

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/CS/SB 1052

INTRODUCER: Banking and Insurance Committee; Commerce and Tourism Committee and Senator Young and others

SUBJECT: Lost or Abandoned Property

DATE: January 30, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1052 allows theme parks and entertainment complexes, public food service establishments, and public lodging establishments to dispose of or donate personal property recovered on its premises.

Current law requires these facilities to report lost or abandoned property to a law enforcement officer. Under the bill, these facilities may opt to require any lost or abandoned property found on its premises to be delivered to the owner or operator of the facility, who must take charge of the property and maintain a record of the date the property is received. The property must be held by the owner or operator of the facility for at least 30 days. If the owner of the property has not claimed it, the owner or operator of the facility that has taken charge of the property must dispose of the property or donate the property to a charitable institution, but may not sell the property. The rightful owner of the property is entitled to reclaim the property at any time before its disposition or donation.

The bill takes effect on July 1, 2018.

II. Present Situation:

Procedures for Handling Lost or Abandoned Property

Chapter 705, F.S., requires individuals who find lost¹ or abandoned² personal property to report the description and location of the property to a law enforcement officer.³ The officer must allow the finder of the property an opportunity to make a claim to recover the property if the rightful owner is not identified or located.⁴ If a claim is made⁵, current law directs the title of the unclaimed property to vest in the finder of the property after a 90-day custodial time period. If a claim is not made, the title of the unclaimed property may vest in the law enforcement officer or agency, so long as specified notice requirements are met.⁶

Exceptions

Personal property that is lost or abandoned on certain school campuses and airports within the state are exempt from having to report the property to law enforcement officers.⁷ Instead, the handling of lost or abandoned property occurs internally, with a designated individual taking charge of the property, making a record of the date the property is found, and waiting 30 days before retaining, trading, donating, selling, or disposing of the property.⁸

III. Effect of Proposed Changes:

The bill allows the following facilities to opt out of the provisions under ss. 705.1015-106, F.S., requiring lost or abandoned property to be reported to a law enforcement officer:

- A theme park or entertainment complex as defined in s. 503.013(9), F.S.,⁹ or operated as a zoo, a museum, or an aquarium; and
- A public food service establishment¹⁰ or a public lodging establishment¹¹ licensed under part I of ch. 509, F.S.

¹ Lost property is defined by s. 705.101(2), F.S., to mean all tangible personal property without an identifiable owner which has been mislaid on public property, upon a public conveyance, on premises used at the time for a business purpose, or in parks, places of amusement, public recreation areas, or other places open to the public. The property must be in a substantially operable, functioning condition or have an apparent intrinsic value to the rightful owner.

² Abandoned property is defined by s. 705.101(3), F.S., to mean all tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition. Alternatively, it is property without apparent, intrinsic value to the rightful owner. The term includes derelict vessels as defined in s. 823.11, F.S.

³ Section 705.102, F.S.

⁴ *Id.*

⁵ To make a claim, the finder of the property must deposit with the law enforcement agency a reasonable sum sufficient to cover the agency's cost for transportation, storage, and publication of notice. If the rightful owner reclaims the property, he or she must refund the deposit to the person who found the property.

⁶ See s. 705.103, F.S., providing specific procedural requirements for abandoned property and lost property before its disposition, donation, or sale.

⁷ See ss. 705.17-705.184, F.S.

⁸ Sections 705.18 and 705.182, F.S.

⁹ Section 509.013(9), F.S., defines a "theme park or entertainment complex" as "a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually."

¹⁰ See s. 509.013(5), F.S.

¹¹ See ss. 509.013(4) and 509.242, F.S.

Under the bill, facilities that opt out of reporting lost or abandoned property to a law enforcement officer must instead:

- Ensure that lost or abandoned personal property found on any premises within the facility is delivered to the owner or operator of the premises;
- Require the owner or operator to take charge of the lost or abandoned property and maintain a record of the date the property was found;
- Prohibit the owner or operator from selling the property; and
- Require the owner or operator to dispose of or donate the property if the property remains unclaimed for a period of 30 days or longer.

The bill specifies the owner or operator of the premises may donate the property to a charitable institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code for its sale or disposal.

The bill also provides that the rightful owner of the property is entitled to reclaim the property at any time before its disposition or donation. The finder of the property, however, may not make a claim on the lost or abandoned property, as allowed under current law when reporting property to a law enforcement officer.

The bill takes effect on July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons that lose property on the premises of a theme park, entertainment complex, zoo, museum, aquarium, public food service establishment, or public lodging establishment will have 30 days, rather than 90 days, to recover the property before it is disposed of. Such persons, however, may more easily locate such property because its custodian is the owner or operator of the location where it was lost, rather than a law enforcement agency.

The bill does not allow the finder of the property to make a claim to it if the rightful owner cannot be identified or located, as allowed under current law when reporting lost or abandoned personal property to law enforcement.

C. **Government Sector Impact:**

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 705.17 of the Florida Statutes.

The bill creates section 705.185 of the Florida Statutes.

IX. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Banking and Insurance on January 30, 2018:

The CS applies the definitions section of the chapter in s. 705.101, F.S., to the section of law specifying exceptions, and clarifies the owner or operator may not sell the property.

CS by Commerce and Tourism on January 16, 2018:

The bill is amended to allow public food service establishments and public lodging establishments to opt out of the provisions under ss. 705.101-106, F.S.

B. **Amendments:**

None.