

REFERENCE TITLE: **unclaimed property; locator registration**

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2242

Introduced by
Representative Livingston

AN ACT

AMENDING SECTIONS 44-315 AND 44-327, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-327.01; RELATING TO UNCLAIMED PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
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
10 the 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
16 for any proceeding involving unclaimed property before the department or
17 any other agency or board of this state or before any grand jury or any
18 state 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
24 type of information.
25 4. The auditor general, in connection with any audit of the
26 department subject to the restrictions in section 42-2002, subsection D.
27 5. Any person to the extent necessary for effective unclaimed
28 property administration in connection with the processing, storage,
29 transmission and reproduction of the information and the programming,
30 maintenance, repair, testing and procurement of equipment for purposes of
31 unclaimed property administration.
32 6. A LOCATOR THAT IS REGISTERED WITH THE DEPARTMENT PURSUANT TO
33 SECTION 44-327.01.
34 C. Except as provided in section 42-2002, subsection D, the
35 department may disclose confidential information in any state or federal
36 judicial or administrative proceeding relating to unclaimed property
37 administration if:
38 1. The claimant or holder is a party to the proceeding.
39 2. The treatment of an item reflected in the information is
40 directly related to the resolution of an issue in the proceeding.
41 3. The information directly relates to a transactional relationship
42 between a person who is a party to the proceeding and the claimant or
43 holder and the information directly affects the resolution of an issue in
44 the proceeding.

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

4 E. The department may disclose statistical information gathered
5 from confidential information if it does not disclose confidential
6 information attributable to a claimant or holder.

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

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

14 H. A disclosure of confidential information in violation of this
15 section is a class 1 misdemeanor. A knowing disclosure of confidential
16 information in violation of this section is a class 6 felony.

17 I. The provisions of this section apply to independent auditors
18 hired by the department to enforce ~~the provisions of~~ this chapter and
19 chapter 3.1 of this title.

20 J. A person, including a former employee, agent or independent
21 auditor of the department or office of administrative hearings or a person
22 previously having an administrative duty for the department or the office
23 of administrative hearings, who has received confidential information
24 while an employee, agent or independent auditor of the department or the
25 office of administrative hearings, shall not disclose that information
26 except as provided in this section.

27 K. For the purposes of this section:

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

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

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

39 (b) Includes information supplied at the special request of the
40 department ~~which~~ THAT the claimant or holder requests to be held
41 confidential, whether a holder or report was, is being or will be subject
42 to examination, investigation or collection and data received by, recorded
43 by, prepared by, furnished to or collected by the department with respect
44 to the existence or possible existence of a liability of any holder for
45 unclaimed property.

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

3 44-327. Agreement to recover property

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

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

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

16 2. THE AGREEMENT LISTS THE UNCLAIMED PROPERTY ACCOUNT NUMBERS BEING
17 CLAIMED.

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

19 4. THE AGREEMENT IS SIGNED BY THE CLAIMANT.

20 5. THE AGREEMENT STATES THE VALUE OF THE PROPERTY, IF AVAILABLE,
21 BEFORE AND AFTER THE FEE OR OTHER COMPENSATION HAS BEEN DEDUCTED.

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

26 ~~2. C. A provision in an agreement that requires an owner A~~
27 ~~CLAIMANT to pay compensation that includes a portion of mineral proceeds~~
28 ~~that are not presumed abandoned or the underlying minerals, if the primary~~
29 ~~purpose of the agreement is to locate, deliver, recover or assist in the~~
30 ~~recovery of mineral proceeds that are presumed abandoned, IS VOID.~~

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

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

41 ~~2. D. AN AGREEMENT THAT IS SUBJECT TO SUBSECTION B OF THIS SECTION~~
42 ~~IS unenforceable except by the owner CLAIMANT if the agreement provides~~
43 ~~for compensation that is more than thirty per cent PERCENT of the value of~~
44 ~~the recoverable property reported to the department. THIS SUBSECTION DOES~~

1 NOT APPLY TO THE RECOVERY OF ACCOUNTS THAT REQUIRES A JUDICIAL
2 DETERMINATION OF OWNERSHIP TO ESTABLISH ENTITLEMENT.

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

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

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

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

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

19 44-327.01. Unclaimed property account information; locators;
20 registration; fees; filing of written agreement;
21 fund

22 A. ON WRITTEN REQUEST, THE DEPARTMENT SHALL PROVIDE ALL UNCLAIMED
23 PROPERTY ACCOUNT INFORMATION FOR ALL UNCLAIMED ACCOUNTS ONLY TO A LOCATOR
24 THAT IS REGISTERED PURSUANT TO THIS SECTION. THE DEPARTMENT MAY CHARGE A
25 FEE FOR EACH REQUEST IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR. THE
26 DEPARTMENT SHALL PROVIDE THE UNCLAIMED PROPERTY ACCOUNT INFORMATION IN A
27 SEARCHABLE ELECTRONIC OR DIGITAL FORMAT. THE UNCLAIMED PROPERTY ACCOUNT
28 INFORMATION SHALL INCLUDE ALL OF THE FOLLOWING:

- 29 1. THE NAME OF THE APPARENT OWNER.
- 30 2. THE COMPLETE LAST KNOWN ADDRESS OF THE APPARENT OWNER AS
31 REPORTED BY THE HOLDER.
- 32 3. THE RELATIONSHIP CODE, IF ANY.
- 33 4. THE TYPE OF PROPERTY.
- 34 5. THE CASH VALUE OF THE PROPERTY.
- 35 6. IF THE PROPERTY IS SECURITIES OR MUTUAL FUND SHARES, THE NUMBER
36 OF SHARES OR ITEMS AND THE EXCHANGE TICKER SYMBOL OR FUND NAME, IF
37 REPORTED.
- 38 7. THE YEAR THAT THE PROPERTY WAS REPORTED TO THE DEPARTMENT.
- 39 8. THE NAME AND CONTACT INFORMATION OF THE HOLDER.
- 40 9. A GENERAL DESCRIPTION OF THE SAFE DEPOSIT BOX CONTENTS AND THE
41 LIQUIDATION AMOUNT, IF APPLICABLE.
- 42 10. LAST CONTACT DATE WITH THE APPARENT OWNER.

43 B. A LOCATOR MUST REGISTER WITH THE DEPARTMENT IN A FORM AND MANNER
44 DETERMINED BY THE DEPARTMENT AND SHALL PAY A REGISTRATION FEE TO THE
45 DEPARTMENT IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR. ON THE

1 REGISTRATION APPLICATION, AN APPLICANT SHALL PROVIDE THE APPLICANT'S
2 PRIMARY BUSINESS ADDRESS AND TELEPHONE NUMBER AND THE NAME, TELEPHONE
3 NUMBER AND EMAIL ADDRESS OF THE INDIVIDUAL WHO WILL BE THE PRIMARY POINT
4 OF CONTACT WITH THE DEPARTMENT. AN APPLICANT IS INELIGIBLE FOR
5 REGISTRATION IF WITHIN THE IMMEDIATELY PRECEDING TEN-YEAR PERIOD THE
6 APPLICANT WAS CONVICTED OF A FELONY INVOLVING DISHONESTY, DECEIT, FRAUD OR
7 A BREACH OF FIDUCIARY DUTY.

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

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

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

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