2) For purposes of subsection (1), a gift certificate or gift  
9 card is considered to have been claimed or used if there is any  
10 transaction processing activity on the gift certificate or gift  
11 card including, but not limited to, redeeming, refunding, or adding  
12 value to the certificate or card. Activity initiated by the issuer  
13 of the certificate or card, including, but not limited to,  
14 assessing inactivity fees or similar service fees, does not  
15 constitute transaction processing activity for purposes of this  
16 subsection.

17 (3) In the case of a gift certificate or gift card, the owner  
18 is presumed to be a gift recipient of the gift certificate or gift  
19 card, and the amount presumed abandoned is the price paid by the  
20 purchaser for the gift certificate or gift card, less the total of  
21 any purchases or fees assessed against the certificate or card. In  
22 the case of a credit memo, the amount presumed abandoned is the  
23 amount credited to the recipient of the memo.

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

1       Sec. 17. All property held in a safe deposit box or any other  
2 safekeeping repository in this state in the ordinary course of the  
3 holder's business and proceeds resulting from the sale of the  
4 property permitted by law, that remain unclaimed by the owner for  
5 more than ~~3~~—5 years after the lease or rental period on the box or  
6 other repository has expired, are presumed abandoned.

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

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

13       (a) The name, if known, social security number, if known, and  
14 last known address, if any, of each person appearing from the  
15 records of the holder to be the owner of property of the value of  
16 \$50.00 or more presumed abandoned under this act. This subdivision  
17 does not apply to travelers checks and money orders.

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

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

27       (d) The nature and identifying number, if any, or description

1 of the property and the amount appearing from the records to be  
2 due. However, items of value under \$50.00 each may be reported in  
3 the aggregate.

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

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

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

15 (4) Except as otherwise provided in this subsection, the  
16 report shall be filed on or before November 1 of each year for the  
17 12-month period ending on the immediately preceding June 30.  
18 However, in 2011, the report shall be filed on or before July 1,  
19 2011 for the 9-month period ending on March 31, 2011, and for years  
20 ending after December 31, 2011, the report shall be filed on or  
21 before July 1 of each year for the 12-month period ending on the  
22 immediately preceding March 31. The administrator may postpone the  
23 date to file a report, on written request by any person required to  
24 file a report under this section. The administrator may extend the  
25 filing date for up to 60 days after the deadline if an estimated  
26 payment is paid on or before the deadline for the applicable  
27 period. Remittance of an estimated payment without a report on or

1 before the deadline shall be considered a request for extension. A  
2 request for extension of time to file the report is not a request  
3 for an extension of time to remit payments. Interest and penalties  
4 will not accrue during the extension period against a person who  
5 remits an estimated payment. The administrator shall determine how  
6 estimated payments are to be remitted.

7 (5) Not less than 60 days or more than 365 days before filing  
8 the report required by this section, the holder in possession of  
9 property presumed abandoned and subject to the state's custody as  
10 unclaimed property under this act shall send written notice to the  
11 apparent owner at his or her last known address informing him or  
12 her that the holder is in possession of property subject to this  
13 act if all of the following requirements are met:

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

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

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

22 (6) There is appropriated from funds generated by unclaimed  
23 properties deposited under this act the sum of \$4,800,000.00 to the  
24 department of treasury for administration and public awareness of  
25 unclaimed property filing and compliance requirements created by  
26 the amendatory act that added this subsection. This appropriation  
27 is allotted for expenditure on and after October 1, 2010. The

1 appropriation authorized in this subsection is a work project  
2 appropriation, and any unencumbered or unallotted funds are carried  
3 forward into the following year. The following is in compliance  
4 with section 451a(1) of the management and budget act, 1984 PA 431,  
5 MCL 18.1451a:

6 (a) The purpose of the project is to provide technical and  
7 administrative support for the 2011 unclaimed property program in  
8 the department of treasury. Costs related to this project will  
9 include, but are not limited to:

10 (i) Information technology system changes.

11 (ii) Staffing-related costs.

12 (iii) Costs to promote public awareness.

13 (iv) Any other costs related to implementation of the program.

14 (b) The work project will be accomplished through the use of  
15 interagency agreements, grants, state employees, and contracts.  
16 Contracts, if any, for the work project authorized by this  
17 subsection shall be subject to competitive solicitation of bids  
18 from the private sector in compliance with section 261 of the  
19 management and budget act, 1984 PA 431, MCL 18.1261.

20 (c) The total estimated completion cost of the project is  
21 \$4,800,000.00.

22 (d) The expected completion date is September 30, 2012.

23 ~~—— (7) The provisions modifying the dormancy periods of the~~  
24 ~~amendatory act that added this subsection do not apply if the owner~~  
25 ~~of the property is on active duty military service outside the~~  
26 ~~United States.~~