
ENGROSSED SUBSTITUTE HOUSE BILL 1637

State of Washington

68th Legislature

2023 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Orwall, Pollet, and Fitzgibbon)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to prohibiting excessive fees or other charges
2 for locating or recovering foreclosure surplus funds and other
3 unclaimed property; amending RCW 63.30.790; adding new sections to
4 chapter 63.30 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 63.30
7 RCW to read as follows:

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

18 (2) The legislature finds that the practices covered by this
19 section are matters vitally affecting the public interest for the
20 purpose of applying the consumer protection act, chapter 19.86 RCW.
21 Any violation of this section is not reasonable in relation to the

1 development and preservation of business and is an unfair or
2 deceptive act in trade or commerce and an unfair method of
3 competition for the purpose of applying the consumer protection act,
4 chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are
5 cumulative and not exclusive.

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

8 (b) This section applies to all civil actions and proceedings
9 commenced prior to January 1, 2023, in which a claim or cause of
10 action was asserted pursuant to RCW 63.29.350, repealed in section
11 1505, chapter 225, Laws of 2022 and in which the requested remedies
12 are limited to civil remedies. Any such action or proceeding that may
13 have been dismissed as a result of the repeal of former RCW 63.29.350
14 is saved. Upon the motion of a plaintiff in any such action, the
15 court shall reinstate the action and allow the plaintiff to proceed
16 with the action under this section.

17 (c) This section applies to all claims and causes of action based
18 on conduct that occurred prior to January 1, 2023, and that violated
19 former RCW 63.29.350. Any such claim or cause of action that could
20 have been commenced under former RCW 63.29.350 and that has been
21 extinguished by the repeal of RCW 63.29.350 may proceed under this
22 section, provided that it is not barred by any applicable statute of
23 limitations.

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

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

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

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

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

7 (3) An agreement under subsection (1) of this section which
8 provides for compensation in an amount that ~~((is unconscionable))~~
9 exceeds five percent of the value of the property reasonably expected
10 to be recovered is unenforceable ~~((except by the apparent owner. An~~
11 ~~apparent owner that believes the compensation the apparent owner has~~
12 ~~agreed to pay is unconscionable or the administrator, acting on~~
13 ~~behalf of an apparent owner, or both, may file an action in superior~~
14 ~~court to reduce the compensation to the maximum amount that is not~~
15 ~~unconscionable)).~~

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

21 (5) This section does not apply to an apparent owner's agreement
22 with an attorney to pursue a claim for recovery of specifically
23 identified property held by the administrator or to contest the
24 administrator's denial of a claim for recovery of the property.

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