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SENATE BILL 5948

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State of Washington                      59th Legislature                      2005 Regular Session

By Senators Pridemore and Zarelli; by request of Department of Revenue

Read first time 02/16/2005. Referred to Committee on Ways & Means.

1            AN ACT Relating to unclaimed property; amending RCW 63.29.020,  
2 63.29.180, 63.29.190, 63.29.220, and 63.29.280; and repealing RCW  
3 63.29.033.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 63.29.020 and 2004 c 168 s 14 are each amended to read  
6 as follows:

7            (1) Except as otherwise provided by this chapter, all intangible  
8 property, including any income or increment derived therefrom, less any  
9 lawful charges, that is held, issued, or owing in the ordinary course  
10 of the holder's business and has remained unclaimed by the owner for  
11 more than three years after it became payable or distributable is  
12 presumed abandoned.

13            (2) Property, with the exception of unredeemed Washington state  
14 lottery tickets and unrepresented winning parimutuel tickets, is payable  
15 and distributable for the purpose of this chapter notwithstanding the  
16 owner's failure to make demand or to present any instrument or document  
17 required to receive payment.

18            (3) This chapter does not apply to claims drafts issued by

1 insurance companies representing offers to settle claims unliquidated  
2 in amount or settled by subsequent drafts or other means.

3 (4) This chapter does not apply to property covered by chapter  
4 63.26 RCW.

5 (5) This chapter does not apply to used clothing, umbrellas, bags,  
6 luggage, or other used personal effects if such property is disposed of  
7 by the holder as follows:

8 (a) In the case of personal effects of negligible value, the  
9 property is destroyed; or

10 (b) The property is donated to a bona fide charity.

11 (6) This chapter does not apply to a gift certificate subject to  
12 the prohibition against expiration dates under RCW 19.240.020 or to a  
13 gift certificate subject to RCW 19.240.030 through 19.240.060.  
14 However, this chapter applies to gift certificates presumed abandoned  
15 under RCW 63.29.110.

16 (7) This chapter does not apply to excess proceeds held by  
17 counties, cities, towns, and other municipal or quasi-municipal  
18 corporations from foreclosures for delinquent property taxes,  
19 assessments, or other liens.

20 **Sec. 2.** RCW 63.29.180 and 2003 c 237 s 2 are each amended to read  
21 as follows:

22 (1) The department shall cause a notice to be published not later  
23 than November 1st, immediately following the report required by RCW  
24 63.29.170 in a newspaper of general circulation (~~(in the county of)~~)  
25 within this state (~~(in which is located the last known address of any~~  
26 ~~person to be named in the notice. If no address is listed or the~~  
27 ~~address is outside this state, the notice must be published in the~~  
28 ~~county in which the holder of the property has its principal place of~~  
29 ~~business within this state)), which the department determines is most~~

30 likely to give notice to the apparent owner of the property.  
31 (2) The published notice must be entitled "Notice (~~(of Names of~~  
32 ~~Persons Appearing))~~ to ((be)) Owners of ((Abandoned)) Unclaimed  
33 Property" and contain((÷

34 ~~(a) The names in alphabetical order and last known address, if any,~~  
35 ~~of persons listed in the report and entitled to notice within the~~  
36 ~~county as specified in subsection (1) of this section; and~~

1       ~~(b) A statement that information concerning the property and the~~  
2 ~~name and last known address of the holder may be obtained by any person~~  
3 ~~possessing an interest in the property by addressing an inquiry to the~~  
4 ~~department.~~

5       ~~(3) The department is not required to publish in the notice any~~  
6 ~~items of seventy five dollars or less unless the department considers~~  
7 ~~their publication to be in the public interest)) a summary explanation~~  
8 ~~of how owners may obtain information about unclaimed property reported~~  
9 ~~to the department.~~

10       ~~((4))~~ (3) Not later than September 1st, immediately following the  
11 report required by RCW 63.29.170, the department shall mail a notice to  
12 each person whose last known address is listed in the report and who  
13 appears to be entitled to property with a value of more than seventy-  
14 five dollars presumed abandoned under this chapter and any beneficiary  
15 of a life or endowment insurance policy or annuity contract for whom  
16 the department has a last known address.

17       ~~((5))~~ (4) The mailed notice must contain:

18       (a) A statement that, according to a report filed with the  
19 department, property is being held to which the addressee appears  
20 entitled; and

21       (b) The name ~~((and last known address))~~ of the person ~~((holding))~~  
22 reporting the property and ~~((any necessary information regarding the~~  
23 ~~changes of name and last known address of the holder))~~ the type of  
24 property described in the report.

25       ~~((6))~~ (5) This section is not applicable to sums payable on  
26 travelers checks, money orders, and other written instruments presumed  
27 abandoned under RCW 63.29.040.

28       **Sec. 3.** RCW 63.29.190 and 1993 c 498 s 8 are each amended to read  
29 as follows:

30       (1) Except as otherwise provided in subsections (2) and (3) of this  
31 section, a person who is required to file a report under RCW 63.29.170  
32 shall pay or deliver to the department all abandoned property required  
33 to be reported at the time of filing the report.

34       (2) Counties, cities, towns, and other municipal and quasi-  
35 municipal corporations that hold funds representing warrants canceled  
36 pursuant to RCW 36.22.100 and 39.56.040, uncashed checks, ~~((excess~~  
37 ~~proceeds from property tax and irrigation district foreclosures,))~~ and

1 property tax overpayments or refunds may retain the funds until the  
2 owner notifies them and establishes ownership as provided in RCW  
3 63.29.135. Counties, cities, towns, or other municipal or quasi-  
4 municipal corporations shall provide to the department a report of  
5 property it is holding pursuant to this section. The report shall  
6 identify the property and owner in the manner provided in RCW 63.29.170  
7 and the department shall publish the information as provided in RCW  
8 63.29.180.

9 (3) The contents of a safe deposit box or other safekeeping  
10 repository presumed abandoned under RCW 63.29.160 and reported under  
11 RCW 63.29.170 shall be paid or delivered to the department within six  
12 months after the final date for filing the report required by RCW  
13 63.29.170.

14 If the owner establishes the right to receive the abandoned  
15 property to the satisfaction of the holder before the property has been  
16 delivered or it appears that for some other reason the presumption of  
17 abandonment is erroneous, the holder need not pay or deliver the  
18 property to the department, and the property will no longer be presumed  
19 abandoned. In that case, the holder shall file with the department a  
20 verified written explanation of the proof of claim or of the error in  
21 the presumption of abandonment.

22 (4) The holder of an interest under RCW 63.29.100 shall deliver a  
23 duplicate certificate or other evidence of ownership if the holder does  
24 not issue certificates of ownership to the department. Upon delivery  
25 of a duplicate certificate to the department, the holder and any  
26 transfer agent, registrar, or other person acting for or on behalf of  
27 a holder in executing or delivering the duplicate certificate is  
28 relieved of all liability of every kind in accordance with RCW  
29 63.29.200 to every person, including any person acquiring the original  
30 certificate or the duplicate of the certificate issued to the  
31 department, for any losses or damages resulting to any person by the  
32 issuance and delivery to the department of the duplicate certificate.

33 **Sec. 4.** RCW 63.29.220 and 1996 c 45 s 3 are each amended to read  
34 as follows:

35 (1) Except as provided in subsections (2)((~~7~~)) and (3)((~~7~~ and (~~6~~)))  
36 of this section the department, within five years after the receipt of  
37 abandoned property, shall sell it to the highest bidder at public sale

1 in whatever city in the state affords in the judgment of the department  
2 the most favorable market for the property involved. The department  
3 may decline the highest bid and reoffer the property for sale if in the  
4 judgment of the department the bid is insufficient. If in the judgment  
5 of the department the probable cost of sale exceeds the value of the  
6 property, it need not be offered for sale. Any sale held under this  
7 section must be preceded by a single publication of notice, at least  
8 three weeks in advance of sale, in a newspaper of general circulation  
9 in the county in which the property is to be sold.

10 (2) Securities listed on an established stock exchange must be sold  
11 at prices prevailing at the time of sale on the exchange. Other  
12 securities may be sold over the counter at prices prevailing at the  
13 time of sale or by any other method the department considers advisable.  
14 All securities may be sold over the counter at prices prevailing at the  
15 time of the sale, or by any other method the department deems  
16 advisable.

17 (3) Unless the department considers it to be in the best interest  
18 of the state to do otherwise, all securities, other than those presumed  
19 abandoned under RCW 63.29.100, delivered to the department must be held  
20 for at least one year before being sold.

21 (4) Unless the department considers it to be in the best interest  
22 of the state to do otherwise, all securities presumed abandoned under  
23 RCW 63.29.100 and delivered to the department must be held for at least  
24 three years before being sold. If the department sells any securities  
25 delivered pursuant to RCW 63.29.100 before the expiration of the three-  
26 year period, any person making a claim pursuant to this chapter before  
27 the end of the three-year period is entitled to either the proceeds of  
28 the sale of the securities or the market value of the securities at the  
29 time the claim is made, whichever amount is greater, less any deduction  
30 for fees pursuant to RCW 63.29.230(2). A person making a claim under  
31 this chapter after the expiration of this period is entitled to receive  
32 either the securities delivered to the department by the holder, if  
33 they still remain in the hands of the department, or the proceeds  
34 received from sale, less any amounts deducted pursuant to RCW  
35 63.29.230(2), but no person has any claim under this chapter against  
36 the state, the holder, any transfer agent, registrar, or other person  
37 acting for or on behalf of a holder for any appreciation in the value

1 of the property occurring after delivery by the holder to the  
2 department.

3 (5) The purchaser of property at any sale conducted by the  
4 department pursuant to this chapter takes the property free of all  
5 claims of the owner or previous holder thereof and of all persons  
6 claiming through or under them. The department shall execute all  
7 documents necessary to complete the transfer of ownership.

8 ~~((6) The department shall not sell any stock or other intangible  
9 ownership interest enrolled in a plan that provides for the automatic  
10 reinvestment of dividends, distributions, or other sums payable as a  
11 result of the interest.))~~

12 **Sec. 5.** RCW 63.29.280 and 1983 c 179 s 28 are each amended to read  
13 as follows:

14 If the department determines after investigation that any property  
15 delivered under this chapter has insubstantial commercial value, the  
16 department may destroy or otherwise dispose of the property at any  
17 time. No action or proceeding may be maintained against the state or  
18 any officer or against the holder for or on account of any action taken  
19 by the department pursuant to this section. ~~((Documents which are to  
20 be destroyed shall be copied on film and retained for ten years.))~~  
21 Original documents which the department has identified to be destroyed  
22 and which have legal significance or historical interest may be  
23 surrendered to the state historical museum or to the state library.

24 NEW SECTION. **Sec. 6.** RCW 63.29.033 (Property presumed abandoned--  
25 State or subdivision is originator or issuer) and 1992 c 48 s 1 are  
26 each repealed.

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