

**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.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 180

INTRODUCER: Senator Stargel

SUBJECT: Lost or Abandoned Personal Property

DATE: February 8, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
2.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 180 allows an owner or operator of a theme park, entertainment complex, zoo, museum, aquarium, public food service establishment, or public lodging establishment to elect to dispose of or donate lost or abandoned property found on its premises.

Under the bill, an owner or operator who elects to dispose of or donate lost or abandoned property must first take charge of the property, maintain a record of the property, and hold the property for at least 30 days. The bill prohibits the owner or operator from selling the property. If the property remains unclaimed after 30 days, the owner or operator must dispose of or donate the property to a charitable institution. If a charitable institution accepts certain electronic devices, the bill requires the charitable institution to make a reasonable effort to delete all personal data from the device before its sale or disposal.

The bill also provides that the rightful owner of the property may reclaim the property at any time before its disposal or donation.

The bill takes effect on July 1, 2019.

## II. Present Situation:

### Procedures for Handling Lost or Abandoned Property

Chapter 705, F.S., requires individuals who find lost<sup>1</sup> or abandoned<sup>2</sup> personal property to report the description and location of the property to a law enforcement officer.<sup>3</sup> The law enforcement 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.<sup>4</sup> If a claim is made, the title of the unclaimed property vests in the finder of the property after a 90-day custodial time period.<sup>5</sup> 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.<sup>6</sup>

### *Exceptions*

Current law exempts institutions of higher learning and public airports from having to report lost or abandoned property to a law enforcement officer.<sup>7</sup> Instead, the handling of the property occurs internally, with a designated individual taking charge of lost or abandoned property and making a record of the date the property is found. The designated individual must wait 30 days before retaining, trading, donating, selling, or disposing of the property.<sup>8</sup>

## III. Effect of Proposed Changes:

The bill allows certain 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.

Under the bill, the owner or operator of a theme park or entertainment complex,<sup>9</sup> a zoo, a museum, an aquarium, a public food service establishment,<sup>10</sup> or a public lodging establishment<sup>11</sup> licensed under part I of ch. 509, F.S., may opt out of reporting lost or abandoned property to a

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<sup>1</sup> Section 705.101(2), F.S., defines “lost property” as “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.”

<sup>2</sup> Section 705.101(3), F.S., defines “abandoned property” as “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.”

<sup>3</sup> Section 705.102, F.S.

<sup>4</sup> *Id.*

<sup>5</sup> 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. Section 705.102(2), F.S.

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

<sup>7</sup> See ss. 705.17-705.184, F.S.

<sup>8</sup> Sections 705.18 and 705.182, F.S.

<sup>9</sup> 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.”

<sup>10</sup> See s. 509.013(5), F.S.

<sup>11</sup> See ss. 509.013(4) and 509.242, F.S.

law enforcement officer. Instead, lost or abandoned property must be delivered to the owner or operator of the facility.

The owner or operator must take charge of the lost or abandoned property and maintain a record of the date the property was found. If the property is not claimed within 30 days, the owner or operator must dispose of or donate the property to a charitable institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

The bill allows the charitable institution to sell or dispose of donated property. However, if a charitable institution accepts an electronic device<sup>12</sup> that is unsecured by a password or other personal identification technology, the charitable institution is required to make a reasonable effort to delete all personal data from the device before the charitable institution sells or disposes of the device.

The bill prohibits the owner or operator from selling the property and also provides that the rightful owner of the property is entitled to reclaim the property from the owner or operator at any time before the property is disposed of or donated.

The bill takes effect on July 1, 2019.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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<sup>12</sup> Section 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.”

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## 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 Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

## B. Amendments:

None.