
HOUSE BILL 1845

State of Washington

59th Legislature

2005 Regular Session

By Representatives Orcutt and McIntire; by request of Department of Revenue

Read first time 02/08/2005. Referred to Committee on Finance.

1 AN ACT Relating to unclaimed property; amending RCW 63.29.020,
2 63.29.180, 63.29.190, 63.29.220, 63.29.280, 63.29.350, and 63.29.380;
3 adding a new section to chapter 63.29 RCW; repealing RCW 63.29.033;
4 prescribing penalties; and providing an effective date.

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

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

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

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

1 (3) This chapter does not apply to claims drafts issued by
2 insurance companies representing offers to settle claims unliquidated
3 in amount or settled by subsequent drafts or other means.

4 (4) This chapter does not apply to property covered by chapter
5 63.26 RCW.

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

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

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

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

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

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

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

32 (2) The published notice must be entitled "Notice (~~(of Names of~~
33 ~~Persons Appearing))~~) to (~~(be))~~) Owners of (~~(Abandoned))~~) Unclaimed
34 Property" and contain(~~(÷~~

35 ~~(a) The names in alphabetical order and last known address, if any,~~
36 ~~of persons listed in the report and entitled to notice within the~~
37 ~~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 **Sec. 6.** RCW 63.29.350 and 1983 c 179 s 35 are each amended to read
25 as follows:

26 ~~((It is unlawful for any person to seek or receive from any person
27 or contract with any person for any fee or compensation for locating or
28 purporting to locate any property which he knows has been reported or
29 paid or delivered to the department of revenue pursuant to this chapter
30 in excess of five percent of the value thereof returned to such owner.
31 Any person violating this section is guilty of a misdemeanor and shall
32 be fined not less than the amount of the fee or charge he has sought or
33 received or contracted for, and not more than ten times such amount, or
34 imprisoned for not more than thirty days, or both.))~~

35 (1) An agreement by an owner, the primary purpose of which is to
36 locate, deliver, recover, or assist in the recovery of property that is

1 presumed abandoned, is void and unenforceable if it was entered into
2 during the period commencing on the date the property was presumed
3 abandoned and extending to a time that is twenty-four months after the
4 date the property is paid or delivered to the department. This
5 subsection does not apply to an owner's agreement with an attorney to
6 file a claim as to identified property or to contest the department's
7 denial of a claim.

8 (2) An agreement by an owner, the primary purpose of which is to
9 locate, deliver, recover, or assist in the recovery of property, is
10 enforceable only if the agreement is in writing, clearly sets forth the
11 nature of the property and the services to be rendered, is signed by
12 the apparent owner, and states the value of the property before and
13 after the fee, charge, or other compensation has been deducted.

14 (3) If an agreement covered by this section applies to mineral
15 proceeds and the agreement contains a provision to pay compensation
16 that includes a portion of the underlying minerals or any mineral
17 proceeds not then presumed abandoned, the provision is void and
18 unenforceable.

19 (4) An agreement covered by this section that provides for a fee,
20 charge, or other compensation that exceeds twenty percent of the value
21 of the property returned to the owner is unenforceable except by the
22 owner. An owner who has agreed to pay compensation in excess of twenty
23 percent of the value of the property returned to the owner, or the
24 department on behalf of the owner, may maintain an action to reduce the
25 compensation to an enforceable amount. The court may award reasonable
26 attorneys' fees to an owner who prevails in the action.

27 (5) This section does not preclude an owner from asserting that an
28 agreement covered by this section is invalid on grounds other than
29 excessive compensation.

30 (6) Any person who agrees to locate, deliver, recover, or assist in
31 the recovery of property pursuant to an agreement that is unenforceable
32 under this section is guilty of a misdemeanor and shall be fined not
33 less than the amount of the fee, charge, or other compensation he or
34 she has sought, received, or contracted for, and not more than ten
35 times the amount, or imprisoned for not more than thirty days, or both.

36 **Sec. 7.** RCW 63.29.380 and 1983 c 179 s 39 are each amended to read
37 as follows:

1 Any information or records required to be furnished to the
2 department of revenue as provided in this chapter shall be confidential
3 and shall not be disclosed to any person except the person who
4 furnished the same to the department of revenue, and except as provided
5 in RCW 63.29.180 (~~and~~), 63.29.230, section 8 of this act, or as may
6 be necessary in the proper administration of this chapter.

7 NEW SECTION. Sec. 8. A new section is added to chapter 63.29 RCW
8 to read as follows:

9 (1) The department may enter into contracts to provide private
10 investigators licensed under chapter 18.165 RCW with reported
11 information of apparent owners. This information may be provided
12 electronically or in another medium, in the discretion of the
13 department. Any contract shall provide terms and conditions the
14 department determines are necessary to safeguard the interests of
15 owners and to the proper administration of this chapter.

16 (2) The department shall develop a schedule of user fees for
17 information provided under this section for the purpose of distributing
18 and apportioning the full cost of providing the information and the
19 continued development of the program. Fees received by the department
20 under this section shall be deposited according to RCW 63.29.230.

21 NEW SECTION. Sec. 9. RCW 63.29.033 (Property presumed abandoned--
22 State or subdivision is originator or issuer) and 1992 c 48 s 1 are
23 each repealed.

24 NEW SECTION. Sec. 10. Sections 6 through 8 of this act take
25 effect July 1, 2007.

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