

SHB 1637 - H AMD 792

By Representative Orwall

ADOPTED 01/24/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 63.30
4 RCW to read as follows:

5 (1) It is unlawful for any person to seek or receive from any
6 person or contract with any person for any fee or compensation for
7 locating or purporting to locate any property which he or she knows
8 has been reported or paid or delivered to the department of revenue
9 pursuant to this chapter, or funds held by a court or county, that
10 are proceeds from a foreclosure for delinquent property taxes,
11 assessments, or other liens, or, funds that are otherwise held by a
12 county because of a person's failure to claim funds held as
13 reimbursement for unowed taxes, fees, or other government charges, in
14 excess of five percent of the value thereof returned to such owner.

15 (2) The legislature finds that the practices covered by this
16 section are matters vitally affecting the public interest for the
17 purpose of applying the consumer protection act, chapter 19.86 RCW.
18 Any violation of this section is not reasonable in relation to the
19 development and preservation of business and is an unfair or
20 deceptive act in trade or commerce and an unfair method of
21 competition for the purpose of applying the consumer protection act,
22 chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are
23 cumulative and not exclusive.

24 (3)(a) This section applies retroactively to January 1, 2023, and
25 prospectively beginning with the effective date of this section.

26 (b) This section applies to all civil actions and proceedings
27 commenced prior to January 1, 2023, in which a claim or cause of
28 action was asserted pursuant to RCW 63.29.350, repealed in section
29 1505, chapter 225, Laws of 2022 and in which the requested remedies
30 are limited to civil remedies. Any such action or proceeding that may
31 have been dismissed as a result of the repeal of former RCW 63.29.350
32 is saved. Upon the motion of a plaintiff in any such action, the

1 court shall reinstate the action and allow the plaintiff to proceed
2 with the action under this section.

3 (c) This section applies to all claims and causes of action based
4 on conduct that occurred prior to January 1, 2023, and that violated
5 former RCW 63.29.350. Any such claim or cause of action that could
6 have been commenced under former RCW 63.29.350 and that has been
7 extinguished by the repeal of RCW 63.29.350 may proceed under this
8 section, provided that it is not barred by any applicable statute of
9 limitations.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 63.30
11 RCW to read as follows:

12 Any person who violates section 1(1) of this act is guilty of a
13 misdemeanor and shall be fined not less than the amount of the fee or
14 charge he or she has sought or received or contracted for, and not
15 more than 10 times such amount, or imprisoned for not more than 30
16 days, or both.

17 **Sec. 3.** RCW 63.30.790 and 2022 c 225 s 1302 are each amended to
18 read as follows:

19 (1) Subject to subsection (2) of this section, an agreement under
20 RCW 63.30.780 is void if it is entered into during the period
21 beginning on the date the property was paid or delivered by a holder
22 to the administrator and ending 24 months after the payment or
23 delivery.

24 (2) If a provision in an agreement described in subsection (1) of
25 this section applies to mineral proceeds for which compensation is to
26 be paid to the other person based in whole or in part on a part of
27 the underlying minerals or mineral proceeds not then presumed
28 abandoned, the provision is void regardless of when the agreement was
29 entered into.

30 (3) An agreement under subsection (1) of this section which
31 provides for compensation in an amount that ~~((is unconscionable))~~
32 exceeds five percent of the value of the property reasonably expected
33 to be recovered is unenforceable ~~((except by the apparent owner. An~~
34 ~~apparent owner that believes the compensation the apparent owner has~~
35 ~~agreed to pay is unconscionable or the administrator, acting on~~
36 ~~behalf of an apparent owner, or both, may file an action in superior~~
37 ~~court to reduce the compensation to the maximum amount that is not~~
38 ~~unconscionable)).~~

1 (4) An apparent owner or the administrator may assert that an
2 agreement described in this section is void on a ground other than it
3 provides for payment of (~~unconscionable~~) compensation in an amount
4 that exceeds five percent of the value of the property reasonably
5 expected to be recovered.

6 (5) This section does not apply to an apparent owner's agreement
7 with an attorney to pursue a claim for recovery of specifically
8 identified property held by the administrator or to contest the
9 administrator's denial of a claim for recovery of the property."

10 Correct the title.

EFFECT: (1) Removes two sections that have been enacted into law in House Bill No. 1349 during the 2023 legislative session and that relate to prohibition on excessive fees for locating or recovering foreclosure surplus funds.

(2) Requires the court, upon the motion of a plaintiff, to reinstate an action that was commenced prior to January 1, 2023, under the repealed Uniform Unclaimed Property Act and that may have been dismissed as a result of the repeal, instead of simply providing that such an action is reinstated.

(3) Modifies the Revised Uniform Unclaimed Property Act provisions related to agreements to locate and deliver unclaimed property and provides that an agreement is unenforceable if it provides for compensation in the amount that exceeds five percent of the value of the property reasonably expected to be recovered, instead of compensation that is unconscionable. Removes provisions authorizing an apparent owner or the Department of Revenue to file an action to reduce the compensation to the maximum amount that is not unconscionable. Replaces a reference to unconscionable compensation with the reference to compensation exceeding five percent in provisions that authorize declaring an agreement void on other grounds.

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