
HOUSE BILL 1742

State of Washington

68th Legislature

2023 Regular Session

By Representative Wylie; by request of Department of Revenue

Read first time 02/03/23. Referred to Committee on Finance.

1 AN ACT Relating to nontax statutes administered by the department
2 of revenue by modifying provisions of the unclaimed property and
3 business licensing service programs concerning penalty waivers, the
4 department of revenue's express settlement authority, and making
5 technical corrections; amending RCW 19.02.085, 19.150.060,
6 19.150.080, 19.240.080, 19.240.900, 59.18.312, 59.18.595, 63.30.040,
7 63.30.690, and 88.26.020; adding a new section to chapter 63.30 RCW;
8 and creating a new section.

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

10 **Sec. 1.** RCW 19.02.085 and 2020 c 139 s 3 are each amended to
11 read as follows:

12 (1) To encourage timely renewal by applicants, a business license
13 delinquency fee is imposed on licensees who fail to renew by the
14 business license expiration date. The business license delinquency
15 fee must be the lesser of (~~one hundred fifty dollars~~) \$150 or
16 (~~fifty~~) 50 percent of a base comprised of the licensee's renewal
17 fee minus corporate licensing taxes, corporation annual report fee,
18 and any interest fees or penalties charged for late taxes or
19 corporate renewals. The business license delinquency fee must be
20 added to the renewal fee and paid by the licensee before a business

1 license is renewed. The delinquency fee must be deposited in the
2 business license account.

3 (2) The department must waive or cancel the business license
4 delinquency fee imposed in subsection (1) of this section only if
5 ~~((the))~~:

6 (a) The department determines that the licensee failed to renew a
7 license by the business license expiration date due to an
8 undisputable error or failure by the department; or

9 (b) The licensee requests the waiver and has timely renewed all
10 business licenses and paid the applicable business license fees for a
11 period of 24 months immediately preceding the period covered by the
12 renewal application for which the waiver is being requested.

13 (c) For purposes of this subsection, an error or failure is
14 undisputable if the department is satisfied, beyond any doubt, that
15 the error or failure occurred.

16 **Sec. 2.** RCW 19.150.060 and 2016 sp.s. c 6 s 1 are each amended
17 to read as follows:

18 (1) If a notice has been sent, as required by RCW 19.150.040, and
19 the total sum due has not been paid as of the date specified in the
20 preliminary lien notice, the lien proposed by this notice attaches as
21 of that date and the owner may deny an occupant access to the space,
22 enter the space, inventory the goods therein, and remove any property
23 found therein to a place of safe keeping. The owner must provide the
24 occupant a notice of final lien sale or final notice of disposition
25 by personal service, verified mail, or email to the occupant's last
26 known address and alternative address or email address. If the owner
27 sends notice required under this section to the occupant's last known
28 email address and does not receive a reply or receipt of delivery,
29 the owner must send a second notice to the occupant's last known
30 postal address by verified mail. The notice required under this
31 section must state all of the following:

32 (a) That the occupant's right to use the storage space has
33 terminated and that the occupant no longer has access to the stored
34 property.

35 (b) That the stored property is subject to a lien, and the amount
36 of the lien accrued and to accrue prior to the date required to be
37 specified in (c) of this subsection.

38 (c) That all the property, other than personal papers and
39 personal photographs, may be sold to satisfy the lien after a

1 specified date which is not less than fourteen days from the last
2 date of sending of the final lien sale notice, or a minimum of
3 (~~forty-two~~) 42 days after the date when any part of the rent or
4 other charges due from the occupants remain unpaid, whichever is
5 later, unless the amount of the lien is paid. The owner is not
6 required to sell the personal property within a maximum number of
7 days of when the rent or other charges first became due. If the total
8 value of property in the storage space is less than three hundred
9 dollars, the owner may, instead of sale, dispose of the property in
10 any reasonable manner, subject to the restrictions of RCW
11 19.150.080(4). After the sale or other disposition pursuant to this
12 section has been completed, the owner shall provide an accounting of
13 the disposition of the proceeds of the sale or other disposition to
14 the occupant at the occupant's last known address and at the
15 alternative address.

16 (d) That any stored vehicles, watercraft, trailers, recreational
17 vehicles, or campers may be towed or removed from the self-service
18 storage facility in lieu of sale pursuant to RCW 19.150.160.

19 (e) That any excess proceeds of the sale or other disposition
20 under RCW 19.150.080(2) over the lien amount and reasonable costs of
21 sale will be retained by the owner and may be reclaimed by the
22 occupant, or claimed by another person, at any time for a period of
23 six months from the sale and that thereafter the proceeds will be
24 turned over to the state as abandoned property as provided in (~~RCW~~
25 ~~63.29.165~~) chapter 63.30 RCW.

26 (f) That any personal papers and personal photographs will be
27 retained by the owner and may be reclaimed by the occupant at any
28 time for a period of six months from the sale or other disposition of
29 property and that thereafter the owner may dispose of the personal
30 papers and photographs in a reasonable manner, subject to the
31 restrictions of RCW 19.150.080(3).

32 (g) That the occupant has no right to repurchase any property
33 sold at the lien sale.

34 (2) The owner may not send by email the notice required under
35 this section to the occupant's last known address or alternative
36 address unless:

37 (a) The occupant expressly agrees to notice by email;

38 (b) The rental agreement executed by the occupant specifies in
39 bold type that notices will be given to the occupant by email;

1 (c) The owner provides the occupant with the email address from
2 which notices will be sent and directs the occupant to modify his or
3 her email settings to allow email from that address to avoid any
4 filtration systems; and

5 (d) The owner notifies the occupant of any change in the email
6 address from which notices will be sent prior to the address change.

7 **Sec. 3.** RCW 19.150.080 and 2007 c 113 s 5 are each amended to
8 read as follows:

9 (1) After the expiration of the time given in the final notice of
10 lien sale pursuant to RCW 19.150.060, the property, other than
11 personal papers and personal photographs, may be sold or disposed of
12 in a reasonable manner as provided in this section.

13 (2)(a) If the property has a value of three hundred dollars or
14 more, the sale shall be conducted in a commercially reasonable
15 manner, and, after applying the proceeds to costs of the sale and
16 then to the amount of the lien, the owner shall retain any excess
17 proceeds of the sale on the occupant's behalf. The occupant, or any
18 other person having a court order or other judicial process against
19 the property, may claim the excess proceeds, or a portion thereof
20 sufficient to satisfy the particular claim, at any time within six
21 months of the date of sale.

22 (b) If the property has a value of less than three hundred
23 dollars, the property may be disposed of in a reasonable manner.

24 (3) Personal papers and personal photographs that are not
25 reclaimed by the occupant within six months of a sale under
26 subsection (2)(a) of this section or other disposition under
27 subsection (2)(b) of this section may be disposed of in a reasonable
28 manner.

29 (4) No employee or owner, or family member of an employee or
30 owner, may acquire, directly or indirectly, the property sold
31 pursuant to subsection (2)(a) of this section or disposed of pursuant
32 to subsection (2)(b) of this section, or personal papers and personal
33 photographs disposed of under subsection (3) of this section.

34 (5) The owner is entitled to retain any interest earned on the
35 excess proceeds until the excess proceeds are claimed by another
36 person or are turned over to the state as abandoned property pursuant
37 to (~~RCW 63.29.165~~) chapter 63.30 RCW.

1 **Sec. 4.** RCW 19.240.080 and 2004 c 168 s 9 are each amended to
2 read as follows:

3 An issuer is not required to honor a gift certificate presumed
4 abandoned under ((~~RCW 63.29.110~~)) chapter 63.30 RCW, if reported((~~7~~))
5 and delivered to the department of revenue in the dissolution of a
6 business association.

7 **Sec. 5.** RCW 19.240.900 and 2004 c 168 s 18 are each amended to
8 read as follows:

9 Sections 1 through 12 of this act apply to:

- 10 (1) Gift certificates issued on or after July 1, 2004; and
11 (2) Those gift certificates presumed abandoned on or after July
12 1, 2004, and not reported as provided in ((~~RCW 63.29.170(4)~~)) chapter
13 63.30 RCW.

14 **Sec. 6.** RCW 59.18.312 and 2011 c 132 s 17 are each amended to
15 read as follows:

16 (1) A landlord shall, upon the execution of a writ of restitution
17 by the sheriff, enter and take possession of any property of the
18 tenant found on the premises. The landlord may store the property in
19 any reasonably secure place, including the premises, and sell or
20 dispose of the property as provided under subsection (3) of this
21 section. The landlord must store the property if the tenant serves a
22 written request to do so on the landlord or the landlord's
23 representative by any of the methods described in RCW 59.18.365 no
24 later than three days after service of the writ. A landlord may elect
25 to store the property without such a request unless the tenant or the
26 tenant's representative objects to the storage of the property. If
27 the tenant or the tenant's representative objects to the storage of
28 the property or the landlord elects not to store the property because
29 the tenant has not served a written request on the landlord to do so,
30 the property shall be deposited upon the nearest public property and
31 may not be stored by the landlord. If the landlord knows that the
32 tenant is a person with a disability as defined in RCW 49.60.040 (as
33 amended by chapter 317, Laws of 2007) and the disability impairs or
34 prevents the tenant or the tenant's representative from making a
35 written request for storage, it must be presumed that the tenant has
36 requested the storage of the property as provided in this section
37 unless the tenant objects in writing.

1 (2) Property stored under this section shall be returned to the
2 tenant after the tenant has paid the actual or reasonable drayage and
3 storage costs, whichever is less, or until it is sold or disposed of
4 by the landlord in accordance with subsection (3) of this section.

5 (3) Prior to the sale of property stored pursuant to this section
6 with a cumulative value of over (~~two hundred fifty dollars~~) \$250,
7 the landlord shall notify the tenant of the pending sale. After
8 (~~thirty~~) 30 days from the date the notice of the sale is mailed or
9 personally delivered to the tenant's last known address, the landlord
10 may sell the property, including personal papers, family pictures,
11 and keepsakes, and dispose of any property not sold.

12 If the property that is being stored has a cumulative value of
13 (~~two hundred fifty dollars~~) \$250 or less, then the landlord may
14 sell or dispose of the property in the manner provided in this
15 section, except for personal papers, family pictures, and keepsakes.
16 Prior to the sale or disposal of property stored pursuant to this
17 section with a cumulative value of (~~two hundred fifty dollars~~) \$250
18 or less, the landlord shall notify the tenant of the pending sale or
19 disposal. The notice shall either be mailed to the tenant's last
20 known address or personally delivered to the tenant. After seven days
21 from the date the notice is mailed or delivered to the tenant, the
22 landlord may sell or dispose of the property.

23 The landlord may apply any income derived from the sale of the
24 tenant's property against moneys due the landlord for drayage and
25 storage of the property. The amount of sale proceeds that the
26 landlord may apply towards such costs may not exceed the actual or
27 reasonable costs for drayage and storage of the property, whichever
28 is less. Any excess income derived from the sale of such property
29 shall be held by the landlord for the benefit of the tenant for a
30 period of one year from the date of the sale. If no claim is made or
31 action commenced by the tenant for the recovery of the excess income
32 prior to the expiration of that period of time, then the balance
33 shall be treated as abandoned property and deposited by the landlord
34 with the department of revenue pursuant to chapter (~~63.29~~) 63.30
35 RCW.

36 (4) Nothing in this section shall be construed as creating a
37 right of distress for rent.

38 (5) When serving a tenant with a writ of restitution pursuant to
39 RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice
40 to the tenant that: (a) Upon execution of the writ, the landlord must

1 store the tenant's property only if the tenant serves a written
2 request on the landlord to do so no later than three days after
3 service of the writ; (b) the notice to the landlord requesting
4 storage may be served by personally delivering or mailing a copy of
5 the request to the landlord at the address identified in, or by
6 facsimile to the facsimile number listed on, the form described under
7 subsection (6) of this section; (c) if the tenant has not made such a
8 written request to the landlord, the landlord may elect to either
9 store the tenant's property or place the tenant's property on the
10 nearest public property unless the tenant objects; (d) if the
11 property is stored, it may not be returned to the tenant unless the
12 tenant pays the actual or reasonable costs of drayage and storage,
13 whichever is less, within (~~thirty~~) 30 days; (e) if the tenant or
14 the tenant's representative objects to storage of the property, it
15 will not be stored but will be placed on the nearest public property;
16 and (f) the landlord may sell or otherwise dispose of the property as
17 provided in subsection (3) of this section if the landlord provides
18 written notice to the tenant first.

19 (6) When serving a tenant with a writ of restitution under
20 subsection (5) of this section, the sheriff shall also serve the
21 tenant with a form provided by the landlord that can be used to
22 request the landlord to store the tenant's property, which must be
23 substantially in the following form:

24 REQUEST FOR STORAGE OF PERSONAL PROPERTY

25

26 Name of Plaintiff

27

28 Name(s) of Tenant(s)

29 I/we hereby request the landlord to store our personal property.
30 I/we understand that I/we am/are responsible for the actual or
31 reasonable costs of moving and storing the property, whichever is
32 less. If I/we fail to pay these costs, the landlord may sell or
33 dispose of the property pursuant to and within the time frame
34 permitted under RCW 59.18.312(3).

35 Any notice of sale required under RCW 59.18.312(3) must be sent
36 to the tenants at the following address:

1
2
3

4 IF NO ADDRESS IS PROVIDED, NOTICE OF SALE WILL BE SENT TO THE LAST
5 KNOWN ADDRESS OF THE TENANT(S)

6 Dated:

7

8 Tenant-Print Name

9

10 Tenant-Print Name

11 This notice may be delivered or mailed to the landlord or the
12 landlord's representative at the following address:

13
14
15

16 This notice may also be served by facsimile to the landlord or the
17 landlord's representative at:

18

19 Facsimile Number

20 IMPORTANT

21 IF YOU WANT YOUR LANDLORD TO STORE YOUR PROPERTY, THIS WRITTEN
22 REQUEST MUST BE RECEIVED BY THE LANDLORD NO LATER THAN THREE (3) DAYS
23 AFTER THE SHERIFF SERVES THE WRIT OF RESTITUTION. YOU SHOULD RETAIN
24 PROOF OF SERVICE.

25 **Sec. 7.** RCW 59.18.595 and 2015 c 264 s 3 are each amended to
26 read as follows:

27 (1) In the event of the death of a tenant who is the sole
28 occupant of the dwelling unit:

29 (a) The landlord, upon learning of the death of the tenant, shall
30 promptly mail or personally deliver written notice to any known
31 personal representative, known designated person, emergency contact
32 identified by the tenant on the rental application, known person
33 reasonably believed to be a successor of the tenant as defined in RCW

1 11.62.005, and to the deceased tenant at the address of the dwelling
2 unit. If the landlord knows of any address used for the receipt of
3 electronic communications, the landlord shall email the notice to
4 that address as well. The notice must include:

5 (i) The name of the deceased tenant and address of the dwelling
6 unit;

7 (ii) The approximate date of the deceased tenant's death;

8 (iii) The rental amount and date through which rent is paid;

9 (iv) A statement that the tenancy will terminate (~~((fifteen))~~) 15
10 days from the date the notice is mailed or personally delivered or
11 the date through which rent is paid, whichever comes later, unless
12 during that time period a tenant representative makes arrangements
13 with the landlord to pay rent in advance for no more than (~~((sixty))~~)
14 60 days from the date of the tenant's death to allow a tenant
15 representative to arrange for orderly removal of the tenant's
16 property. At the end of the period for which the rent has been paid
17 pursuant to this subsection, the tenancy ends;

18 (v) A statement that failure to remove the tenant's property
19 before the tenancy is terminated or ends as provided in (a)(iv) of
20 this subsection will allow the landlord to enter the dwelling unit
21 and take possession of any property found on the premises, store it
22 in a reasonably secure place, and charge the actual or reasonable
23 costs, whichever is less, of drayage and storage of the property, and
24 after service of a second notice sell or dispose of the property as
25 provided in subsection (3) of this section; and

26 (vi) A copy of any designation executed by the tenant pursuant to
27 RCW 59.18.590;

28 (b) The landlord shall turn over possession of the tenant's
29 property to a tenant representative if a request is made in writing
30 within the specified time period or any subsequent date agreed to by
31 the parties;

32 (c) Within (~~((fourteen))~~) 14 days after the removal of the property
33 by the tenant representative, the landlord shall refund any unearned
34 rent and shall give a full and specific statement of the basis for
35 retaining any deposit together with the payment of any refund due the
36 deceased tenant under the terms and conditions of the rental
37 agreement to the tenant representative; and

38 (d) Any tenant representative who removes property from the
39 tenant's dwelling unit or the premises must, at the time of removal,
40 provide to the landlord an inventory of the removed property and

1 signed acknowledgment that he or she has only been given possession
2 and not ownership of the property.

3 (2) A landlord shall send a second written notice before selling
4 or disposing of a deceased tenant's property.

5 (a) If the tenant representative makes arrangements with the
6 landlord to pay rent in advance as provided in subsection (1)(a)(iv)
7 of this section, the landlord shall mail a second written notice to
8 any known personal representative, known designated person, emergency
9 contact identified by the tenant on the rental application, known
10 person reasonably believed to be a successor of the tenant as defined
11 in RCW 11.62.005, and to the deceased tenant at the dwelling unit.
12 The second notice must include:

13 (i) The name, address, and phone number or other contact
14 information for the tenant representative, if known, who made the
15 arrangements to pay rent in advance;

16 (ii) The amount of rent paid in advance and date through which
17 rent was paid; and

18 (iii) A statement that the landlord may sell or dispose of the
19 property on or after the date through which rent is paid or at least
20 (~~forty-five~~) 45 days after the second notice is mailed, whichever
21 comes later, if a tenant representative does not claim and remove the
22 property in accordance with this subsection.

23 (b) If the landlord places the property in storage pursuant to
24 subsection (1)(a) of this section, the landlord shall mail a second
25 written notice, unless a written notice under (a) of this subsection
26 has already been provided, to any known personal representative,
27 known designated person, emergency contact identified by the tenant
28 on the rental application, known person reasonably believed to be a
29 successor of the tenant as defined in RCW 11.62.005, and to the
30 deceased tenant at the dwelling unit. The second notice must state
31 that the landlord may sell or dispose of the property on or after a
32 specified date that is at least (~~forty-five~~) 45 days after the
33 second notice is mailed if a tenant representative does not claim and
34 remove the property in accordance with this subsection.

35 (c) The landlord shall turn over possession of the tenant's
36 property to a tenant representative if a written request is made
37 within the applicable time periods after the second notice is mailed,
38 provided the tenant representative: (i) Pays the actual or reasonable
39 costs, whichever is less, of drayage and storage of the property, if
40 applicable; and (ii) gives the landlord an inventory of the property

1 and signs an acknowledgment that he or she has only been given
2 possession and not ownership of the property.

3 (d) Within (~~fourteen~~) 14 days after the removal of the property
4 by the tenant representative, the landlord shall refund any unearned
5 rent and shall give a full and specific statement of the basis for
6 retaining any deposit together with the payment of any refund due the
7 deceased tenant under the terms and conditions of the rental
8 agreement to the tenant representative.

9 (3) (a) If a tenant representative has not contacted the landlord
10 or removed the deceased tenant's property within the applicable time
11 periods under this section, the landlord may sell or dispose of the
12 deceased tenant's property, except for personal papers and personal
13 photographs, as provided in this subsection.

14 (i) If the landlord reasonably estimates the fair market value of
15 the stored property to be more than (~~one thousand dollars~~) \$1,000,
16 the landlord shall arrange to sell the property in a commercially
17 reasonable manner and may dispose of any property that remains unsold
18 in a reasonable manner.

19 (ii) If the value of the stored property does not meet the
20 threshold provided in (a) (i) of this subsection, the landlord may
21 dispose of the property in a reasonable manner.

22 (iii) The landlord may apply any income derived from the sale of
23 the property pursuant to this section against any costs of sale and
24 moneys due the landlord, including actual or reasonable costs,
25 whichever is less, of drayage and storage of the deceased tenant's
26 property. Any excess income derived from the sale of such property
27 under this section must be held by the landlord for a period of one
28 year from the date of sale, and if no claim is made for recovery of
29 the excess income before the expiration of that one-year period, the
30 balance must be treated as abandoned property and deposited by the
31 landlord with the department of revenue pursuant to chapter (~~63.29~~)
32 63.30 RCW.

33 (b) Personal papers and personal photographs that are not claimed
34 by a tenant representative within (~~ninety~~) 90 days after a sale or
35 other disposition of the deceased tenant's other property shall be
36 either destroyed or held for the benefit of any successor of the
37 deceased tenant as defined in RCW 11.62.005.

38 (c) No landlord or employee of a landlord, or his or her family
39 members, may acquire, directly or indirectly, the property sold

1 pursuant to (a)(i) of this subsection or disposed of pursuant to
2 (a)(ii) of this subsection.

3 (4) Upon learning of the death of the tenant, the landlord may
4 enter the deceased tenant's dwelling unit and immediately dispose of
5 any perishable food, hazardous materials, and garbage found on the
6 premises and turn over animals to a tenant representative or to an
7 animal control officer, humane society, or other individual or
8 organization willing to care for the animals.

9 (5) Any notices sent by the landlord under this section must
10 include a mailing address, any address used for the receipt of
11 electronic communications, and a telephone number of the landlord.

12 (6) If a landlord knowingly violates this section, the landlord
13 is liable to the deceased tenant's estate for actual damages. The
14 prevailing party in any action pursuant to this subsection may
15 recover costs and reasonable attorneys' fees.

16 (7) A landlord who complies with this section is relieved from
17 any liability relating to the deceased tenant's property.

18 **Sec. 8.** RCW 63.30.040 and 2022 c 225 s 201 are each amended to
19 read as follows:

20 Subject to RCW 63.30.120, the following property is presumed
21 abandoned if it is unclaimed by the apparent owner during the period
22 specified below:

23 (1) A traveler's check, 15 years after issuance;

24 (2) A money order, five years after issuance;

25 (3) A state or municipal bond, bearer bond, or original issue
26 discount bond, three years after the earliest of the date the bond
27 matures or is called or the obligation to pay the principal of the
28 bond arises;

29 (4) A debt of a business association, three years after the
30 obligation to pay arises;

31 (5) A demand, savings, or time deposit, including a deposit that
32 is automatically renewable, three years after the later of maturity,
33 if applicable, of the deposit or the owner's last indication of
34 interest in the deposit, except a deposit that is automatically
35 renewable is deemed matured on its initial date of maturity unless
36 the apparent owner consented in a record on file with the holder to
37 renewal at or about the time of the renewal;

38 (6) Money or a credit owed to a customer as a result of a retail
39 business transaction, three years after the obligation arose;

1 (7) An amount owed by an insurance company on a life or endowment
2 insurance policy or an annuity contract that has matured or
3 terminated, three years after the obligation to pay arose under the
4 terms of the policy or contract or, if a policy or contract for which
5 an amount is owed on proof of death has not matured by proof of the
6 death of the insured or annuitant, as follows:

7 (a) With respect to an amount owed on a life or endowment
8 insurance policy, three years after the earlier of the date:

9 (i) The insurance company has knowledge of the death of the
10 insured; or

11 (ii) The insured has attained, or would have attained if living,
12 the limiting age under the mortality table on which the reserve for
13 the policy is based; and

14 (b) With respect to an amount owed on an annuity contract, three
15 years after the date the insurance company has knowledge of the death
16 of the annuitant;

17 (8) Property distributable by a business association in the
18 course of dissolution, one year after the property becomes
19 distributable;

20 (9) Property held by a court, including property received as
21 proceeds of a class action, one year after the property becomes
22 distributable;

23 (10) Property held by a government or governmental subdivision,
24 agency, or instrumentality, including municipal bond interest and
25 unredeemed principal under the administration of a paying agent or
26 indenture trustee, one year after the property becomes distributable;

27 (11) Wages, commissions, bonuses, or reimbursements to which an
28 employee is entitled, or other compensation for personal services,
29 one year after the amount becomes payable;

30 (12) A deposit or refund owed to a subscriber by a utility, one
31 year after the deposit or refund becomes payable; (~~and~~)

32 (13) Payroll card, one year after the amount becomes payable;
33 (~~and~~)

34 (14) Excess proceeds from the sale of property by an owner of a
35 self-service storage facility conducted pursuant to RCW 19.150.080,
36 six months from the date of sale;

37 (15) Excess income from the sale of tenant property by a landlord
38 conducted pursuant to RCW 59.18.312 and RCW 59.18.595, one year from
39 the date of the sale;

1 (16) Excess funds from the sale of an abandoned vessel by an
2 operator of a private moorage facility conducted pursuant to RCW
3 88.26.020, one year from the date of the sale; and

4 (17) Property not specified in this section or RCW 63.30.050
5 through 63.30.100, the earlier of three years after the owner first
6 has a right to demand the property or the obligation to pay or
7 distribute the property arises.

8 **Sec. 9.** RCW 63.30.690 and 2022 c 225 s 1013 are each amended to
9 read as follows:

10 (1) A person who fails to pay or deliver property when due is
11 required to pay to the administrator interest at the rate as computed
12 under RCW 82.32.050(1)(c) and set under RCW 82.32.050(2). However,
13 the administrator must waive or cancel interest imposed under this
14 subsection if:

15 (a) The administrator finds that the failure to pay or deliver
16 the property within the time prescribed by this chapter was the
17 result of circumstances beyond the person's control sufficient for
18 waiver or cancellation of interest under RCW 82.32.105;

19 (b) The failure to timely pay or deliver the property within the
20 time prescribed by this chapter was the direct result of written
21 instructions given to the person by the administrator; or

22 (c) The extension of a due date for payment or delivery under an
23 assessment issued by the administrator was not at the person's
24 request and was for the sole convenience of the administrator.

25 (2) If a person fails to file any report or to pay or deliver any
26 amounts or property when due under a report required under this
27 chapter, there is assessed a penalty equal to 10 percent of the
28 amount unpaid and the value of any property not delivered.

29 (3) If an examination results in an assessment for amounts unpaid
30 or property not delivered, there is assessed a penalty equal to 10
31 percent of the amount unpaid and the value of any property not
32 delivered.

33 (4) If a person fails to pay or deliver to the administrator by
34 the due date any amounts or property due under an assessment issued
35 by the administrator to the person, there is assessed an additional
36 penalty of five percent of the amount unpaid and the value of any
37 property not delivered.

38 (5) If a holder makes a fraudulent report under this chapter, the
39 administrator may require the holder to pay the administrator, in

1 addition to interest under this section, a civil penalty of \$1,000
2 for each day from the date the report was made until corrected, up to
3 a cumulative maximum amount of \$25,000, plus 25 percent of the amount
4 or value of any property that should have been reported or was
5 underreported.

6 (6) Penalties under subsections (2) through (4) of this section
7 may be waived or canceled only if ~~((the))~~:

8 (a) The administrator finds that the failure to pay or deliver
9 within the time prescribed by this chapter was the result of
10 circumstances beyond the person's control sufficient for waiver or
11 cancellation of penalties under RCW 82.32.105; or

12 (b) The person requests the waiver for a report required to be
13 filed under RCW 63.30.220 and has timely filed as provided by RCW
14 63.30.240 all reports due under RCW 63.30.220 and paid or delivered
15 all property associated with those reports for a period of 24 months
16 immediately preceding the period covered by the report for which the
17 waiver is being requested.

18 (7) If a person willfully fails to file a report or to provide
19 written notice to apparent owners as required under this chapter, the
20 administrator may assess a civil penalty of \$100 for each day the
21 report is withheld or the notice is not sent, but not more than
22 \$5,000.

23 (8) If a holder, having filed a report, failed to file the report
24 electronically as required by RCW ~~((63.29.170))~~ 63.30.220, or failed
25 to pay electronically any amounts due under the report as required by
26 RCW ~~((63.29.190))~~ 63.30.340, the administrator must assess a penalty
27 equal to five percent of the amount payable or deliverable under the
28 report, unless the administrator grants the taxpayer relief from the
29 electronic filing and payment requirements. Total penalties assessed
30 under this subsection may not exceed five percent of the amount
31 payable and value of property deliverable under the report.

32 (9) If a holder enters into a contract or other arrangement for
33 the purpose of evading an obligation under this chapter or otherwise
34 willfully fails to perform a duty imposed on the holder under this
35 chapter, the administrator may require the holder to pay the
36 administrator, in addition to interest as provided in this section, a
37 civil penalty of \$1,000 for each day the obligation is evaded or the
38 duty not performed, up to a cumulative maximum amount of \$25,000,
39 plus 25 percent of the amount or value of property that should have

1 been but was not reported, paid, or delivered as a result of the
2 evasion or failure to perform.

3 (10) The penalties imposed in this section are cumulative.

4 **Sec. 10.** RCW 88.26.020 and 2013 c 291 s 41 are each amended to
5 read as follows:

6 (1) Any private moorage facility operator may take reasonable
7 measures, including the use of chains, ropes, and locks, or removal
8 from the water, to secure vessels within the private moorage facility
9 so that the vessels are in the possession and control of the operator
10 and cannot be removed from the facility. These procedures may be used
11 if an owner mooring or storing a vessel at the facility fails, after
12 being notified that charges are owing and of the owner's right to
13 commence legal proceedings to contest that such charges are owing, to
14 pay charges owed or to commence legal proceedings. Notification shall
15 be by two separate letters, one sent by first-class mail and one sent
16 by registered mail to the owner and any lienholder of record at the
17 last known address. In the case of a transient vessel, or where no
18 address was furnished by the owner, the operator need not give notice
19 prior to securing the vessel. At the time of securing the vessel, an
20 operator shall attach to the vessel a readily visible notice. The
21 notice shall be of a reasonable size and shall contain the following
22 information:

23 (a) The date and time the notice was attached;

24 (b) A statement that if the account is not paid in full within
25 (~~ninety~~) 90 days from the time the notice is attached the vessel
26 may be sold at public auction to satisfy the charges; and

27 (c) The address and telephone number where additional information
28 may be obtained concerning release of the vessel.

29 After a vessel is secured, the operator shall make a reasonable
30 effort to notify the owner and any lienholder of record by registered
31 mail in order to give the owner the information contained in the
32 notice.

33 (2) A private moorage facility operator, at his or her
34 discretion, may move moored vessels ashore for storage within
35 properties under the operator's control or for storage with a private
36 person under their control as bailees of the private moorage
37 facility, if the vessel is, in the opinion of the operator, a
38 nuisance, in danger of sinking or creating other damage, or is owing

1 charges. The costs of any such procedure shall be paid by the
2 vessel's owner.

3 (3) If a vessel is secured under subsection (1) of this section
4 or moved ashore under subsection (2) of this section, the owner who
5 is obligated to the private operator for charges may regain
6 possession of the vessel by:

7 (a) Making arrangements satisfactory with the operator for the
8 immediate removal of the vessel from the facility or for authorized
9 moorage; and

10 (b) Making payment to the operator of all charges, or by posting
11 with the operator a sufficient cash bond or other acceptable
12 security, to be held in trust by the operator pending written
13 agreement of the parties with respect to payment by the vessel owner
14 of the amount owing, or pending resolution of the matter of the
15 charges in a civil action in a court of competent jurisdiction. After
16 entry of judgment, including any appeals, in a court of competent
17 jurisdiction, or after the parties reach agreement with respect to
18 payment, the trust shall terminate and the operator shall receive so
19 much of the bond or other security as agreed, or as is necessary, to
20 satisfy any judgment, costs, and interest as may be awarded to the
21 operator. The balance shall be refunded immediately to the owner at
22 the last known address.

23 (4) If a vessel has been secured by the operator under subsection
24 (1) of this section and is not released to the owner under the
25 bonding provisions of this section within (~~ninety~~) 90 days after
26 notifying or attempting to notify the owner under subsection (1) of
27 this section, the vessel is conclusively presumed to have been
28 abandoned by the owner.

29 (5) If a vessel moored or stored at a private moorage facility is
30 abandoned, the operator may authorize the public sale of the vessel
31 by authorized personnel, consistent with this section, to the highest
32 and best bidder for cash as follows:

33 (a) Before the vessel is sold, the vessel owner and any
34 lienholder of record shall be given at least (~~twenty~~) 20 days'
35 notice of the sale in the manner set forth in subsection (1) of this
36 section if the name and address of the owner is known. The notice
37 shall contain the time and place of the sale, a reasonable
38 description of the vessel to be sold, and the amount of charges owed
39 with respect to the vessel. The notice of sale shall be published at
40 least once, more than (~~ten~~) 10 but not more than (~~twenty~~) 20 days

1 before the sale, in a newspaper of general circulation in the county
2 in which the facility is located. This notice shall include the name
3 of the vessel, if any, the last known owner and address, and a
4 reasonable description of the vessel to be sold. The operator may bid
5 all or part of its charges at the sale and may become a purchaser at
6 the sale.

7 (b) Before the vessel is sold, any person seeking to redeem an
8 impounded vessel under this section may commence a lawsuit in the
9 superior court for the county in which the vessel was impounded to
10 contest the validity of the impoundment or the amount of charges
11 owing. This lawsuit must be commenced within (~~sixty~~) 60 days of the
12 date the notification was provided under subsection (1) of this
13 section, or the right to a hearing is deemed waived and the owner is
14 liable for any charges owing the operator. In the event of
15 litigation, the prevailing party is entitled to reasonable attorneys'
16 fees and costs.

17 (c) The proceeds of a sale under this section shall be applied
18 first to the payment of any liens superior to the claim for charges,
19 then to payment of the charges, then to satisfy any other liens on
20 the vessel in the order of their priority. The balance, if any, shall
21 be paid to the owner. If the owner cannot in the exercise of due
22 diligence be located by the operator within one year of the date of
23 the sale, the excess funds from the sale shall revert to the
24 department of revenue under chapter (~~63.29~~) 63.30 RCW. If the sale
25 is for a sum less than the applicable charges, the operator is
26 entitled to assert a claim for deficiency, however, the deficiency
27 judgment shall not exceed the moorage fees owed for the previous six-
28 month period.

29 (d) In the event no one purchases the vessel at a sale, or a
30 vessel is not removed from the premises or other arrangements are not
31 made within (~~ten~~) 10 days of sale, title to the vessel will revert
32 to the operator.

33 (e) Either a minimum bid may be established or a letter of credit
34 may be required from the buyer, or both, to discourage the future
35 abandonment of the vessel.

36 (6) The rights granted to a private moorage facility operator
37 under this section are in addition to any other legal rights an
38 operator may have to hold and sell a vessel and in no manner does
39 this section alter those rights, or affect the priority of other
40 liens on a vessel.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 63.30
2 RCW to read as follows:

3 (1) The department may enter into an agreement in writing with
4 any holder with respect to any duties under this chapter or any
5 property or amounts due under this chapter, including penalties and
6 interest.

7 (2) Upon its execution by all parties, the agreement is final and
8 conclusive as to the periods, property, and any other matters
9 expressly covered by the agreement. Except upon a showing of fraud or
10 malfeasance, or of misrepresentation of a material fact:

11 (a) The agreement may not be reopened as to the matters agreed
12 upon, nor may the agreement be modified, by any officer, employee, or
13 agent of the state, or the holder; and

14 (b) In any suit, action, or proceeding, such agreement, or any
15 determination, assessment, collection, payment, abatement, or refund,
16 or credit made in accordance with the agreement, may not be annulled,
17 modified, set aside, or disregarded.

18 (3) No agreement under this section may affect a holder's
19 obligations to an owner or an owner's rights against a holder, except
20 as expressly provided in RCW 63.30.350.

21 (4) No agreement under this section may include any
22 indemnification of any holder for amounts or property that has not
23 been paid or delivered to the department. Nothing in this subsection
24 may be construed to affect the finality and conclusiveness of any
25 agreement under this section to the extent provided in subsection (2)
26 of this section.

27 NEW SECTION. **Sec. 12.** Sections 2 through 8, 10, and 11 of this
28 act apply both prospectively and retroactively to January 1, 2023.

29 NEW SECTION. **Sec. 13.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

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