
SENATE BILL 6534

State of Washington

59th Legislature

2006 Regular Session

By Senator Jacobsen

Read first time 01/13/2006. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to unclaimed property locators; amending RCW
2 63.29.350; adding a new chapter to Title 18 RCW; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds it necessary to
6 regulate the practice of offering to reunite the apparent owner or
7 heirs with unclaimed property for a fee. The legislature intends that
8 only individuals who obtain a license under this chapter may represent
9 themselves in this state as heir finders or asset or unclaimed property
10 locators.

11 NEW SECTION. **Sec. 2.** (1) No person may represent himself or
12 herself as an unclaimed property locator without first obtaining a
13 license as required by this chapter.

14 (2) A person represents himself or herself to be an unclaimed
15 property locator when the person adopts or uses any title or
16 description of services that incorporates one or more of the following
17 or substantially similar terms: Property locator, asset locator, or
18 heir finder.

1 relates to his or her capacity to perform the duties of an unclaimed
2 property locator, and the director determines that the license should
3 be withheld to protect the citizens of Washington state. The director
4 shall make her or his determination to withhold a license because of
5 previous convictions notwithstanding the restoration of employment
6 rights act, chapter 9.96A RCW;

7 (4) Pay the required nonrefundable fee for each application; and

8 (5) Submit a fully completed application that includes proper
9 identification on a form prescribed by the director.

10 NEW SECTION. **Sec. 7.** Applications for a license must be submitted
11 on forms provided by the department. The department may require
12 information and documentation to determine whether the applicant meets
13 the standard for a license as provided in this chapter. Each applicant
14 shall pay a fee determined by the director in rule which shall
15 accompany the application.

16 NEW SECTION. **Sec. 8.** The director shall establish by rule the
17 requirements and the renewal and late renewal fees for a license.
18 Failure to renew the license on or before the expiration date cancels
19 all privileges granted by the license.

20 NEW SECTION. **Sec. 9.** An unclaimed property locator may charge a
21 maximum fee of two and one-half percent of the property value
22 successfully returned or fifty dollars, whichever is greater. An
23 unclaimed property locator may not separately bill for the costs of
24 postage, photocopies, attorney or consultant fees, consultation visits,
25 and other offered services connected with locating or returning the
26 property.

27 NEW SECTION. **Sec. 10.** The director or the director's designee may
28 at any time examine and investigate the business and examine the books,
29 accounts, records, and files, or other information, wherever located,
30 of any licensee or person who the director has reason to believe is
31 engaging in the business governed by this chapter. For these purposes,
32 the director or the director's designee may require the attendance of
33 and examine under oath all persons whose testimony may be required
34 about the business or the subject matter of the investigation. The

1 director or the director's designee may require the production of
2 original books, accounts, records, files, or other information, or may
3 make copies of such original books, accounts, records, files, or other
4 information. The director or the director's designee may issue a
5 subpoena or subpoena duces tecum requiring attendance and testimony, or
6 the production of the books, accounts, records, files, or other
7 information. The director shall collect from the licensee the actual
8 cost of the examination or investigation.

9 NEW SECTION. **Sec. 11.** (1) The director may issue and serve upon
10 a licensee or applicant a statement of charges if, in the opinion of
11 the director, any licensee or applicant:

12 (a) Is engaging or has engaged in an unsafe or unsound financial
13 practice in conducting the business of an unclaimed property locator
14 governed by this chapter;

15 (b) Is violating or has violated this chapter, including rules,
16 orders, or subpoenas, adopted under this chapter or any condition
17 imposed in writing by the director or the director's designee in
18 connection with the granting of any application or other request by the
19 licensee or any written agreement made with the director;

20 (c) Is about to do the acts prohibited in (a) or (b) of this
21 subsection when the opinion that the threat exists is based upon
22 reasonable cause;

23 (d) Obtains a license by means of fraud, misrepresentation,
24 concealment, or through mistake or inadvertence of the director;

25 (e) Provides false statements or omissions of material information
26 on the application that, if known, would have allowed the director to
27 deny the application for the original license;

28 (f) Fails to pay a fee required by the director;

29 (g) Commits a crime against the laws of the state of Washington or
30 any other state or government involving moral turpitude, financial
31 misconduct, or dishonest dealings;

32 (h) Knowingly commits or is a party to any material fraud,
33 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
34 or device whereby any other person relying upon the word,
35 representation, or conduct acts to his or her injury or damage;

36 (i) Converts any money or its equivalent to his or her own use or
37 to the use of his or her principal or of any other person;

1 (j) Fails, upon demand by the director or the director's designee,
2 to disclose any information within his or her knowledge to, or to
3 produce any document, book, or record in his or her possession for
4 inspection of, the director or the director's designee;

5 (k) Commits any act of fraudulent or dishonest dealing, and a
6 certified copy of the final holding of any court, tribunal, agency, or
7 administrative body of competent jurisdiction regarding that act is
8 conclusive evidence in any hearing under this chapter; or

9 (1) Commits an act or engages in conduct that demonstrates
10 incompetence or untrustworthiness, or is a source of injury and loss to
11 the public.

12 (2) The statement of charges shall be issued under chapter 34.05
13 RCW. The director or the director's designee may impose the following
14 sanctions against any licensee or applicant, or any director, officer,
15 sole proprietor, partner, controlling person, or employee of a licensee
16 or applicant:

17 (a) Deny, revoke, suspend, or condition the license;

18 (b) Order the licensee to cease and desist from practices in
19 violation of this chapter or practices that constitute unsafe and
20 unsound financial practices;

21 (c) Impose a fine not to exceed one hundred dollars per day for
22 each day's violation of this chapter;

23 (d) Order restitution to clients or other parties damaged by the
24 licensee's violation of this chapter or take other affirmative action
25 as necessary to comply with this chapter; and

26 (e) Remove from office or ban from participation in the affairs of
27 any licensee any director, officer, sole proprietor, partner,
28 controlling person, or employee of a licensee.

29 (3) The proceedings to impose the sanctions described in subsection
30 (2) of this section, including any hearing or appeal of the statement
31 of charges, are governed by chapter 34.05 RCW.

32 Unless the licensee personally appears at the hearing or is
33 represented by a duly authorized representative, the licensee is deemed
34 to have consented to the statement of charges and the sanctions imposed
35 in the statement of charges.

36 NEW SECTION. **Sec. 12.** Whenever the director determines that the
37 acts specified in section 11 of this act or their continuation is

1 likely to cause substantial injury to the public, the director may also
2 issue a temporary cease and desist order requiring the licensee to
3 cease and desist from the violation or practice. The order becomes
4 effective upon service upon the licensee and remains effective unless
5 set aside, limited, or suspended by a court under section 13 of this
6 act pending the completion of the administrative proceedings under the
7 notice and until such time as the director dismisses the charges
8 specified in the notice or until the effective date of the cease and
9 desist order issued against the licensee under section 11 of this act.

10 NEW SECTION. **Sec. 13.** Within ten days after a licensee has been
11 served with a temporary cease and desist order, the licensee may apply
12 to the superior court in the county of its principal place of business
13 for an injunction setting aside, limiting, or suspending the order
14 pending the completion of the administrative proceedings pursuant to
15 the notice served under section 12 of this act. The superior court has
16 jurisdiction to issue the injunction.

17 NEW SECTION. **Sec. 14.** In the case of a violation or threatened
18 violation of a temporary cease and desist order issued under section 12
19 of this act, the director may apply to the superior court of the county
20 of the principal place of business of the licensee for an injunction.

21 NEW SECTION. **Sec. 15.** Whenever as a result of an examination or
22 report it appears to the director that:

23 (1) Any licensee is conducting its business in such an unsafe or
24 unsound manner as to render its further operations hazardous to the
25 public;

26 (2) Any licensee has refused to submit its books, papers, and
27 affairs to the inspection of the director or the director's examiner;

28 (3) Any officer of any licensee refuses to be examined under oath
29 regarding the business of the licensee; or

30 (4) Any licensee neglects or refuses to comply with any order of
31 the director made under this chapter unless the enforcement of such an
32 order is restrained in a proceeding brought by the licensee;

33 the director may immediately take possession of the property and
34 business of the licensee and retain possession until the licensee

1 resumes business. The licensee may resume business upon such terms as
2 the director may prescribe.

3 NEW SECTION. **Sec. 16.** The legislature finds and declares that any
4 violation of this chapter substantially affects the public interest and
5 is an unfair and deceptive act or practice and an unfair method of
6 competition in the conduct of trade or commerce as set forth in RCW
7 19.86.020. Remedies available under chapter 19.86 RCW shall not affect
8 any other remedy the injured party may have.

9 NEW SECTION. **Sec. 17.** The director has the power, and broad
10 administrative discretion, to administer and interpret the provisions
11 of this chapter to ensure the protection of the public.

12 **Sec. 18.** RCW 63.29.350 and 1983 c 179 s 35 are each amended to
13 read as follows:

14 It is unlawful for any person to seek or receive from any person or
15 contract with any person for any fee or compensation for locating or
16 purporting to locate any property which he or she knows has been
17 reported or paid or delivered to the department of revenue pursuant to
18 this chapter in excess of ((five)) two and one-half percent or fifty
19 dollars, whichever is greater, of the value thereof returned to such
20 owner. Any person violating this section is guilty of a misdemeanor
21 and shall be fined not less than the amount of the fee or charge he has
22 sought or received or contracted for, and not more than ten times such
23 amount, or imprisoned for not more than thirty days, or both.

24 NEW SECTION. **Sec. 19.** Sections 1 through 17 of this act
25 constitute a new chapter in Title 18 RCW.

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