

SENATE BILL REPORT

HB 1742

As Passed Senate, April 11, 2023

Title: An act relating to nontax statutes administered by the department of revenue by modifying provisions of the unclaimed property and business licensing service programs concerning penalty waivers, the department of revenue's express settlement authority, and making technical corrections.

Brief Description: Concerning nontax statutes administered by the department of revenue.

Sponsors: Representative Wylie; by request of Department of Revenue.

Brief History: Passed House: 3/3/23, 95-0.

Committee Activity: Law & Justice: 3/16/23, 3/22/23 [DP-WM].

Ways & Means: 3/28/23, 4/04/23 [DP].

Floor Activity: Passed Senate: 4/11/23, 48-0.

Brief Summary of Bill

- Authorizes the Department of Revenue (DOR) to waive a delinquency fee for business licenses.
- Authorizes DOR to waive a late penalty for businesses reporting unclaimed property.
- Authorizes DOR to enter into settlement agreements with unclaimed property holders.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Staff: Tim Ford (786-7423)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Staff: Alia Kennedy (786-7405)

Background: Business License Delinquency Fee. To encourage timely renewal by applicants, a business license delinquency fee is imposed on licensees who fail to renew by the business license expiration date. The business license delinquency fee must be the lesser of \$150 or 50 percent of a base comprised of the licensee's renewal fee minus corporate licensing taxes, the corporation annual report fee, and any interest fees or penalties charged for late taxes or corporate renewals. The business license delinquency fee must be added to the renewal fee and paid by the licensee before a business license is renewed. The Department of Revenue (DOR) must waive or cancel the business license delinquency fee only if DOR determines the licensee failed to renew a license by the business license expiration date due to an undisputable error or failure by DOR.

Unclaimed Property. Unclaimed property refers to a property being held by an organization that has not had contact with the owner for an extended period. Typical unclaimed property includes bank accounts, insurance proceeds, stocks, bonds, mutual funds, safe deposit box contents, utility and phone company deposits, and uncashed checks. Unclaimed property does not include real estate, vehicles, and most other physical property. DOR administers an unclaimed property program to seek rightful owners of unclaimed property. Holders must generally report and pay any unclaimed property to DOR. In 2022, ESSB 5531, repealed the Uniform Unclaimed Property Act and replaced it, in part, with the Revised Uniform Unclaimed Property Act which became effective January 1, 2023.

Late Penalty and Assessment Penalty. DOR has the authority to waive a late penalty and assessment penalty for unclaimed property reports and assessments if the failure to deliver or pay property timely was the result of circumstances beyond the holder's control.

Settlement Agreements. Through December 31, 2022, DOR has statutory authority to enter into settlement agreements with holders of unclaimed property. Effective January 1, 2023, DOR does not have express authority to enter into unclaimed property settlement agreements.

Summary of Bill: Business License Delinquency Fees. In addition to DOR's authority to waive a delinquency fee due to an undisputable error or failure by DOR, DOR must waive

the delinquency fee if the licensee requests the waiver and has timely renewed all business licenses and paid the applicable fees for 24 months immediately preceding the period covered by the renewal application for which the waiver is being requested.

Late and Assessment Penalties for Unclaimed Property. DOR's authority to waive a late penalty and assessment penalty is expanded to allow DOR to waive the fees if the holder has timely filed all required reports and delivered or paid the property associated with those reports for the immediately preceding 24 months.

Settlement Agreements. DOR is authorized to enter into settlement agreements with holders of unclaimed property.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Law & Justice): PRO: When the tax collector wants to show mercy we should say yes. Most taxpayers try to do the right thing and file on time. Occasionally there is an error or mistake. This allows the Department of Revenue to offer a penalty waiver for a delinquent license, renewal, or unclaimed property report which matches the existing authority they have for excise taxes. This bill will benefit local businesses. Since Washington's unclaimed property law includes a statute of limitations, it will be less likely the state's claim will become time barred. If not enacted, DOR's alternative is to file lawsuits which will be costly, take a lot of time, and have uncertain outcomes.

Persons Testifying (Law & Justice): PRO: Representative Sharon Wylie, Prime Sponsor; Mark Johnson, Washington Retail Association; Suzanne Darling, Kelmar Associates, LLC; Steve Ewing, Department of Revenue.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Washington and other states participate in unclaimed property audits of large corporations that often address complex, disputed issues for which there is no controlling authority. The state has historically used dispute resolution to address significant unclaimed property claims. The ability to engage in settlement agreements was inadvertently omitted from the revised uniform unclaimed property act. The bill would allow for timely completion of these audits, which is beneficial to all parties and increases cashflow to the state. If the department is not able to engage in settlement audits, then it will have to resolve such issues in court which

can be expensive and time consuming. The bill is taxpayer friendly and good tax policy. The bill extends the same authority it has to waive late excise tax returns to both late business license renewal fees and unclaimed property report penalties. The late fee waivers gives grace to persons who have historically filed timely renewals and reports. The ability to engage in settlement agreements increases state revenue. The bill has the support of the business community and would benefit constituents across the state.

Persons Testifying (Ways & Means): PRO: Suzanne Darling, Kelmar Associates, LLC; Steve Ewing, Department of Revenue.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.