

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 680

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE UNCLAIMED PROPERTY LAW; AMENDING SECTION 14-501, IDAHO CODE,
2 TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
3 SECTION 14-518, IDAHO CODE, TO PROVIDE FOR NOTICE AND PUBLICATION
4 OF LISTS OF ABANDONED PROPERTY TO BE ON A WEBSITE MAINTAINED BY THE
5 STATE TREASURER; AMENDING SECTION 14-523, IDAHO CODE, TO PROVIDE FOR
6 DISPOSITION OF MONEY RECEIVED BY THE STATE TREASURER; AMENDING SECTION
7 14-532, IDAHO CODE, TO PROVIDE TO THE STATE TREASURER POWERS, DUTIES AND
8 ADMINISTRATIVE RULEMAKING AUTHORITY RELATED TO UNCLAIMED PROPERTY LAW
9 FORMERLY GRANTED TO THE STATE TAX COMMISSION; AMENDING SECTION 14-534,
10 IDAHO CODE, TO PROVIDE FOR THE STATE TREASURER TO DELIVER CERTAIN
11 PROPERTY TO THE STATE HISTORICAL SOCIETY; AMENDING CHAPTER 30, TITLE
12 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3077E, IDAHO CODE,
13 TO PROVIDE FOR AGREEMENTS FOR EXCHANGE OF INFORMATION BETWEEN THE STATE
14 TAX COMMISSION AND THE STATE TREASURER FOR ADMINISTERING THE UNCLAIMED
15 PROPERTY ACT; AND PROVIDING AN EFFECTIVE DATE, PROVIDING FOR TRANSFER
16 OF CERTAIN TANGIBLE PERSONAL PROPERTIES OF THE STATE TAX COMMISSION FOR
17 ADMINISTERING THE UNCLAIMED PROPERTY LAW TO THE STATE TREASURER AND TO
18 PROVIDE FOR THE TRANSFER AND EMPLOYMENT STATUS OF THOSE EMPLOYEES.
19

20 Be It Enacted by the Legislature of the State of Idaho:

21 SECTION 1. That Section 14-501, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 14-501. DEFINITIONS AND USE OF TERMS. As used in this chapter:

24 (1) "Administrator" means the state ~~tax commission~~ treasurer or ~~its~~ his
25 or her duly authorized agents or employees.

26 (2) "Apparent owner" means the person whose name appears on the records
27 of the holder as the person entitled to property held, issued, or owing by the
28 holder.

29 (3) "Attorney general" means the chief legal officer of this state.

30 (4) "Banking organization" means a bank, trust company, savings bank,
31 industrial bank, land bank, safe deposit company, private banker, or any or-
32 ganization defined by other law as a bank or banking organization.

33 (5) "Business association" means a nonpublic corporation, limited li-
34 ability company, joint stock company, investment company, business trust,
35 partnership, or association for business purposes of two (2) or more indi-
36 viduals, whether or not for profit, including, but not limited to, a banking
37 organization, financial organization, insurance company, or utility.

38 (6) "Domicile" means the state of incorporation of a corporation and
39 the state of the principal place of business of an unincorporated person.

40 (7) "Financial organization" means a savings and loan association,
41 cooperative bank, building and loan association, investment company, or
42 credit union.

- 1 (8) "Holder" means a person, wherever organized or domiciled, who is:
2 (a) In possession of property belonging to another;
3 (b) A trustee; or
4 (c) Indebted to another on an obligation.
- 5 (9) "Insurance company" means an association, corporation, fraternal
6 or mutual benefit organization, whether or not for profit, which is
7 engaged in providing insurance coverage, including accident, burial, casualty,
8 credit life, contract performance, dental, fidelity, fire, health,
9 hospitalization, illness, life, including endowments and annuities, malpractice,
10 marine, mortgage, surety, and wage protection insurance.
- 11 (10) "Intangible property" includes:
12 (a) ~~Monies~~ Moneys, checks, drafts, deposits, interest, dividends, and
13 income;
14 (b) Credit balances, customer overpayments, gift certificates, security
15 deposits, refunds, credit memos, unpaid wages, unused airline
16 tickets, and unidentified remittances;
17 (c) Stocks and other intangible ownership interests in business associations;
18 (d) Amounts paid for tickets, passes or vouchers to gain entrance to
19 a scheduled event where the scheduled event was ~~cancelled~~ canceled and
20 not rescheduled, and the owner of the tickets, passes or vouchers is entitled
21 to a refund in cash, services or merchandise;
22 (e) ~~Monies~~ Moneys deposited to redeem stocks, bonds, coupons, and other
23 securities, or to make distributions;
24 (f) Amounts due and payable under the terms of insurance policies;
25 (g) Amounts distributable from a trust or custodial fund established
26 under a plan to provide health, welfare, pension, vacation, severance,
27 retirement, death, stock purchase, profit sharing, employee savings,
28 supplemental unemployment insurance, or similar benefits; and
29 (h) Any interest created by a judgment entered in any court of competent
30 jurisdiction in favor of persons who are members of a class of persons
31 defined by the court entering the judgment.
- 32 (11) "Last known address" means a description of the location of the apparent
33 owner sufficient for the purpose of the delivery of mail.
- 34 (12) "Owner" means a depositor in the case of a deposit, a beneficiary in
35 case of a trust other than a deposit in trust, a creditor, claimant, or payee
36 in the case of other intangible property, or a person having a legal or equitable
37 interest in property subject to this act or his legal representative.
- 38 (13) "Person" means an individual, business association, state or other
39 government, governmental subdivision or agency, public corporation, public
40 authority, estate, trust, two (2) or more persons having a joint or common
41 interest, or any other legal or commercial entity.
- 42 (14) "State" means any state, district, commonwealth, territory, insular
43 possession, or any other area subject to the legislative authority of the
44 United States.
- 45 (15) "Utility" means a person who owns or operates for public use any
46 plant, equipment, property, franchise, or license for the transmission of
47 communications or the production, storage, transmission, sale, delivery, or
48 furnishing of electricity, water, steam, or gas.
49

1 SECTION 2. That Section 14-518, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 14-518. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY. (1) The
4 administrator shall establish, maintain and update at least quarterly a cur-
5 rent list of all reported owners of abandoned property on a website that is
6 connected to or that may be accessed from the website maintained by the state
7 ~~tax commission~~ treasurer. At least one (1) week before each quarterly web-
8 site posting of such list, the administrator shall publish a notice in the
9 official newspaper of each Idaho county stating when and where the quarterly
10 website listing of Idaho abandoned property will be accessible to citizens.
11 Provided however, the names and addresses of owners located in a state which
12 will receive the accounts because of reciprocal agreements as permitted by
13 section 14-535, Idaho Code, need not be listed.

14 (2) The list maintained by the administrator must contain:

15 (a) The names, in alphabetical order, of persons listed in any report of
16 abandoned property filed with the administrator and entitled to notice;

17 (b) A statement that information concerning the property may be
18 obtained by any person possessing an interest in the property by ad-
19 dressing an inquiry to the administrator;

20 (c) A statement that the property is in the custody of the administrator
21 and all claims must be directed to the administrator; and

22 (d) A statement that the property shall escheat to the state of Idaho
23 and become the property of the state of Idaho if not claimed within ten
24 (10) years after it is received by the administrator.

25 (3) The administrator is not required to list any items of less than one
26 hundred dollars (\$100) unless the administrator considers the inclusion of
27 such property in the list to be in the public interest.

28 (4) This section is not applicable to sums payable on traveler's
29 checks, money orders, and other written instruments presumed abandoned
30 under section 14-504, Idaho Code.

31 SECTION 3. That Section 14-523, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 14-523. DISPOSITION OF MONEY RECEIVED. (1) All money received under
34 this chapter, including the proceeds from the sale of property under section
35 14-522, Idaho Code, shall be deposited in the unclaimed property account.

36 (2) An amount equal to the funds received from unclaimed shares and
37 dividends of any corporation incorporated under the laws of the state of
38 Idaho shall be transferred from the unclaimed property account to the public
39 school permanent endowment fund created pursuant to section 4, article
40 IX, of the constitution of the state of Idaho. In the event that any funds
41 are required to refund any funds deposited in the public school permanent
42 endowment fund under this section or under section 14-113 or 15-3-914, Idaho
43 Code, the state ~~tax commission~~ treasurer shall offset the amount of such
44 refund against future transfers to the public school permanent endowment
45 fund. In the event that in one (1) fiscal year there are insufficient amounts
46 to effect the offset, the balance shall be recaptured from the public school
47 earnings reserve fund established under section 33-902A, Idaho Code.

1 (3) All other money in the unclaimed property account is hereby contin-
 2 uously appropriated to the state ~~tax commission~~ treasurer, without regard to
 3 fiscal years, for expenditure in accordance with law in carrying out and en-
 4 forcing the provisions of this chapter, including, but not limited to, the
 5 following purposes:

6 (a) For payment of claims allowed by the state ~~tax commission~~ treasurer
 7 under the provisions of this chapter.

8 (b) For refund, to the person making such deposit of amounts, including
 9 overpayments, deposited in error in such account.

10 (c) For payment of the cost of appraisals incurred by the state ~~tax com-~~
 11 ~~mission~~ treasurer covering property held in the name of the account.

12 (d) For payment of the cost incurred by the state ~~tax commission~~
 13 treasurer for the purchase of lost instrument indemnity bonds, or for
 14 payment to the person entitled thereto, for any unpaid lawful charges
 15 or costs which arose from holding any specific property or any specific
 16 funds which were delivered or paid to the state ~~tax commission~~ treas-
 17 urer, or which arose from complying with this chapter with respect to
 18 such property or funds.

19 (e) For payment of amounts required to be paid by the state as trustee,
 20 bailee, or successor in interest to the preceding owner.

21 (f) For payment of costs of official advertising in connection with the
 22 sale of property held in the name of the account.

23 (g) For transfer to the general fund as provided in subsection (4) of
 24 this section.

25 (h) For transfer to the inheritance tax account of the amount of any
 26 inheritance taxes determined to be due and payable to the state by any
 27 claimant with respect to any property claimed by him under the provi-
 28 sions of this chapter.

29 (4) At the end of each month, or more often, if ~~it~~ he or she deems it ad-
 30 visable, the state ~~tax commission~~ treasurer shall transfer all money in the
 31 unclaimed property account in excess of two hundred fifty thousand dollars
 32 (\$250,000) to the general fund. Within sixty (60) days of making this trans-
 33 fer, ~~it~~ he or she shall record the name and last known address, if available,
 34 of each person appearing from the holder's report to be entitled to the prop-
 35 erty. The record shall be available for public inspection at all reasonable
 36 business hours.

37 (5) All money received under this chapter, including the proceeds from
 38 the sale of property under section 14-522, Idaho Code, deposited in the gen-
 39 eral fund shall be retained by the state of Idaho for the purposes of this
 40 section and administered pursuant to this section for a period of ten (10)
 41 years. At the end of such period, those moneys which have not been claimed
 42 and paid over or delivered as an allowed claim under this section and section
 43 14-524, Idaho Code, shall become due and payable by escheat to the state of
 44 Idaho and become the property of the state of Idaho without further action on
 45 the part of the administrator.

46 SECTION 4. That Section 14-532, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

48 14-532. ENFORCEMENT -- ACTIONS TO ENFORCE UNCLAIMED PROPERTY LAW
 49 -- ADMINISTRATIVE RULES. (1) The collection and enforcement procedures

1 provided by the Idaho income tax act, sections 63-3038, 63-3039, and 63-3042
 2 through 63-3065A, Idaho Code, but excluding subsection (6) of section
 3 63-3045, Idaho Code, shall apply and be available to the state ~~tax commission~~
 4 treasurer for enforcement of the provisions of this chapter and collection
 5 of any property required to be transferred shall be treated in the same
 6 manner as taxes due the state of Idaho, and wherever liens or any other
 7 proceedings are defined as income tax liens or proceedings, they shall, when
 8 applied in enforcement of this chapter, be described as unclaimed property
 9 liens and proceedings.

10 (2) The powers and duties held by the state tax commission on June 30,
 11 2010, pursuant to the provisions of subsection (1) of this section, shall
 12 for the purposes of this chapter and for the administration of the unclaimed
 13 property, be deemed to be powers and duties of the state treasurer on and af-
 14 ter July 1, 2010.

15 (3) The administrative rules of the state tax commission in effect on
 16 June 30, 2010, for administering the provisions of this chapter shall re-
 17 main in force and effect as if promulgated by the state treasurer until new
 18 rules are promulgated by the state treasurer and become effective pursuant
 19 to the provisions of section 67-5224, Idaho Code, at which time rules promul-
 20 gated by the state tax commission shall be deemed repealed. The state trea-
 21 surer shall have the power to promulgate administrative rules to implement
 22 the provisions of this chapter in compliance with chapter 52, title 67, Idaho
 23 Code.

24 SECTION 5. That Section 14-534, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 14-534. STATE HISTORICAL SOCIETY USE OF PROPERTY. The director of the
 27 state historical society may examine any tangible personal property deliv-
 28 ered to the state ~~tax commission~~ treasurer under this chapter for purposes of
 29 determining whether such property is of sufficient historical value that it
 30 should be preserved. If he so determines, the state ~~tax commission~~ treasurer
 31 may deliver such property to the state historical society for preservation
 32 and display, until such time as the owner shall make claim for return of such
 33 property.

34 SECTION 6. That Chapter 30, Title 63, Idaho Code, be, and the same is
 35 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 36 ignated as Section 63-3077E, Idaho Code, and to read as follows:

37 63-3077E. AGREEMENTS FOR EXCHANGE OF INFORMATION WITH THE STATE
 38 TREASURER. The state tax commission and the state treasurer may enter into
 39 a written agreement for exchange of information relating to persons, firms,
 40 corporations, partnerships or associations who are or may be conducting
 41 business operations in this state or who may be the owners of unclaimed
 42 property reported to the state treasurer. Such information shall be confi-
 43 dential to the recipient and may be used only for purposes of administering
 44 the provisions of the unclaimed property act in chapter 5, title 14, Idaho
 45 Code. No such information shall be public information unless it is used in
 46 the course of a judicial proceeding arising under the laws of this state. The
 47 information provided by the tax commission may include the following:

1 (1) Names of and current addresses of businesses within this state.

2 (2) The names and current addresses of individuals or entities identi-
3 fied as owners or potential owners of unclaimed property in the custody of
4 the state treasurer.

5 SECTION 7. This act shall be in full force and effect on and after July
6 1, 2010. All employees employed by the State Tax Commission on June 30, 2010,
7 in administering the State Unclaimed Property Law, and all tangible personal
8 property of the State Tax Commission for those employees used in administer-
9 ing the Unclaimed Property Law shall be transferred to the State Treasurer on
10 July 1, 2010. Any employee who is a classified employee pursuant to chapter
11 53, title 67, Idaho Code, of the State Tax Commission and who is transferred
12 to the State Treasurer may remain a classified employee if he or she chooses
13 until such employee terminates, resigns or leaves the current position he or
14 she holds. At that time, the position shall become a nonclassified position
15 pursuant to chapter 16, title 59, Idaho Code.