

HOUSE BILL REPORT

HB 1551

As Reported by House Committee On:
Finance

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

Brief Description: Improving the administration of unclaimed property laws.

Sponsors: Representatives Ryu, Haler, Kagi, Gregerson and Wylie; by request of Department of Revenue.

Brief History:

Committee Activity:

Finance: 1/27/15, 2/23/15 [DPS].

Brief Summary of Substitute Bill

- Modifies the administration of the unclaimed property laws.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Fitzgibbon, Manweller, Pollet, Reykdal, Robinson, Ryu, Springer, Stokesbary, Vick, Wilcox and Wylie.

Staff: Richelle Geiger (786-7175).

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 the DOR. A holder who willfully fails to file a report, or deliver property, as required

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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.

The 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 the DOR. With some exceptions, the DOR will sell tangible property that is still unclaimed within five years after it is received. State law requires the DOR to hold stocks, bonds, and other securities for a period of time—usually 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 the 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 the 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 Substitute Bill:

The penalty provisions of the Unclaimed Property Act (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:

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

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

A three year statute of limitation is provided for enforcement action on assessments.

Holders must electronically file reports and electronically pay beginning July 1, 2016. The Department of Revenue (DOR) is authorized to waive this requirement for good cause. Good cause is defined as a circumstance or condition that prevents the holder from electronically filing reports or remitting payments or the DOR determines 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.

The DOR may waive or cancel delinquent penalties and interest under certain circumstances.

All unclaimed amounts and property identified in any assessment issued by the 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 the DOR before the due date of the assessment, only the

uncontested amounts and property must be paid or delivered to the DOR within 30 days of issuance.

A review and appeal process is established, including appeal rights to the Thurston County Superior Court, for assessments or denials for a refund or the return of property.

The 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.

Substitute Bill Compared to Original Bill:

The notification requirement by the Department of Revenue is clarified with respect to a holder filing a deficient application to seek a refund or return of property within the six-year period of limitations.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 8 relating to penalties, which takes effect July 1, 2016, contingent upon a determination by the Department of Revenue that it can implement the section by that date.

Staff Summary of Public Testimony:

(In support) The intent of this bill is to add additional clarity and efficiency in the administration of unclaimed property laws.

Currently, the Department of Revenue (DOR) does not collect the 100 percent penalty because it is punitive. The DOR will collect the more reasonable penalty.

(Opposed) None.

Persons Testifying: Representative Ryu, prime sponsor; and Drew Shirk, Department of Revenue.

Persons Signed In To Testify But Not Testifying: None.