

1 HOUSE BILL NO. 136
2 INTRODUCED BY M. BERTOGLIO
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO UNCLAIMED PROPERTY;
6 PROVIDING DEFINITIONS; ~~PROVIDING WHEN ADDITIONAL CATEGORIES OF PROPERTY ARE~~
7 ~~PRESUMED ABANDONED;~~ AMENDING WHEN CERTAIN CATEGORIES OF PROPERTY ARE PRESUMED
8 ABANDONED; REQUIRING THE HOLDER OF CERTAIN ABANDONED PROPERTY TO LIQUIDATE THE
9 PROPERTY AND REMIT THE PROCEEDS TO THE DEPARTMENT OF REVENUE; PROVIDING FOR AN
10 UNCLAIMED PROPERTY WEBSITE TO BE RUN BY THE DEPARTMENT OF REVENUE; PROVIDING FOR
11 THE CONFIDENTIALITY OF PERSONAL INFORMATION; AND AMENDING SECTIONS ~~70-9-801~~, 70-9-802,
12 70-9-803, 70-9-808, 70-9-809, 70-9-810, 70-9-812, ~~70-9-815~~, 70-9-820, AND 70-9-827, AND 70-9-829, MCA."
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section ~~70-9-801~~, MCA, is amended to read:

17 "~~70-9-801. Short title.~~ This part may be cited as the "Uniform Montana Revised Unclaimed Property
18 Act"."

19
20 **Section 1.** Section 70-9-802, MCA, is amended to read:

21 "**70-9-802. Definitions.** In this part, unless the context requires otherwise, the following definitions
22 apply:

23 (1) "Administrator" means the department of revenue provided for in 2-15-1301.

24 ~~(2) "Administrator's agent" means a person with which the administrator contracts to conduct an~~
25 ~~examination under 70-9-820 on behalf of the administrator. The term includes an independent contractor~~
26 ~~working for the person and each individual participating in the examination on behalf of the person or~~
27 ~~contractor.~~

Amendment - 2nd Reading/2nd House-tan - Requested by: Brad Molnar - (S) Committee of Whole

68th Legislature

Drafter: Jaret Coles, 406-444-4022

HB0136.003.001

1 (2) If the property reported to the administrator is a security or security entitlement under Title 30,
2 chapter 8, ~~the administrator is an appropriate person to make an endorsement, instruction, or entitlement order~~
3 ~~on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities~~
4 ~~intermediary to transfer or dispose of the security or the security entitlement in accordance with Title 30,~~
5 ~~chapter 8 the holder shall liquidate the security within 30 days of filing the report and remit the proceeds in~~
6 ~~United States currency to the administrator. The holder may not sell a security listed on an established stock~~
7 ~~exchange for less than the price prevailing on the established stock exchange at the time of the sale. The~~
8 ~~holder may sell a security not listed on the established stock exchange by any commercially reasonable method~~
9 THE ADMINISTRATOR IS AN APPROPRIATE PERSON TO MAKE AN ENDORSEMENT, INSTRUCTION, OR ENTITLEMENT ORDER
10 ON BEHALF OF THE APPARENT OWNER TO INVOKE THE DUTY OF THE ISSUER OR ITS TRANSFER AGENT OR THE SECURITIES
11 INTERMEDIARY TO TRANSFER OR DISPOSE OF THE SECURITY OR THE SECURITY ENTITLEMENT IN ACCORDANCE WITH
12 TITLE 30, CHAPTER 8.

13 (3) If the property reported to the administrator is a virtual currency, the holder shall liquidate the
14 virtual currency within 30 days of filing the report and remit the proceeds in United States currency to the
15 administrator. The holder may not sell a virtual currency for less than the price prevailing on an established
16 virtual currency exchange at the time of the sale. The holder may sell a virtual currency not listed on an
17 established virtual currency exchange by any commercially reasonable method. PRIOR TO SELLING A VIRTUAL
18 CURRENCY, THE HOLDER SHALL SEND WRITTEN NOTICE TO THE APPARENT OWNER NOT LESS THAN 60 DAYS BEFORE THE
19 SALE THAT THE VIRTUAL CURRENCY WILL BE LIQUIDATED.

20 (3) ~~If the holder of property reported to the administrator is the issuer of a certificated security, the~~
21 ~~administrator has the right to obtain a replacement certificate pursuant to 30-8-415, but an indemnity bond is~~
22 ~~not required.~~

23 (4) An issuer, the holder, and any transfer agent or other person acting pursuant to the instructions
24 of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and
25 must be indemnified against claims of any person in accordance with 70-9-811."

26

27 **Section 5.** Section 70-9-810, MCA, is amended to read:

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1 **"70-9-810. Notice and publication of lists of abandoned property -- search of public records. (1)**

2 ~~The administrator shall publish a notice not later than November 30 of the year following the year in which~~
3 ~~abandoned property has been paid or delivered to the administrator. The notice must be published in a~~
4 ~~newspaper of general circulation in the county of this state in which is located the last known address of any~~
5 ~~person named in the notice. If a holder does not report an address for the apparent owner or the address is~~
6 ~~outside this state, the notice must be published in the county in which the holder has its principal place of~~
7 ~~business within this state or another county that the administrator reasonably selects. The advertisement must~~
8 ~~be in a form that, in the judgment of the administrator, is likely to attract the attention of the apparent owner of~~
9 ~~the unclaimed property. THE ADMINISTRATOR SHALL PUBLISH EVERY 3 MONTHS IN AT LEAST ONE NEWSPAPER OF~~
10 ~~GENERAL CIRCULATION IN EACH COUNTY IN THIS STATE IN WHICH A NEWSPAPER IS PUBLISHED AN ADVERTISEMENT OF~~
11 ~~PROPERTY HELD BY THE ADMINISTRATOR THAT:~~

12 (A) DIRECTS THE PUBLIC TO THE ADMINISTRATOR'S UNCLAIMED PROPERTY WEBSITE PROVIDED IN
13 SUBSECTION (2);

14 (B) INCLUDES A TELEPHONE NUMBER AND ELECTRONIC MAIL ADDRESS TO CONTACT THE ADMINISTRATOR
15 TO INQUIRE ABOUT OR CLAIM PROPERTY; AND

16 (C) INCLUDES A STATEMENT THAT A PERSON MAY ACCESS THE INTERNET BY A COMPUTER TO SEARCH FOR
17 UNCLAIMED PROPERTY AND A COMPUTER MAY BE AVAILABLE AS A SERVICE TO THE PUBLIC AT A LOCAL PUBLIC LIBRARY.

18 (2) The administrator shall maintain an unclaimed property website that can be accessed and is
19 easily searchable by the public. The form website must contain:

20 (a) the name of each person appearing to be the owner of the property, as set forth in the report
21 filed by the holder;

22 (b) the last-known address or location of each person appearing to be the owner of the property, if
23 an address or location is set forth in the report filed by the holder;

24 (c) a statement explaining that property of the owner is presumed to be abandoned and has been
25 taken into the protective custody of the administrator; and

26 (d) a statement that information about the property and its return to the owner is available to a
27 person having a legal or beneficial interest in the property, upon request to the administrator.

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1 ~~(3) The administrator shall use available resources and at least one existing full-time equivalent~~
2 ~~employee to attempt to contact the rightful owner of the property or a relative of the rightful owner of the~~
3 ~~property by reviewing relevant and easily obtainable state records and the search results from a commercial~~
4 ~~internet-based comprehensive search of public records using the owner of the property as the search term.~~

5 ~~(2) The administrator is not required to advertise the name and address or location of an owner of~~
6 ~~property having a total value less than \$50 or information concerning a traveler's check, money order, or similar~~
7 ~~instrument."~~

8
9 **Section 6.** Section 70-9-812, MCA, is amended to read:

10 **"70-9-812. Public sale of abandoned property.** (1) Except as otherwise provided in this section, the
11 administrator, within 3 years after the receipt of abandoned property, shall sell it to the highest bidder at public
12 sale at a location in the state, which in the judgment of the administrator affords the most favorable market for
13 the property. The administrator may decline the highest bid and reoffer the property for sale if the administrator
14 considers the bid to be insufficient. The administrator need not offer the property for sale if the administrator
15 considers that the probable cost of sale will exceed the proceeds of the sale. A sale held under this section
16 must be preceded by a single publication of notice, at least 3 weeks before sale, in a newspaper of general
17 circulation in the county in which the property is to be sold on the unclaimed property website maintained by the
18 administrator.

19 ~~(2) Securities listed on an established stock exchange must be sold at prices prevailing on the~~
20 ~~exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of~~
21 ~~sale or by any reasonable method selected by the administrator. If securities are sold by the administrator~~
22 ~~before the expiration of 3 years after their delivery to the administrator, a person making a claim under this part~~
23 ~~before the end of the 3-year period is entitled to the proceeds of the sale of the securities or the market value of~~
24 ~~the securities at the time the claim is made, whichever is greater, plus dividends, interest, and other increments~~
25 ~~up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this~~
26 ~~part after the expiration of the 3-year period is entitled to receive the securities delivered to the administrator by~~
27 ~~the holder, if they still remain in the custody of the administrator, or the net proceeds received from sale and is~~