Senate Engrossed House Bill

appropriation; Mohave county substations
(now: unclaimed property; information; registration)

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2623

AN ACT

AMENDING SECTIONS 44-315 AND 44-327, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-327.01; RELATING TO UNCLAIMED PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 44-315, Arizona Revised Statutes, is amended to read:

44-315. Confidentiality; violation; classification; definitions

A. The department may disclose confidential information relating to an item of property to the claimant or relating to reports of abandoned property to the holder, a successor in interest to the claimant or holder or a designee of the claimant or holder who is authorized in writing by the claimant or holder.

B. The department also may disclose confidential information to:

1. Any employee of the department whose official duties involve tax or unclaimed property administration.

2. The office of the attorney general for its use in providing counsel relating to unclaimed property administration or in preparation for any proceeding involving unclaimed property before the department or any other agency or board of this state or before any grand jury or any state or federal court.

3. Pursuant to a written agreement between the department and another state or an organization of states that operates an information exchange for unclaimed property administration purposes, a state unclaimed property official from the other state if the other state or organization grants substantially similar privileges to the department for the same type of information.

4. The auditor general, in connection with any audit of the department subject to the restrictions in section 42-2002, subsection D.

5. Any person to the extent necessary for effective unclaimed property administration in connection with the processing, storage, transmission and reproduction of the information and the programming, maintenance, repair, testing and procurement of equipment for purposes of unclaimed property administration.

6. A LOCATOR THAT IS REGISTERED WITH THE DEPARTMENT PURSUANT TO SECTION 44-327.01.

C. Except as provided in section 42-2002, subsection D, the department may disclose confidential information in any state or federal judicial or administrative proceeding relating to unclaimed property administration if:

1. The claimant or holder is a party to the proceeding.

2. The treatment of an item reflected in the information is directly related to the resolution of an issue in the proceeding.

3. The information directly relates to a transactional relationship between a person who is a party to the proceeding and the claimant or holder and the information directly affects the resolution of an issue in the proceeding.
D. The department may disclose identity information for purposes of notifying persons who appear to be entitled to unclaimed property in the manner described in section SECTIONS 44-309 AND 44-327.01.

E. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to a claimant or holder.

F. A court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only on a showing of good cause and that the party who seeks the information has demanded the information from the claimant or holder.

G. If the department is required or permitted to disclose confidential information, it may charge the person or agency that requests the information for the reasonable cost of the department’s services.

H. A disclosure of confidential information in violation of this section is a class 1 misdemeanor. A knowing disclosure of confidential information in violation of this section is a class 6 felony.

I. The provisions of this section apply to independent auditors hired by the department to enforce the provisions of this chapter and chapter 3.1 of this title.

J. A person, including a former employee, agent or independent auditor of the department or office of administrative hearings or a person previously having an administrative duty for the department or the office of administrative hearings, who has received confidential information while an employee, agent or independent auditor of the department or the office of administrative hearings, shall not disclose that information except as provided in this section.

K. For the purposes of this section:
   1. "Claimant" means a person or entity that claims to have a property interest in the item of property that is presumed abandoned pursuant to this chapter.
   2. "Confidential information" includes:
      (a) Reports filed by holders of property presumed abandoned under this chapter, a claimant’s application and documents submitted to support a claim and information discovered by the department concerning claims, and claimants, holder reports or holders. Confidential information also includes information supplied at the special request of the department which the claimant or holder requests to be held confidential, whether a holder or report was, is being or will be subject to examination, investigation or collection and data received by, recorded by, prepared by, furnished to or collected by the department with respect to the existence or possible existence of a liability of any holder for unclaimed property.
Sec. 2. Section 44-327, Arizona Revised Statutes, is amended to read:

44-327. Agreement to recover property
A. The following are void and unenforceable:
   1. A. An agreement TO RECOVER PROPERTY THAT IS entered into by an owner CLAIMANT with another person if the primary purpose of that agreement is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned, if the agreement was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is twenty-four months after the date that the property is paid or delivered to the department. This paragraph does not apply to an owner’s agreement with an attorney to file a claim relating to identified property or to contest the department’s denial of a claim. IS ENFORCEABLE IF ALL OF THE FOLLOWING APPLY:
      1. THE AGREEMENT IS IN WRITING IN AT LEAST TEN-POINT TYPE.
      2. THE AGREEMENT LISTS THE UNCLAIMED PROPERTY ACCOUNT NUMBERS BEING CLAIMED.
      3. THE AGREEMENT DESCRIBES THE SERVICES TO BE PERFORMED.
      4. THE AGREEMENT IS SIGNED BY THE CLAIMANT.
      5. THE AGREEMENT STATES THE VALUE OF THE PROPERTY, IF AVAILABLE, BEFORE AND AFTER THE FEE OR OTHER COMPENSATION IS DEDUCTED.
   B. THE FEE OR PAYMENT AGREED ON MAY NOT BE MORE THAN TWENTY PERCENT OF THE VALUE OF THE RECOVERABLE PROPERTY THAT IS REPORTED TO THE DEPARTMENT. THIS SUBSECTION DOES NOT APPLY TO RECOVERY OF ACCOUNTS THAT REQUIRE JUDICIAL DETERMINATION OF OWNERSHIP TO ESTABLISH ENTITLEMENT.
   C. A provision in an agreement that requires an owner CLAIMANT to pay compensation that includes a portion of mineral proceeds that are not presumed abandoned or the underlying minerals, if the primary purpose of the agreement is to locate, deliver, recover or assist in the recovery of mineral proceeds that are presumed abandoned, IS VOID.
   D. If an owner enters into an agreement that is not void pursuant to this section and the primary purpose of that agreement is to locate, deliver, recover or assist in the recovery of property reported to the department, the agreement is:
      2. D. AN AGREEMENT THAT IS SUBJECT TO SUBSECTION B OF THIS SECTION IS UNENFORCEABLE EXCEPT BY THE OWNER CLAIMANT IF THE AGREEMENT PROVIDES FOR COMPENSATION THAT IS MORE THAN THIRTY PER CENT TWENTY PERCENT OF THE VALUE OF THE RECOVERABLE PROPERTY REPORTED TO THE DEPARTMENT. THIS
SUBSECTION DOES NOT APPLY TO THE RECOVERY OF ACCOUNTS THAT REQUIRES A JUDICIAL DETERMINATION OF OWNERSHIP TO ESTABLISH ENTITLEMENT.

C. E. An owner who A CLAIMANT OR THE DEPARTMENT ON THE CLAIMANT'S BEHALF MAY MAINTAIN AN ACTION TO REDUCE COMPENSATION IF BOTH OF THE FOLLOWING APPLY:

1. THE CLAIMANT has agreed to pay compensation that is more than thirty per cent TWENTY PERCENT of the value of the recoverable property reported to the department, or the department on behalf of the owner, may maintain an action to reduce the compensation. THIS PARAGRAPH DOES NOT APPLY TO THE RECOVERY OF ACCOUNTS THAT REQUIRES A JUDICIAL DETERMINATION OF OWNERSHIP TO ESTABLISH ENTITLEMENT.

2. THE AGREEMENT IS SUBJECT TO SUBSECTION B OF THIS SECTION.

F. The court may award reasonable attorney fees to an owner A CLAIMANT who prevails in the action BROUGHT UNDER SUBSECTION B OF THIS SECTION. This section does not prohibit an owner A CLAIMANT from asserting that an agreement is invalid on grounds other than compensation.

Sec. 3. Title 44, chapter 3, article 1, Arizona Revised Statutes, is amended by adding section 44-327.01, to read:

44-327.01. Unclaimed property account information; locators; registration; fees; violation; classification; filing of written agreement; fund

A. ON WRITTEN REQUEST, THE DEPARTMENT SHALL PROVIDE ALL UNCLAIMED PROPERTY ACCOUNT INFORMATION FOR ALL UNCLAIMED ACCOUNTS TO A LOCATOR THAT IS REGISTERED PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL PROVIDE THE UNCLAIMED PROPERTY ACCOUNT INFORMATION IN A SEARCHABLE ELECTRONIC OR DIGITAL FORMAT. THE UNCLAIMED PROPERTY ACCOUNT INFORMATION SHALL INCLUDE ALL OF THE FOLLOWING:

1. THE NAME OF THE APPARENT OWNER.

2. THE COMPLETE LAST KNOWN ADDRESS OF THE APPARENT OWNER AS REPORTED BY THE HOLDER.

3. THE RELATIONSHIP CODE, IF ANY.

4. THE TYPE OF PROPERTY.

5. THE CASH VALUE OF THE PROPERTY.

6. IF THE PROPERTY IS SECURITIES OR MUTUAL FUND SHARES, THE NUMBER OF SHARES OR ITEMS AND THE EXCHANGE TICKER SYMBOL OR FUND NAME, IF REPORTED.

7. THE YEAR THAT THE PROPERTY WAS REPORTED TO THE DEPARTMENT.

8. THE NAME AND CONTACT INFORMATION OF THE HOLDER.


10. THE LAST CONTACT DATE WITH THE APPARENT OWNER.

B. A LOCATOR MUST REGISTER WITH THE DEPARTMENT IN A FORM AND MANNER DETERMINED BY THE DEPARTMENT AND SHALL PAY A REGISTRATION FEE TO THE DEPARTMENT IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR.
REGISTRATION APPLICATION, AN APPLICANT SHALL PROVIDE THE APPLICANT'S PRIMARY BUSINESS ADDRESS AND TELEPHONE NUMBER AND THE NAME, TELEPHONE NUMBER AND EMAIL ADDRESS OF THE INDIVIDUAL WHO WILL BE THE PRIMARY POINT OF CONTACT WITH THE DEPARTMENT. AN APPLICANT IS INELIGIBLE FOR REGISTRATION IF WITHIN THE IMMEDIATELY PRECEDING TEN-YEAR PERIOD THE APPLICANT WAS CONVICTED OF A FELONY INVOLVING DISHONESTY, DECEIT, FRAUD OR A BREACH OF FIDUCIARY DUTY.

C. LOCATOR REGISTRATION IS VALID FOR FOUR YEARS. THE LOCATOR MAY RENEW ITS REGISTRATION BY SUBMITTING A RENEWAL APPLICATION IN A MANNER THAT IS PRESCRIBED BY THE DEPARTMENT AND SUBMITTING A RENEWAL FEE IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL REGISTRATION AND RENEWAL FEES COLLECTED PURSUANT TO THIS SECTION IN THE LOCATOR REGISTRATION FUND ESTABLISHED BY THIS SECTION.

D. A LOCATOR THAT RECEIVES UNCLAIMED PROPERTY ACCOUNT INFORMATION FROM THE DEPARTMENT UNDER THIS SECTION MAY NOT DISTRIBUTE THAT INFORMATION TO OTHER LOCATORS OR PERSONS, OTHER THAN THE OWNER, FOR COMPENSATION.

E. WHEN A PROPERTY LOCATOR INITIALLY COMMUNICATES WITH A POTENTIAL CUSTOMER, THE PROPERTY LOCATOR MUST DISCLOSE THAT THE FEE ANY PROPERTY LOCATOR CHARGES IS A NEGOTIABLE RATE AND IS CAPPED AT TWENTY PERCENT PURSUANT TO THIS SECTION.

F. AN AGREEMENT BETWEEN A PROPERTY LOCATOR AND A CUSTOMER MUST INCLUDE A DISCLOSURE AGREEMENT THAT IS SIGNED BY THE CUSTOMER AND THAT IS IN ITS OWN DOCUMENT WITHOUT ANYTHING ELSE ON THE DOCUMENT. THE DISCLOSURE AGREEMENT MUST STATE THE FOLLOWING IN AT LEAST TWENTY-FOUR POINT TYPE:

THE FEE THAT ANY PROPERTY LOCATOR CHARGES IS A NEGOTIABLE RATE THAT IS CAPPED AT TWENTY PERCENT PURSUANT TO SECTION 44-327, ARIZONA REVISED STATUTES.

G. A PERSON WHO DISCLOSES CONFIDENTIAL INFORMATION IN VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR. A PERSON WHO KNOWINGLY DISCLOSES CONFIDENTIAL INFORMATION IN VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 5 FELONY.

H. IF AN OWNER HAS ENTERED INTO A WRITTEN AGREEMENT THAT AUTHORIZES A REGISTERED LOCATOR TO CLAIM THE UNCLAIMED PROPERTY ON THE OWNER'S BEHALF OR IF THE OWNER HAS SOLD THE RIGHT TO CLAIM THE UNCLAIMED PROPERTY TO A LOCATOR, THE DEPARTMENT SHALL DISTRIBUTE THE PROPERTY OR MONIES IN ACCORDANCE WITH THAT WRITTEN AGREEMENT. THE OWNER MUST EXECUTE THE AGREEMENT AND THE LOCATOR MUST FILE THE AGREEMENT WITH THE DEPARTMENT WHEN A LOCATOR FILES A CLAIM ON THE OWNER'S BEHALF.

I. THE LOCATOR REGISTRATION FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED FROM LOCATOR REGISTRATION AND RENEWAL FEES COLLECTED PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL ADMINISTER THE FUND. THE MONIES IN THE FUND SHALL BE USED TO MONITOR LOCATORS AS PROVIDED UNDER THIS CHAPTER. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.
Sec. 4. **Legislative intent**

The legislature intends that the initial registration fee and the registration renewal fee for a locator pursuant to section 44-327.01, Arizona Revised Statutes, as added by this act, not exceed $100 for each registration and for each renewal.