

SENATE BILL REPORT

SB 5543

As of April 28, 2015

Title: An act relating to improving the administration of unclaimed property laws.

Brief Description: Improving the administration of unclaimed property laws.

Sponsors: Senator Hill; by request of Department of Revenue.

Brief History:

Committee Activity: Government Operations & Security: 2/12/15 [DP-WM].
Ways & Means: 4/29/2015.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Liias, Ranking Minority Member; McCoy.

Staff: Samuel Brown (786-7470)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: The Uniform Unclaimed Property Act (Act) governs the disposition of property that is unclaimed by its owner. A business that holds unclaimed property (holder) must report and transfer the property to the Department of Revenue (DOR) after a holding period set by statute. The holding period varies by the type of property, but for most unclaimed property, such as abandoned bank accounts, stocks, and bonds, the holding period is three years. After the holding period has passed, the holder in possession of the property transfers the property to DOR. A holder who willfully fails to file a report, or deliver property, as required under the Act is subject to a \$100 per-day penalty plus an additional 100 percent penalty based on the value of the property that should have been reported.

DOR's duty is to find the rightful owner of the property, if possible. Most property reported is intangible property and holders remit the cash value to DOR. With some exceptions, DOR will sell tangible property that is still unclaimed within five years after it is received. State law requires DOR to hold stocks, bonds, and other securities for a period of time – usually

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three years – before being sold. When the unclaimed property is sold, the sale proceeds are deposited in the state general fund.

The owner of unclaimed property may come forward at any time to claim the property. If the property has already been sold by DOR, the owner is generally entitled to the proceeds of the sale, plus any interest accruing as part of the security, less administrative costs. However, if abandoned stock or other securities are sold before the expiration of the three-year holding period by DOR, the owner is entitled to the greater of the market value of the security at the time the claim is made or the proceeds of the sale, less any administrative costs.

Summary of Bill: The penalty provisions of the Act are restructured. The current 100 percent penalty for willful failure to file a report or provide notice to apparent property owners is replaced with the following penalties:

- 10 percent for failure to file a report or pay or deliver property under a report; and
- 10 percent assessment penalty with an additional 5 percent penalty if the assessment is not paid by the due date.

Gift certificates presumed abandoned and compliant with the gift certificate laws do not need to be reported as unclaimed property.

DOR may publish notice to apparent owners of unclaimed property on the online version of a printed newspaper of general circulation.

Enforcement action on assessments is subject to a three-year statute of limitation.

Holders must file reports of lost property and remit funds to DOR electronically beginning July 1, 2016. DOR may waive this requirement for good cause, which is defined as a circumstance or condition that prevents the holder from electronically filing reports or remitting payments, or a DOR determination that relief from the electronic filing requirement supports the efficient or effective administration of the Act.

A refund process is established allowing holders to reacquire erroneously reported and delivered property, subject to a six-year limitation period. A review and appeal process is established, including appeal rights to Thurston County Superior Court, for assessments or denials for a refund or the return of property. DOR may waive or cancel delinquent penalties and interest under certain circumstances.

All unclaimed amounts and property identified in any assessment issued by DOR must be paid or delivered within 30 days of issuance. If a petition for review of an assessment is filed and received in writing by DOR before the due date of the assessment, only the uncontested amounts and property must be paid or delivered to the department within 30 days of issuance.

DOR's authority to enter into settlement agreements with holders is clarified.

Information obtained during examinations is confidential, except as necessary for the administration of the Act.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony (Government Operations & Security): PRO: This is a primary technical clarification of practices and procedures, but narrowing the 100 percent fine will allow DOR to recover money in a reasonable way. Because of the nature of the penalty, we don't use it, and if it's reduced, it'll be assessed in a uniform and fair way.

Persons Testifying (Government Operations & Security): PRO: Senator Hill, prime sponsor; Drew Shirk, DOR.