

THE HOUSE OF REPRESENTATIVES
Wednesday, February 10, 2010

House Bill No. 2989

HOUSE BILL NO. 2989 - By: ENNS of the House.

An Act relating to cities and towns; amending 11 O.S. 2001, Section 34-104, as last amended by Section 1, Chapter 56, O.S.L. 2005 (11 O.S. Supp. 2009, Section 34-104), which relates to disposing of unclaimed property; modifying notice requirements; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

- 1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 34-104, as last amended by
2 Section 1, Chapter 56, O.S.L. 2005 (11 O.S. Supp. 2009, Section 34-104), is amended to
3 read as follows:
- 4 Section 34-104. A. Any chief of police is authorized to dispose of personal property
5 or money or legal tender as provided in this section or the charter of the municipality,
6 which has come into the possession of the chief of police in any manner if:
- 7 1. The owner of the personal property or money or legal tender is unknown or has
8 not claimed the property;
- 9 2. The property or money or legal tender has been in the custody of the chief of
10 police for at least ninety (90) days; and
- 11 3. The property or money or legal tender or any part thereof is no longer needed to
12 be held as evidence or for any other purpose in connection with any litigation.

1 B. The chief of police shall file an application in the district court in which the situs
2 of government of the municipality is located requesting the authority of the court to
3 conduct a sale of the personal property which has a fair market value of more than its
4 face value. The chief of police shall attach to the application a list describing the
5 property including any identifying numbers and marks, the date the property came into
6 the possession of the chief of police, and the name of the owner and the person in last
7 possession, if different, and the address of the person, if known. The court shall set the
8 application for hearing not less than ten (10) days nor more than twenty (20) days after
9 filing of the application.

10 C. In any instance where the property has an actual or apparent value of more
11 than One Hundred Dollars (\$100.00), at least ten (10) days prior to the date of the
12 hearing, notice of the hearing shall be sent by ~~certified~~ first-class mail to each owner at
13 the address as listed in the application. If the owner of any property with an actual or
14 apparent value exceeding Five Hundred Dollars (\$500.00) is unable to be served notice
15 by ~~certified~~ first-class mail, notice shall be provided by one publication in a newspaper of
16 general circulation in the county where the property is in custody. The notice shall
17 contain a brief description of the property of the owner and the place and date of the
18 hearing. The notice shall be posted at the assigned place for the posting of municipal
19 notices, and at two other public places in the municipality.

20 D. If no owner appears and establishes ownership to the property at the hearing,
21 the court shall enter an order authorizing the chief of police to dispose of the property as
22 follows:

1 1. Donate the property having value of less than Five Hundred Dollars (\$500.00) to
2 a not-for-profit corporation as defined in Title 18 of the Oklahoma Statutes for use by
3 needy families;

4 2. Sell the personal property for cash to the highest bidder, after at least five (5)
5 days' notice of the sale has been published;

6 3. Transfer the property to a third-party agent under contract with the governing
7 body of the chief of police for sale by Internet or other electronic means, regardless of
8 whether the sale structure or distribution site is within the State of Oklahoma; or

9 4. By any other means as determined appropriate by the court, including but not
10 limited to, destruction.

11 Regardless of the means of disposition, the chief of police shall make a return of the
12 donation or sale and the order of the court confirming the donation or sale shall vest title
13 to the property in the recipient or purchaser. After payment of court costs and other
14 expenses, the remainder of money received from the sale of the personal property shall
15 be deposited in the municipal general fund.

16 E. All money or legal tender which has come into the possession of the chief of
17 police pursuant to the circumstances provided for in subsection A of this section shall be
18 transferred by the chief of police to the municipal clerk for deposit in the municipal
19 general fund. Prior to any transfer, the chief of police shall file an application in the
20 district court requesting the court to enter an order authorizing the chief of police to
21 transfer the money for deposit in the municipal general fund. The application shall
22 describe the money or legal tender, the date the same came into the possession of the

1 chief of police, and the name of the owner and the address of the owner, if known. Upon
2 filing the application which may be joined with an application as described in subsection
3 B of this section, a hearing shall be set not less than ten (10) days nor more than twenty
4 (20) days from the filing of the application. Notice of the hearing shall be given as
5 provided for in subsection C of this section. The notice shall state that upon failure of
6 anyone to appear to prove ownership to the money or legal tender, the court shall order
7 the same to be deposited in the municipal general fund. The notice may be combined
8 with a notice to sell personal property as provided for in subsection B of this section. If
9 no one appears to claim and prove ownership to the money or legal tender at the hearing,
10 the court shall order the same to be transferred to the municipal general fund as
11 provided in this subsection.

12 F. The provisions of this section shall not apply to any dangerous or deadly
13 weapons, narcotic or poisonous drugs, explosives, or any property of any kind or
14 character, which the possession of is prohibited by law. By order of the trial court, any
15 property filed as an exhibit or held by the municipality shall be destroyed or sold or
16 disposed of, pursuant to the conditions prescribed in the order.

17 G. The municipality is hereby authorized to establish a procedure for the
18 registration of "lost and found" property. The procedure shall give the finder of any
19 property the option of relinquishing any future claim to found property at the time its
20 possession is surrendered to the police or other agent of the municipality, or of retaining
21 possession of the property after registering its description and the finders identity with
22 the police department or other agent of the municipality. Only property in which the

1 finder relinquishes any future claim to its ownership will be stored in municipal police
2 property rooms.

3 H. The municipality may provide by ordinance that a percentage of the money or
4 legal tender deposited in the municipal general fund as provided in subsection D or E of
5 this section may be paid as a finders fee for services rendered to any person who found
6 the unclaimed personal property or money or legal tender and delivered it to, or
7 registered it with, the chief of police or other agent of the municipality.

8 SECTION 2. This act shall become effective November 1, 2010.

9 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 02-
10 09-10 - DO PASS.