

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 3019

By: Scott

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5
6 AS INTRODUCED

7 An Act relating to cities and towns; amending 11 O.S.
8 2001, Section 34-104, as last amended by Section 1,
9 Chapter 56, O.S.L. 2005 (11 O.S. Supp. 2009, Section
10 34-104), which relates to disposition of personal
11 property or money or legal tender by municipalities;
12 modifying period of time required for holding of
13 property; modifying method of mail notification; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 11 O.S. 2001, Section 34-104, as
17 last amended by Section 1, Chapter 56, O.S.L. 2005 (11 O.S. Supp.
18 2009, Section 34-104), is amended to read as follows:

19 Section 34-104. A. Any chief of police is authorized to
20 dispose of personal property or money or legal tender as provided in
21 this section or the charter of the municipality, which has come into
22 the possession of the chief of police in any manner if:

23 1. The owner of the personal property or money or legal tender
24 is unknown or has not claimed the property;

1 2. The property or money or legal tender has been in the
2 custody of the chief of police for at least ~~ninety (90)~~ seventy-five
3 (75) days; and

4 3. The property or money or legal tender or any part thereof is
5 no longer needed to be held as evidence or for any other purpose in
6 connection with any litigation.

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

19 C. In any instance where the property has an actual or apparent
20 value of more than One Hundred Dollars (\$100.00), at least ten (10)
21 days prior to the date of the hearing, notice of the hearing shall
22 be sent by ~~certified~~ first-class mail to each owner at the address
23 as listed in the application. If the owner of any property with an
24 actual or apparent value exceeding Five Hundred Dollars (\$500.00) is

1 unable to be served notice by ~~certified~~ first-class mail, notice
2 shall be provided by one publication in a newspaper of general
3 circulation in the county where the property is in custody. The
4 notice shall contain a brief description of the property of the
5 owner and the place and date of the hearing. The notice shall be
6 posted at the assigned place for the posting of municipal notices,
7 and at two other public places in the municipality.

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

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

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

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

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

22 Regardless of the means of disposition, the chief of police
23 shall make a return of the donation or sale and the order of the
24 court confirming the donation or sale shall vest title to the

1 property in the recipient or purchaser. After payment of court
2 costs and other expenses, the remainder of money received from the
3 sale of the personal property shall be deposited in the municipal
4 general fund.

5 E. All money or legal tender which has come into the possession
6 of the chief of police pursuant to the circumstances provided for in
7 subsection A of this section shall be transferred by the chief of
8 police to the municipal clerk for deposit in the municipal general
9 fund. Prior to any transfer, the chief of police shall file an
10 application in the district court requesting the court to enter an
11 order authorizing the chief of police to transfer the money for
12 deposit in the municipal general fund. The application shall
13 describe the money or legal tender, the date the same came into the
14 possession of the chief of police, and the name of the owner and the
15 address of the owner, if known. Upon filing the application which
16 may be joined with an application as described in subsection B of
17 this section, a hearing shall be set not less than ten (10) days nor
18 more than twenty (20) days from the filing of the application.
19 Notice of the hearing shall be given as provided for in subsection C
20 of this section. The notice shall state that upon failure of anyone
21 to appear to prove ownership to the money or legal tender, the court
22 shall order the same to be deposited in the municipal general fund.
23 The notice may be combined with a notice to sell personal property
24 as provided for in subsection B of this section. If no one appears

1 to claim and prove ownership to the money or legal tender at the
2 hearing, the court shall order the same to be transferred to the
3 municipal general fund as provided in this subsection.

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

11 G. The municipality is hereby authorized to establish a
12 procedure for the registration of "lost and found" property. The
13 procedure shall give the finder of any property the option of
14 relinquishing any future claim to found property at the time its
15 possession is surrendered to the police or other agent of the
16 municipality, or of retaining possession of the property after
17 registering its description and the finders identity with the police
18 department or other agent of the municipality. Only property in
19 which the finder relinquishes any future claim to its ownership will
20 be stored in municipal police property rooms.

21 H. The municipality may provide by ordinance that a percentage
22 of the money or legal tender deposited in the municipal general fund
23 as provided in subsection D or E of this section may be paid as a
24 finders fee for services rendered to any person who found the

1 unclaimed personal property or money or legal tender and delivered
2 it to, or registered it with, the chief of police or other agent of
3 the municipality.

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

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