

SENATE BILL NO. 61—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE STATE TREASURER)

PREFILED DECEMBER 20, 2014

Referred to Committee on Judiciary

SUMMARY—Makes various changes to the Uniform Unclaimed Property Act. (BDR 10-461)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to unclaimed property; authorizing the Administrator of Unclaimed Property to establish a fee for providing certain information to certain persons; revising requirements governing the delivery of property and payment of proceeds of sales of property held by the Administrator; revising provisions governing certain agreements to locate, deliver, recover or assist in the recovery of such property; and providing other matters property relating thereto.

Legislative Counsel’s Digest:

- 1 This State has enacted the Uniform Unclaimed Property Act. (Chapter 120A of
- 2 NRS) The State Treasurer serves as the Administrator of Unclaimed Property.
- 3 (NRS 120A.025, 226.110) Existing law requires the Administrator to take
- 4 possession of property that is abandoned and unclaimed by its owner and to assume
- 5 responsibility for safekeeping the property. (NRS 120A.530, 120A.590)
- 6 Existing law requires the Administrator to maintain and periodically advertise
- 7 information concerning abandoned property in his or her custody. (NRS 120A.580)
- 8 Existing law also requires governmental entities to provide copies of public books
- 9 or records to a person upon request, but allows the governmental entity to charge a
- 10 fee for providing such copies. (NRS 239.010, 239.052) **Section 1** of this bill
- 11 authorizes the Administrator to charge a fee of 50 cents for each record of
- 12 abandoned property in his or her custody that he or she provides to persons other
- 13 than an actual or possible owner of such property.
- 14 Under existing law, the original owner or his or her legal heirs may file a claim
- 15 to recover property in the possession of the Administrator at any time. Existing law
- 16 requires the Administrator to determine whether to allow or deny such a claim
- 17 within 90 days after it is filed. Existing law further provides that if the



18 Administrator allows a claim, the Administrator is required to deliver the property
19 or pay the net proceeds from any sale of the property to the claimant within 30 days
20 thereafter. (NRS 120A.640) **Section 2** of this bill specifies that the Administrator is
21 required to make delivery or payment directly to the rightful owner of the property
22 or proceeds. **Section 2** also specifies that the Administrator is not allowed to make
23 the delivery or payment to a person who files a claim on behalf of a rightful owner
24 under an agreement entered into with the owner to locate, deliver, recover or assist
25 in the recovery of abandoned property. **Section 2** provides that a pending claim and
26 any record or information concerning its existence or status is confidential.

27 Under existing law, a person who may be the actual owner of property or
28 proceeds held by the Administrator as property that is presumed abandoned may
29 enter into an agreement with another person, where the primary purpose of the
30 agreement is to locate, deliver, recover or assist in the recovery of unclaimed
31 property. Under existing law, such an agreement is not enforceable unless it meets
32 certain conditions. For example, with certain exceptions, such an agreement is void
33 and unenforceable if it is entered into during the period commencing on the date the
34 property was presumed abandoned and extending to a time that is 24 months after
35 the date the property is paid or delivered to the Administrator. (NRS 120A.740)
36 **Section 3** of this bill eliminates an exception to this provision recognized under
37 existing law and thereby makes it applicable to an owner's agreement with an
38 attorney to file a claim as to identified property. **Section 3** also provides that an
39 agreement between the owner of property that is presumed abandoned and another
40 person where the primary purpose of the agreement is to locate, deliver, recover or
41 assist in the recovery of the property is enforceable only if the opening paragraph of
42 the agreement and the opening paragraph of any antecedent solicitation of the
43 owner to enter into the agreement include a statement in substantially the following
44 form: "The rightful owners of property held by the Unclaimed Property Division of
45 the Office of the State Treasurer or their heirs may recover their property at no cost
46 by filing a claim directly with the Unclaimed Property Division." **Section 5** of this
47 bill provides that the requirements of **section 3** apply retroactively to existing
48 agreements to locate, deliver, recover or assist in the recovery of property that is
49 presumed abandoned if a claim to property is filed pursuant to the agreement on or
50 after the effective date of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 120A.580 is hereby amended to read as
2 follows:

3 120A.580 1. The Administrator shall publish a notice not
4 later than November 30 of the year next following the year in which
5 abandoned property has been paid or delivered to the Administrator.
6 The notice must be published in a newspaper of general circulation
7 in the county of this State in which is located the last known address
8 of any person named in the notice. If a holder does not report an
9 address for the apparent owner or the address is outside this State,
10 the notice must be published in a county that the Administrator
11 reasonably selects. The advertisement must be in a form that, in the
12 judgment of the Administrator, is likely to attract the attention of the
13 apparent owner of the unclaimed property. The form must contain:



1 (a) The name of each person appearing to be the owner of the
2 property, as set forth in the report filed by the holder;

3 (b) The city or town in which the last known address of each
4 person appearing to be the owner of the property is located, if a city
5 or town is set forth in the report filed by the holder;

6 (c) A statement explaining that property of the owner is
7 presumed to be abandoned and has been taken into the protective
8 custody of the Administrator; and

9 (d) A statement that information about the property and its
10 return to the owner is available to a person having a legal or
11 beneficial interest in the property, upon request to the Administrator.

12 2. The Administrator is not required to advertise the name and
13 city or town of an owner of property having a total value less than
14 \$50 or information concerning a traveler's check, money order or
15 similar instrument.

16 3. *The Administrator may charge a fee of 50 cents for each*
17 *record of abandoned property paid or delivered to the*
18 *Administrator that the Administrator provides to a person other*
19 *than the owner of the property.*

20 **Sec. 2.** NRS 120A.640 is hereby amended to read as follows:

21 120A.640 1. A person, excluding another state, claiming
22 property paid or delivered to the Administrator may file a claim on a
23 form prescribed by the Administrator and verified by the claimant.

24 2. Within 90 days after a claim is filed, the Administrator shall
25 allow or deny the claim and give written notice of the decision to the
26 claimant. If the claim is denied, the Administrator shall inform the
27 claimant of the reasons for the denial and specify what additional
28 evidence is required before the claim will be allowed. The claimant
29 may then file a new claim with the Administrator or maintain an
30 action under NRS 120A.650.

31 3. *A pending claim and any record or information*
32 *concerning its existence or status is confidential.*

33 4. Except as otherwise provided in subsection ~~[5.]~~ 6, within 30
34 days after a claim is allowed, the property or the net proceeds of a
35 sale of the property must be delivered or paid by the Administrator
36 *directly* to the claimant, together with any dividend, interest or other
37 increment to which the claimant is entitled under NRS 120A.600
38 and 120A.610. *For the purposes of this subsection, "claimant"*
39 *means the person identified in a claim as the rightful owner of the*
40 *property or proceeds. The term does not include a person who files*
41 *a claim on behalf of a rightful owner under an agreement entered*
42 *into with the owner pursuant to NRS 120A.740.*

43 ~~[4.]~~ 5. A holder who pays the owner for property that has
44 been delivered to the State and which, if claimed from the
45 Administrator by the owner would be subject to an increment under



1 NRS 120A.600 and 120A.610 may recover from the Administrator
2 the amount of the increment.

3 ~~§~~ 6. The Administrator may require a person with a claim in
4 excess of \$2,000 to furnish a bond and indemnify the State against
5 any loss resulting from the approval of such claim if the claim is
6 based upon an original instrument, including, without limitation, a
7 certified check or a stock certificate or other proof of ownership of
8 securities, which cannot be furnished by the person with the claim.

9 **Sec. 3.** NRS 120A.740 is hereby amended to read as follows:

10 120A.740 1. An agreement by an owner, the primary purpose
11 of which is to locate, deliver, recover or assist in the recovery of
12 property that is presumed abandoned, is void and unenforceable if it
13 was entered into during the period commencing on the date the
14 property was presumed abandoned and extending to a time that is 24
15 months after the date the property is paid or delivered to the
16 Administrator. This subsection does not apply to an owner's
17 agreement with an attorney to ~~file a claim as to identified property~~
18 ~~or~~ contest the Administrator's denial of a claim.

19 2. An agreement by an owner, the primary purpose of which is
20 to locate, deliver, recover or assist in the recovery of property, is
21 enforceable only if the agreement is in writing, clearly sets forth the
22 nature of the property and the services to be rendered, is signed by
23 the apparent owner and states the value of the property before and
24 after the fee or other compensation has been deducted.

25 3. If an agreement covered by this section applies to mineral
26 proceeds and the agreement contains a provision to pay
27 compensation that includes a portion of the underlying minerals or
28 any mineral proceeds not then presumed abandoned, the provision is
29 void and unenforceable.

30 4. *An agreement covered by this section is enforceable only if*
31 *the opening paragraph of the agreement and the opening*
32 *paragraph of any antecedent solicitation of the owner to enter into*
33 *the agreement include a statement that is printed in at least 12-*
34 *point type in a font that is bold and underlined in contrast to any*
35 *surrounding text and is in substantially the following form:*

36
37 *The rightful owners of property held by the Unclaimed*
38 *Property Division of the Office of the State Treasurer or*
39 *their heirs may recover their property at no cost by filing a*
40 *claim directly with the Unclaimed Property Division.*

41
42 5. An agreement covered by this section must not provide for
43 compensation that is more than 10 percent of the total value of the
44 property that is the subject of the agreement. An agreement that
45 provides for compensation that is more than 10 percent of the total



1 value of the property that is the subject of the agreement is
2 unenforceable except by the owner. An owner who has agreed to
3 pay compensation that is more than 10 percent of the total value of
4 the property that is the subject of the agreement, or the
5 Administrator on behalf of the owner, may maintain an action to
6 reduce the compensation to an amount that does not exceed 10
7 percent of the total value of the property. The court may award
8 reasonable attorney's fees to an owner who prevails in the action.

9 ~~§~~ 6. This section does not preclude an owner from asserting
10 that an agreement covered by this section is invalid on grounds other
11 than that the compensation is more than 10 percent of the total value
12 of the property that is the subject of the agreement.

13 **Sec. 4.** NRS 239.010 is hereby amended to read as follows:

14 239.010 1. Except as otherwise provided in this section and
15 NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516,
16 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160,
17 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
18 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
19 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
20 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
21 119A.280, 119A.653, 119B.370, 119B.382, **120A.640**, 120A.690,
22 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007,
23 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075,
24 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630,
25 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165,
26 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604,
27 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521,
28 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110,
29 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240,
30 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190,
31 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050,
32 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007,
33 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130,
34 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195,
35 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
36 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
37 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
38 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
39 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
40 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
41 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
42 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
43 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,
44 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
45 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,



1 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
2 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
3 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
4 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
5 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
6 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
7 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
8 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
9 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
10 534A.031, 561.285, 571.160, 584.655, 598.0964, 598A.110,
11 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015,
12 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131,
13 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418,
14 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
15 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212,
16 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315,
17 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
18 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
19 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
20 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,
21 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
22 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
23 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,
24 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
25 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
26 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
27 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077,
28 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
29 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420,
30 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325,
31 706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478,
32 Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of
33 Nevada 2013 and unless otherwise declared by law to be
34 confidential, all public books and public records of a governmental
35 entity must be open at all times during office hours to inspection by
36 any person, and may be fully copied or an abstract or memorandum
37 may be prepared from those public books and public records. Any
38 such copies, abstracts or memoranda may be used to supply the
39 general public with copies, abstracts or memoranda of the records or
40 may be used in any other way to the advantage of the governmental
41 entity or of the general public. This section does not supersede or in
42 any manner affect the federal laws governing copyrights or enlarge,
43 diminish or affect in any other manner the rights of a person in any
44 written book or record which is copyrighted pursuant to federal law.



1 2. A governmental entity may not reject a book or record
2 which is copyrighted solely because it is copyrighted.

3 3. A governmental entity that has legal custody or control of a
4 public book or record shall not deny a request made pursuant to
5 subsection 1 to inspect or copy or receive a copy of a public book or
6 record on the basis that the requested public book or record contains
7 information that is confidential if the governmental entity can
8 redact, delete, conceal or separate the confidential information from
9 the information included in the public book or record that is not
10 otherwise confidential.

11 4. A person may request a copy of a public record in any
12 medium in which the public record is readily available. An officer,
13 employee or agent of a governmental entity who has legal custody
14 or control of a public record:

15 (a) Shall not refuse to provide a copy of that public record in a
16 readily available medium because the officer, employee or agent has
17 already prepared or would prefer to provide the copy in a different
18 medium.

19 (b) Except as otherwise provided in NRS 239.030, shall, upon
20 request, prepare the copy of the public record and shall not require
21 the person who has requested the copy to prepare the copy himself
22 or herself.

23 **Sec. 5.** The amendatory provisions of section 3 of this act
24 apply to an agreement by an owner, the primary purpose of which is
25 to locate, deliver, recover or assist in the recovery of property that is
26 presumed abandoned, that is entered into before the effective date of
27 this act if a claim to the property or the net proceeds of a sale of
28 property is filed with the Administrator pursuant to such an
29 agreement on or after the effective date of this act.

30 **Sec. 6.** This act becomes effective upon passage and approval.

