

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 385

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO UNCLAIMED PROPERTY; AMENDING SECTION 14-113, IDAHO CODE, TO ALLOW THE ADMINISTRATOR A PERIOD OF FIVE YEARS PRIOR TO TURNING PROPERTY OVER TO THE PUBLIC SCHOOL ENDOWMENT FUND; AMENDING SECTION 14-517, IDAHO CODE, TO REQUIRE HOLDERS REPORTING TEN OR MORE PROPERTIES TO REPORT IN A FORMAT REQUIRED BY THE ADMINISTRATOR AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 14-522, IDAHO CODE, TO ALLOW THE ADMINISTRATOR DISCRETION TO SELL ABANDONED PROPERTY WITHIN THREE YEARS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 14-533, IDAHO CODE, TO ALLOW THE ADMINISTRATOR TO WAIVE PENALTIES AND INTEREST IN CERTAIN CASES.

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

SECTION 1. That Section 14-113, Idaho Code, be, and the same is hereby amended to read as follows:

14-113. UNCLAIMED MONEYS -- PAYMENT INTO PUBLIC SCHOOL PERMANENT ENDOWMENT FUND -- ESCHEAT. After a final settlement of the affairs of any estate, if there be no heirs or other claimants thereof, the administrator ~~must pay into the state tax commission any and all moneys and effects which~~ shall submit a report of abandoned property required under section 14-517, Idaho Code, and proceed to dispose of the property in a manner set forth in the uniform unclaimed property act in chapter 5, title 14, Idaho Code, provided that in the event no person appears to claim such property within one thousand eight hundred twenty-seven (1,827) days, approximately five (5) years from the date the property should have been reported, the money or property so deposited shall accrue and be transferred to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho.

SECTION 2. That Section 14-517, Idaho Code, be, and the same is hereby amended to read as follows:

14-517. REPORT OF ABANDONED PROPERTY. (1) A person holding property tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter, shall report to the administrator concerning the property as provided in this section.

(2) The report must be verified and must include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property presumed abandoned under this chapter;

(b) In the case of unclaimed funds of more than fifty dollars (\$50.00) held or owing under any life or endowment insurance policy or annuity

1 contract, the full name and last known address of the insured or
2 annuitant and of the beneficiary according to the records of the
3 insurance company holding or owing the funds;

4 (c) In the case of the contents of a safe deposit box or other
5 safekeeping repository or of other tangible property, a description of
6 the property and the place where it is held and may be inspected by the
7 administrator and any amounts owing to the holder;

8 (d) The nature and identifying number, if any, or description of the
9 property and the amount appearing from the records to be due;

10 (e) The date the property became payable, demandable, or returnable,
11 and the date of the last transaction with the apparent owner with
12 respect to the property; and

13 (f) Other information the administrator prescribes by rule as
14 necessary for the administration of the provisions of this chapter.

15 (3) If the person holding property presumed abandoned and subject to
16 custody as unclaimed property is a successor to other persons who previously
17 held the property for the apparent owner or the holder has changed his name
18 while holding the property, he shall file with his report all known names and
19 addresses of each previous holder of the property.

20 (4) The report must be filed no later than November 1 of each year as of
21 June 30 next preceding. On written request by any person required to file a
22 report, the administrator may postpone the reporting date.

23 (5) All holders of property presumed abandoned under this section that
24 know the whereabouts of the owner of such property shall, before filing
25 the annual report, communicate with the owner and take necessary steps to
26 prevent abandonment from being presumed. Not more than one hundred twenty
27 (120) days before filing the report required by this section, the holder
28 in possession of property presumed abandoned and subject to custody as
29 unclaimed property under this chapter shall send written notice to the
30 apparent owner at his last known address informing him that the holder is
31 in possession of property subject to this chapter if the holder has in its
32 records an address for the apparent owner which the holder's records do not
33 disclose to be inaccurate.

34 (6) The written notice required under this section shall include the
35 name and address of the apparent owner, the nature and amount of the property
36 presumed abandoned in the holder's possession, the name and address of the
37 holder of the property presumed abandoned, a request that the apparent owner
38 identify whether the property presumed abandoned is or is not unclaimed
39 property under this chapter, and the reasons therefor, and any other
40 criteria the administrator deems appropriate.

41 (7) If the apparent owner completes and returns the written notice
42 described in subsection (6) of this section to the holder, and the apparent
43 owner indicates a claim to the property presumed abandoned or indicates that
44 the property identified in the written notice is not abandoned property, the
45 holder need not pay or deliver the property to the administrator, and the
46 property shall not be considered abandoned.

47 (8) In the event a holder receives a written notice as described in
48 subsection (7) of this section demonstrating that certain property is not
49 abandoned, a new presumption of abandonment may arise for such property due
50 to the passage of time. The date the holder receives the written notice shall

1 be deemed the date such property became payable or distributable for the
2 purposes of calculating whether a presumption of abandonment has arisen.

3 (9) A report filed pursuant to this section shall be presumed accurate
4 if the holder has maintained adequate records sufficient to establish by
5 a preponderance of evidence that each item on the report is accurate and
6 correct.

7 (10) Any person or holder in possession of ten (10) or more items of
8 unclaimed property must submit an accurate electronic report in the format
9 prescribed by the administrator.

10 SECTION 3. That Section 14-522, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 14-522. PUBLIC SALE OF ABANDONED PROPERTY. (1) The administrator may,
13 within three (3) years after the receipt of abandoned property, ~~shall~~ sell
14 it to the highest bidder at public sale in whatever city affords, in the
15 judgment of the administrator, the most favorable market for the property
16 involved. The administrator may decline the highest bid and reoffer the
17 property for sale if in the judgment of the administrator, the bid is
18 insufficient. If in the judgment of the administrator, the probable cost
19 of sale exceeds the value of the property, it need not be offered for sale.
20 Any sale held under this section must be preceded by a single publication of
21 notice, at least three (3) weeks in advance of sale, in a newspaper of general
22 circulation in the county in which the property is to be sold.

23 (2) Securities listed on an established stock exchange must be sold at
24 prices prevailing at the time of sale on the exchange. Other securities may
25 be sold over the counter at prices prevailing at the time of sale or by any
26 other method the administrator considers advisable.

27 (3) A person making a claim under this chapter is entitled to receive
28 either the securities delivered to the administrator by the holder, if they
29 still remain in the hands of the administrator, or the proceeds received
30 from the sale, less any amounts deducted pursuant to section 14-523(3),
31 Idaho Code, but no person has any claim under this chapter against the state,
32 the holder, any transfer agent, registrar, or other person acting for or
33 on behalf of a holder for any appreciation in the value of the property
34 occurring after delivery by the holder to the administrator.

35 (4) The purchaser of property at any sale conducted by the
36 administrator pursuant to this chapter takes the property free of all claims
37 of the owner or previous holder thereof and of all persons claiming through
38 or under them. The administrator shall execute all documents necessary to
39 complete the transfer of ownership.

40 SECTION 4. That Section 14-533, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 14-533. INTEREST AND PENALTIES. (1) Upon the administrator's showing
43 by a preponderance of evidence that a holder has failed to pay or deliver
44 property within the time prescribed in this chapter, the holder shall pay to
45 the administrator interest at the annual rate of twelve percent (12%) on the
46 property or value thereof from the date the property should have been paid or
47 delivered until actual delivery is made.

1 (2) Upon the administrator's showing by a preponderance of evidence
2 that a holder has negligently failed to pay or deliver property within the
3 time prescribed in this chapter, the holder shall pay to the administrator
4 a penalty at the annual rate of five percent (5%) on the property or value
5 thereof from the date the property should have been paid or delivered until
6 actual delivery is made unless the holder demonstrates to the satisfaction
7 of the administrator that the failure was due to reasonable cause and not
8 neglect.

9 (3) A holder who willfully refuses after written demand by the
10 administrator to pay or deliver property as required under this chapter
11 shall be guilty of a misdemeanor and upon conviction may be punished by a fine
12 of not less than three hundred dollars (\$300) nor ~~by~~ more than three thousand
13 dollars (\$3,000).

14 (4) Upon a showing that a holder of property presumed to be abandoned
15 or unclaimed has acted in good faith and without negligence to comply
16 with the accurate reporting requirements of section 14-517, Idaho Code,
17 the administrator may waive, in whole or in part, interest pursuant to
18 subsection (1) of this section and penalties pursuant to subsection (2) of
19 this section.