

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."

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

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"."

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.~~

28 ~~(2)(3)(2)~~ "Apparent owner" means a person whose name appears on the records of a holder as

1 must be indemnified against claims of any person in accordance with 70-9-811."

2

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

4 **"70-9-810. Notice and publication of lists of abandoned property -- search of public records.** (1)

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

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

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

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

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

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

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

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

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

3 (3) The administrator shall attempt to make contact with a person appearing to be the owner of the
4 property or a relative of the owner of the property by reviewing the following records:

5 (a) official state records, including death certificates, driver's licenses, hunting licenses, fishing
6 licenses, and marriage certificates;

7 (b) any relevant and easily obtainable state records that are not confidential; and

8 (c) the search results from a commercial internet-based comprehensive search of public records
9 using the owner of the property as the search term.

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

13

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

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

24 ~~(2) Securities listed on an established stock exchange must be sold at prices prevailing on the~~
25 ~~exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of~~
26 ~~sale or by any reasonable method selected by the administrator. If securities are sold by the administrator~~
27 ~~before the expiration of 3 years after their delivery to the administrator, a person making a claim under this part~~
28 ~~before the end of the 3-year period is entitled to the proceeds of the sale of the securities or the market value of~~

1 (a) except as provided in subsection (1)(b), the date a second consecutive communication sent by
2 the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the
3 United States postal service; or

4 (b) if the second communication is sent later than 30 days after the date the first communication is
5 returned to the holder undelivered by the United States postal service, the date the first communication was
6 returned to the holder undelivered by the United States postal service.

7 (2) If the holder does not send communications to the apparent owner of a security by first-class
8 United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending
9 the apparent owner an electronic mail communication not later than 2 years after the apparent owner's last
10 indication of interest in the security. However, the holder shall promptly attempt to contact the apparent owner
11 by first-class United States mail if:

12 (a) the holder does not have the information needed to send the apparent owner an electronic mail
13 communication or the holder believes that the apparent owner's electronic mail address in the holder's records
14 is invalid;

15 (b) the holder receives notification that the electronic mail communication was not received; or

16 (c) the apparent owner does not respond to the electronic mail communication within 30 days after
17 the communication was sent.

18 (3) If first-class United States mail sent under subsection (2) is returned to the holder undelivered
19 by the United States postal service, the security is presumed abandoned 3 years after the date the mail is
20 returned.

21
22 NEW SECTION. Section 11. Codification instruction. [~~Sections 12 through 15~~ SECTION 10] are IS
23 intended to be codified as an integral part of Title 70, chapter 9, part 8, and the provisions of Title 70, chapter 9,
24 part 8, apply to [~~sections 12 through 15~~ SECTION 10].

25
26 NEW SECTION. Section 12. Legislative intent for search of records. It is the intent of the
27 legislature that the administrator implements the provisions of 70-9-810(3) to find a person appearing to be the
28 owner of the property or a relative of the owner within existing resources.