

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/SB 1052

INTRODUCER: Commerce and Tourism Committee and Senator Young and others

SUBJECT: Lost or Abandoned Property

DATE: January 29, 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>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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. After the property remains unclaimed for a period of at least 30 days, the bill directs the owner or operator to dispose of or donate the property to a charitable institution.

The bill also provides that the rightful owner of the property is entitled to reclaim the property at any time before its disposition, sale, 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 lost or abandoned property to report the description and location of the property to a law enforcement officer.¹ 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.² If a claim is made, 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.³

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.⁴ 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.⁵

III. Effect of Proposed Changes:

The bill allows the following facilities to opt out of the provisions under ss. 705.101-106, 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.,⁶ or operated as a zoo, a museum, or an aquarium; and
- A public food service establishment⁷ or a public lodging establishment⁸ licensed under part I of ch. 509, 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; 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.

¹ Section 705.102, F.S.

² *Id.*

³ See s. 705.103, F.S., providing specific procedural requirements for abandoned property and lost property before its disposition, donation, or sale.

⁴ See ss. 705.17-705.184, F.S.

⁵ Sections 705.18 and 705.182, F.S.

⁶ 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.”

⁷ See s. 509.013(5), F.S.

⁸ See s. 509.013(4) and s. 509.242, F.S.

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, sale, or donation.

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.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Line 19 exempts the provisions of the bill from s. 705.101, F.S. Definitions. Given the new provisions of the bill reference terms defined in s. 705.101, F.S., it is unclear why this section would be exempt.

The term “dispose of” on line 48 is unclear regarding what methods the person in charge of lost or abandoned property under the bill may use to transfer possession after the property is

unclaimed for more than 30 days. The term “dispose of” is used throughout ch. 705, F.S., in different ways, depending on context. The Merriam-Webster Dictionary defines “dispose of” as a verb that can mean “to transfer to the control of another” and alternatively, “to get rid of.”⁹ Both senses of the term can encompass a number of methods of doing so, including giving the property to another person, selling it, trading it, or placing it in the garbage as waste or recyclable material. For example, s. 705.184(2), F.S., allows an airport to “dispose of” an abandoned motor vehicle as provided in s. 705.182(2)(a), (b), (d), or (e), F.S., which includes retaining, trading, selling or disposing of the property through an appropriate refuse removal or salvage company. However, the same phrase is used to mean placing lost or abandoned personal property in the garbage in s. 705.182(2)(e), F.S. In that provision, an airport owner may “dispose of the property through an appropriate refuse removal company or a company that provides salvage services for the type of personal property found or located on the airport premises.”

Additionally, line 53 states the rightful owner of the property can claim the property at any time prior to a “sale”, however, it is not clear who is selling the property.

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 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁹ Merriam-Webster Dictionary, *Dispose*. <https://www.merriam-webster.com/dictionary/dispose> (last accessed January 25, 2018).