

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 851 Lost or Abandoned Personal Property
SPONSOR(S): Commerce Committee; Agriculture & Property Rights Subcommittee; Olszewski
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1052

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee	13 Y, 0 N, As CS	Thompson	Smith
2) Civil Justice & Claims Subcommittee	15 Y, 0 N	MacNamara	Bond
3) Commerce Committee	27 Y, 0 N, As CS	Thompson	Hamon

SUMMARY ANALYSIS

Current law governing the collection, storage and disposition of abandoned or lost tangible personal property located on public property sets forth procedures for persons and law enforcement to follow in order to locate the rightful owner. The law provides exceptions for personal property lost within certain facilities such as institutions of higher learning and public airports.

CS/HB 851 adds theme parks, entertainment complexes, zoos, museums, aquariums, public food service establishments, and public lodging establishments to the list of facilities that are exempt from the existing collection, storage and disposition guidelines if the operators comply with the proposed alternative disposition guidelines. The facilities must hold their own found property for 30 days and if such property is unclaimed after 30 days, the property may be either disposed of or donated to charity. The bill also requires a charitable institution to make reasonable efforts to delete personal data from an unsecure electronic device prior to its sale or disposition.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 705, F.S., governs the collection, storage and disposition of abandoned or lost tangible personal property located on public property. When a person finds lost or abandoned property they are required to report the finding 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.³ 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.⁴ Failure to report a finding of lost or abandoned property to law enforcement is considered theft.⁵

The collection, storage and disposition provisions do not apply to the State University System or a public-use international airport.⁶ The law provides separate disposal requirements for property found on the premises of the State University System,⁷ Florida College System,⁸ or public-use airports.⁹ In addition, the law sets forth a procedure for handling the abandonment of animals by their owner.¹⁰

Effect of Proposed Changes

CS/HB 851 adds additional exceptions and disposition guidelines to the law governing the collection, storage and disposition of abandoned or lost tangible personal property. These guidelines are voluntary and contingent upon an election of compliance by the operator of the facility. The bill exempts the following facilities from ss. 705.1015-106, F.S., if the operator elects to comply with the proposed guidelines:

- Premises located within a theme park or entertainment complex, as the term is defined in s. 509.013(9), F.S.;¹¹
- Premises operated as a zoo, a museum, or an aquarium; and
- Premises of a public food service establishment or public lodging establishment licensed under part I of ch. 509, F.S.

The voluntary alternative disposition guidelines for these additional facilities require persons controlling any premises located within the facility to deliver the lost or abandoned property to the facility operator, who must take charge of the property and make a record of the date it was found. If the property is not claimed by the owner within 30 days after it is found, or a longer period of time as deemed appropriate by the facility operator, the facility operator is prohibited from selling the property and required to either dispose of the property or donate it to a charitable institution that is exempt from federal income tax

¹ s. 705.102(1), F.S.

² s. 705.102(2), F.S.

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

⁴ *Id.*

⁵ s. 705.102(4), F.S.

⁶ s. 705.17, F.S.

⁷ s. 705.18, F.S.

⁸ *Id.*

⁹ ss. 705.182-184, F.S.

¹⁰ s. 705.19, F.S.

¹¹ s. 509.013(9), F.S., defines “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.

under s. 501(c)(3) of the Internal Revenue Code for sale or disposal as such institution deems appropriate. The rightful owner of the property is authorized to reclaim the property at any time before the disposition or donation of the property in accordance with these guidelines and the established policies and procedures of the facility operator.

A charitable institution, prior to the sale or disposition of an electronic device as defined in s. 815.03(9), F.S.,¹² which is not secured by password or other personal identifying technology, is required to make reasonable efforts to delete the personal data from the device, unless the institution chooses to dispose of or donate the device to another charitable institution.

B. SECTION DIRECTORY:

Section 1 Amends s. 705.17, F.S.; relating to exceptions.

Section 2 Creates s. 705.185, F.S.; relating to the disposal of personal property lost or abandoned on the premises of certain facilities.

Section 3 Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A charitable institution is required to make reasonable efforts to delete personal data from an electronic device prior to its sale or disposition. This may create an insignificant negative fiscal impact to those institutions that choose to sell the device, which may be offset by the proceeds from the sale of the device. This provision only applies to electronic devices that are not secured by password or other technology.

D. FISCAL COMMENTS:

None.

¹² s. 815.03(9), F.S., defines “electronic device” as a device or a portion of a device that is designed for and capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data, including, but not limited to, a cellular telephone, tablet, or other portable device designed for and capable of communicating with or across a computer network and that is actually used for such purpose.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 23, 2018, the Agriculture & Property Rights Subcommittee adopted one amendment to HB 851 and reported the bill favorably as a committee substitute. The amendment included public food service establishments and public lodging establishments to the list of facilities that may opt out of the provisions under ss. 705.101-106, F.S., relating to lost or abandoned property.

On February 8, 2018, the Commerce Committee adopted one amendment to CS/HB 851 and reported the bill favorably as a committee substitute. The amendment:

- Clarified that the definitions in s. 705.1015, F.S., apply to the new exceptions created in the bill;
- Clarified that the owner or operator of the newly added premises may not sell the lost or abandoned property; and
- Required charitable institutions who receive a donated electronic device to make reasonable efforts to delete personal data from the device prior to its sale or disposition, unless the institution chooses to dispose of or donate the device to another charitable institution.

This analysis is drafted to the committee substitute as reported favorably by the Commerce Committee.