

PROPOSED
SENATE AMENDMENTS TO H.B. 2623
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

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

4 44-315. Confidentiality; violation; classification;
5 definitions

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

11 B. The department also may disclose confidential information to:

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

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

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

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

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

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

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

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

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

17 3. The information directly relates to a transactional relationship
18 between a person who is a party to the proceeding and the claimant or
19 holder and the information directly affects the resolution of an issue in
20 the proceeding.

21 D. The department may disclose identity information for purposes of
22 notifying persons who appear to be entitled to unclaimed property in the
23 manner described in section ~~44-309~~ 44-327.01.

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

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

1 G. If the department is required or ~~permitted~~ ALLOWED to disclose
2 confidential information, it may charge the person or agency that requests
3 the information for the reasonable cost of the department's services.

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

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

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

17 K. For the purposes of this section:

18 1. "Claimant" means a person or entity that claims to have a
19 property interest in the item of property that is presumed abandoned
20 pursuant to this chapter.

21 2. "Confidential information": ~~includes reports filed by holders of~~
22 ~~property presumed abandoned under this chapter, a claimant's application~~
23 ~~and documents submitted to support a claim and information discovered by~~
24 ~~the department concerning claims, and claimants, holder reports or~~
25 ~~holders. Confidential information also~~

26 (a) MEANS A SOCIAL SECURITY NUMBER, TAX IDENTIFICATION NUMBER, DATE
27 OF BIRTH AND HOLDER ACCOUNT NUMBER IN A REPORT THAT IS FILED BY THE HOLDER
28 OF PROPERTY PRESUMED ABANDONED UNDER THIS CHAPTER.

29 (b) Includes information supplied at the special request of the
30 department ~~which~~ THAT the claimant or holder requests to be held
31 confidential, whether a holder or report was, is being or will be subject
32 to examination, investigation or collection and data received by, recorded

1 by, prepared by, furnished to or collected by the department with respect
2 to the existence or possible existence of a liability of any holder for
3 unclaimed property.

4 Sec. 2. Section 44-327, Arizona Revised Statutes, is amended to
5 read:

6 44-327. Agreement to recover property

7 ~~A. The following are void and unenforceable:~~

8 ~~1. A. An agreement TO RECOVER PROPERTY THAT IS entered into by an~~
9 ~~owner A CLAIMANT with another person if the primary purpose of that~~
10 ~~agreement is to locate, deliver, recover or assist in the recovery of~~
11 ~~property that is presumed abandoned, if the agreement was entered into~~
12 ~~during the period commencing on the date the property was presumed~~
13 ~~abandoned and extending to a time that is twenty-four months after the date~~
14 ~~that the property is paid or delivered to the department. This paragraph~~
15 ~~does not apply to an owner's agreement with an attorney to file a claim~~
16 ~~relating to identified property or to contest the department's denial of a~~
17 ~~claim. IS ENFORCEABLE IF ALL OF THE FOLLOWING APPLY:~~

18 1. THE AGREEMENT IS IN WRITING IN AT LEAST TEN-POINT TYPE.

19 2. THE AGREEMENT LISTS THE UNCLAIMED PROPERTY ACCOUNT NUMBERS BEING
20 CLAIMED.

21 3. THE AGREEMENT DESCRIBES THE SERVICES TO BE PERFORMED.

22 4. THE AGREEMENT IS SIGNED BY THE CLAIMANT.

23 5. THE AGREEMENT STATES THE VALUE OF THE PROPERTY, IF AVAILABLE,
24 BEFORE AND AFTER THE FEE OR OTHER COMPENSATION IS DEDUCTED.

25 B. THE FEE OR PAYMENT AGREED ON MAY NOT BE MORE THAN THIRTY PERCENT
26 OF THE VALUE OF THE RECOVERABLE PROPERTY THAT IS REPORTED TO THE
27 DEPARTMENT. THIS SUBSECTION DOES NOT APPLY TO RECOVERY OF ACCOUNTS THAT
28 REQUIRE JUDICIAL DETERMINATION OF OWNERSHIP TO ESTABLISH ENTITLEMENT.

29 ~~2. C. A provision in an agreement that requires an owner A CLAIMANT~~
30 ~~to pay compensation that includes a portion of mineral proceeds that are~~
31 ~~not presumed abandoned or the underlying minerals, if the primary purpose~~

1 of the agreement is to locate, deliver, recover or assist in the recovery
2 of mineral proceeds that are presumed abandoned, IS VOID.

3 ~~B. If an owner enters into an agreement that is not void pursuant to
4 this section and the primary purpose of that agreement is to locate,
5 deliver, recover or assist in the recovery of property reported to the
6 department, the agreement is:~~

7 ~~1. Enforceable if the agreement is in writing, clearly states the
8 nature of the property and the services to be performed, is signed by the
9 apparent owner and states the value of the property before and after the
10 fee or other compensation has been deducted. The fee or payment agreed on
11 shall not be more than thirty per cent of the value of the recoverable
12 property reported to the department.~~

13 ~~2. D. AN AGREEMENT THAT IS SUBJECT TO SUBSECTION B OF THIS SECTION
14 IS unenforceable except by the owner CLAIMANT if the agreement provides for
15 compensation that is more than thirty per cent PERCENT of the value of the
16 recoverable property reported to the department. THIS SUBSECTION DOES NOT
17 APPLY TO THE RECOVERY OF ACCOUNTS THAT REQUIRES A JUDICIAL DETERMINATION OF
18 OWNERSHIP TO ESTABLISH ENTITLEMENT.~~

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

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

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

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

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

3 44-327.01. Unclaimed property account information; locators;
4 registration; fees; filing of written agreement; fund

5 A. ON WRITTEN REQUEST, THE DEPARTMENT SHALL PROVIDE ALL UNCLAIMED
6 PROPERTY ACCOUNT INFORMATION FOR ALL UNCLAIMED ACCOUNTS ONLY TO A LOCATOR
7 THAT IS REGISTERED PURSUANT TO THIS SECTION. THE DEPARTMENT MAY CHARGE A
8 FEE FOR EACH REQUEST IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR. THE
9 DEPARTMENT SHALL PROVIDE THE UNCLAIMED PROPERTY ACCOUNT INFORMATION IN A
10 SEARCHABLE ELECTRONIC OR DIGITAL FORMAT. THE UNCLAIMED PROPERTY ACCOUNT
11 INFORMATION SHALL INCLUDE ALL OF THE FOLLOWING:

- 12 1. THE NAME OF THE APPARENT OWNER.
- 13 2. THE COMPLETE LAST KNOWN ADDRESS OF THE APPARENT OWNER AS REPORTED
14 BY THE HOLDER.
- 15 3. THE RELATIONSHIP CODE, IF ANY.
- 16 4. THE TYPE OF PROPERTY.
- 17 5. THE CASH VALUE OF THE PROPERTY.
- 18 6. IF THE PROPERTY IS SECURITIES OR MUTUAL FUND SHARES, THE NUMBER
19 OF SHARES OR ITEMS AND THE EXCHANGE TICKER SYMBOL OR FUND NAME, IF
20 REPORTED.
- 21 7. THE YEAR THAT THE PROPERTY WAS REPORTED TO THE DEPARTMENT.
- 22 8. THE NAME AND CONTACT INFORMATION OF THE HOLDER.
- 23 9. A GENERAL DESCRIPTION OF THE SAFE DEPOSIT BOX CONTENTS AND THE
24 LIQUIDATION AMOUNT, IF APPLICABLE.
- 25 10. LAST CONTACT DATE WITH THE APPARENT OWNER.

26 B. A LOCATOR MUST REGISTER WITH THE DEPARTMENT IN A FORM AND MANNER
27 DETERMINED BY THE DEPARTMENT AND SHALL PAY A REGISTRATION FEE TO THE
28 DEPARTMENT IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR. ON THE
29 REGISTRATION APPLICATION, AN APPLICANT SHALL PROVIDE THE APPLICANT'S
30 PRIMARY BUSINESS ADDRESS AND TELEPHONE NUMBER AND THE NAME, TELEPHONE
31 NUMBER AND EMAIL ADDRESS OF THE INDIVIDUAL WHO WILL BE THE PRIMARY POINT OF
32 CONTACT WITH THE DEPARTMENT. AN APPLICANT IS INELIGIBLE FOR REGISTRATION

1 IF WITHIN THE IMMEDIATELY PRECEDING TEN-YEAR PERIOD THE APPLICANT WAS
2 CONVICTED OF A FELONY INVOLVING DISHONESTY, DECEIT, FRAUD OR A BREACH OF
3 FIDUCIARY DUTY.

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

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

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

21 F. THE LOCATOR REGISTRATION FUND IS ESTABLISHED CONSISTING OF MONIES
22 RECEIVED FROM LOCATOR REGISTRATION AND RENEWAL FEES COLLECTED PURSUANT TO
23 THIS SECTION. THE DEPARTMENT SHALL ADMINISTER THE FUND. THE MONIES IN THE
24 FUND SHALL BE USED TO MONITOR LOCATORS AS PROVIDED UNDER THIS CHAPTER.
25 MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED."

26 Amend title to conform

JOHN KAVANAGH

2623KAVANAGH.docx
03/30/2023
02:16 PM
C: MU