

No. 1986-60

AN ACT

HB 1196

Amending the act of April 9, 1929 (P.L.343, No.176), entitled, as amended, "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth, authorizing the Commonwealth to issue tax anticipation notes to defray current expenses, implementing the provisions of section 7(a) of Article VIII of the Constitution of Pennsylvania authorizing and restricting the incurring of certain debt and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," further providing for the disposition of certain personal property held by municipalities; and further providing for abandoned and unclaimed property.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "property" in section 1301.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, added December 9, 1982 (P.L.1057, No.248), is amended to read:

Section 1301.1. Definitions.—As used in this article, unless the context otherwise requires:

* * *

"Property" shall include all real and personal property, tangible or intangible, all legal and equitable interests therein, together with any income, accretions, or profits thereof and thereon, and all other rights to property, subject to all legal demands on the same. *The term shall not include property deemed lost at common law.*

* * *

Section 2. Sections 1301.2, 1301.9, 1301.11, 1301.12, 1301.13, 1301.17 and 1301.22 of the act, added December 9, 1982 (P.L.1057, No.248), are amended to read:

Section 1301.2. **[Abandoned and Unclaimed] Property Subject to Custody and Control of the Commonwealth.**—(a) All abandoned and unclaimed property *and property without a rightful or lawful owner* as hereafter set forth is subject to the custody and control of the Commonwealth:

1. If it is tangible and physically located within the Commonwealth; or
2. If it is intangible, and (i) the last known address of the owner, as shown by the records of the holder, is within the Commonwealth; or (ii) the last known address of the owner as shown by the records of the holder is within a jurisdiction, the laws of which do not provide for the escheat or custodial taking of such property, and the domicile of the holder is within the Commonwealth; or (iii) no address of the owner appears on the records of the holder and the domicile of the holder is within the Commonwealth. Where the records of the holder do not show a last known address of the owner of a travelers check or money order, it shall be presumed that the state in which the travelers check or money order was issued is the state of the last known address of the owner; or (iv) no address of the owner appears on the records of the holder and the domicile of the holder is not within the Commonwealth, but it is proved that the last known address of the owner is in the Commonwealth.

(b) Property is payable or distributable for the purpose of this article notwithstanding the owner's failure to make demand or to present any instrument or document otherwise required to receive payment.

Section 1301.9. Property Held by Courts and Public Officers and Agencies.—The following property is presumed abandoned and unclaimed:

1. Except as provided in clause 2, all property held for the owner by any court, public corporation, public authority or instrumentality of the United States, the Commonwealth, or any other state, or by a public officer or political subdivision thereof, unclaimed by the owner for more than seven (7) years from the date it first became demandable or distributable.

2. Bicycles held for the owner by a municipality unclaimed by the owner for more than ninety (90) days from the date it first became demandable or distributable.

3. The bicycles held pursuant to clause 2 may be disposed of by the municipality at public auction at such time and place as may be designated by the municipality or the governing body may, by resolution, donate the bicycles to a charitable organization. Any proceeds from the sale of the bicycles shall be retained by the municipality and used for municipal purposes.

4. Bicycles held by or acquired by the Commonwealth for ninety (90) days may be disposed of at public auction at such time and place as may be designated by the Secretary of Revenue. Proceeds of such sale or sales shall be deposited in the General Fund.

5. *All property held by or subject to the control of any court, public corporation, public authority or instrumentality of the Commonwealth or by a public officer or political subdivision thereof, which is without a rightful or lawful owner, to the extent not otherwise provided for by law, held for more than one year.*

Section 1301.11. Report of Property Subject to Custody and Control of the Commonwealth under this Article.—(a) Every person holding property which became subject to custody and control of the Commonwealth under this article during the preceding year shall report to the secretary as hereinafter provided.

(b) The report shall be verified and shall include:

1. Except with respect to travelers 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 any property of the value of twenty-five dollars (\$25) or more;

2. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under twenty-five dollars (\$25) each may be reported in the aggregate;

3. The date when the property became payable, demandable [or], returnable *or the date upon which the property was declared or found to be without a rightful or lawful owner*, and the date of the last transaction with the owner with respect to the property; and

4. Other information which the secretary prescribes by rules or regulations as necessary for administration of this article.

(c) If the person holding property subject to custody and control of the Commonwealth under this article is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed on or before April 15 of the year following the year in which the property first became subject to custody and control of the Commonwealth under this article. The secretary may postpone for a period not exceeding six (6) months the reporting date upon written request by any person required to file a report.

(e) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

Section 1301.12. Notice and Publication of Lists of Property Subject to Custody and Control of the Commonwealth under this Article.—

(a) Within nine (9) months from the filing of the report required by section 1301.11, the secretary shall cause notice to be published at least once each week for two (2) successive weeks in an English language newspaper of general circulation in the county in which the holder of the property has his principal place of business in the Commonwealth or, if there is no such place, then at least one time in the Pennsylvania Bulletin.

(b) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned and Unclaimed Property," and shall contain:

1. The names and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified and the name and address of the holder;

2. A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the holder;

3. A statement that a proof of claim should be presented by the owner to the holder within three (3) months from the date of the second published notice, and that thereafter claims should be filed with the secretary.

(c) The secretary is not required to publish in such notice any item of less than one hundred dollars (\$100) unless he deems such publication to be in the public interest.

(d) Within six (6) months from the receipt of the report required by section 1301.11, the secretary shall mail a notice to each person having an address listed who appears to be entitled to property of the value of one hundred dollars (\$100) or more subject to custody and control of the Commonwealth under this article. The mailed notice shall contain:

1. A statement that, according to a report filed with the secretary, property is being held to which the addressee appears entitled;

2. The name and address of the holder of the property and any necessary information regarding changes of name and address of the holder;

3. A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, claims should thereafter be filed with the secretary.

(e) This section is not applicable to sums payable on travelers checks and money orders *or to property reported to be without a rightful or lawful owner.*

Section 1301.13. Payment or Delivery.—(a) Every person who holds property subject to the custody and control of the Commonwealth shall, within sixty (60) days after receipt of written demand from the secretary and after compliance with section 1301.12, where required, pay or deliver to the secretary all property subject to custody and control of the Commonwealth under this article, except that, if the owner establishes his right to receive the property to the satisfaction of the holder, or if it appears that for some other reason the property is not then subject to custody and control of the Commonwealth under this article, the holder need not pay or deliver the property to the secretary, but in lieu thereof shall file a verified written explanation of the proof of claim or as to the reason the property is not subject to custody and control of the Commonwealth.

(b) A receipt shall be issued, on behalf of the Commonwealth, for all property received under this article.

(c) Notwithstanding subsection (a) of this section, in the case of the deposits and the sums payable under clauses 1 and 3 of section 1301.3 the amount of such deposits and such sums shall be paid to the secretary on or before the final date for filing the report required by section 1301.11.

(d) Any person who holds property which may become subject to the custody and control of the Commonwealth pursuant to this act may, with the consent of the secretary, report and deliver such property prior to the expiration of any holding period specified for such reporting. Any person who pays or delivers property prior to the expiration of such holding period shall be relieved of further liability pursuant to section 1301.14. Property thus reported may be disposed of pursuant to sections 1301.12 and 1301.17, but in no event shall the period for filing of claims be diminished by such early delivery or disposition.

Section 1301.17. **[Sale] Disposition of Property.**—(a) Within a reasonable time after delivery to him of any property under this article, the secretary **[shall] may** sell it to the highest bidder at public sale in whatever city in the Commonwealth affords, in his judgment, the most favorable market for the property involved. The secretary may decline the highest bid or reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale, if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) If the property is of a type customarily sold on a recognized market or of a type which is subjected to widely distributed standard price quotations, the secretary may sell the property without notice by publication or otherwise. **[Any sale of other property held under this section shall be preceded by a single publication of notice thereof, at least three (3) weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold.]**

(c) **[The] Property reported or delivered to the custody or control of the secretary pursuant to this act may be donated to the use of the Commonwealth or any of its political subdivisions or otherwise consumed or discarded, at the discretion of the secretary where, in the opinion of the secretary, the costs associated with delivery, notice or sale exceed the value of the property. Property which is refused or is to be donated to the use of a political subdivision shall first be offered to the political subdivision which holds the property. A donee or purchaser at any sale conducted by the secretary pursuant to this article shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The secretary shall execute all documents necessary to complete the transfer of title.**

Section 1301.22. Election to Take Payment or Delivery.—The secretary may decline to receive any item of property reported **[which he deems to have a value less than the cost of giving notice and holding sale]**, in which event the holder thereof **[is] shall be** discharged of any liability to the Commonwealth with respect thereto. Unless the holder of the property is notified to the contrary within one hundred twenty (120) days after filing the report required under section 1301.11, the secretary shall be deemed to have elected to receive the custody of the property.

Section 3. Nothing in this amendatory act shall be deemed to modify or abridge any law governing the seizure, forfeiture or disposition of contraband.

Section 4. This act shall take effect immediately.

APPROVED—The 16th day of May, A. D. 1986.

DICK THORNBURGH