HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2945 By: Derby

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 2011, Section 34-104, which relates to the disposition of personal property; increasing property valuation amount for certain notification requirement; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 34-104, is amended to read as follows:

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

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

2. The property or money or legal tender has been in the custody of the chief of police for at least ninety (90) days; and

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BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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provided by one publication in a newspaper of general circulation in the county where the property is in custody. The notice shall contain a brief description of the property of the owner and the place and date of the hearing. The notice shall be posted at the assigned place for the posting of municipal notices, and at two other public places in the municipality.

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

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

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

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

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

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

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

E. All money or legal tender which has come into the possession of the chief of police pursuant to the circumstances provided for in subsection A of this section shall be transferred by the chief of police to the municipal clerk for deposit in the municipal general fund. Prior to any transfer, the chief of police shall file an application in the district court requesting the court to enter an order authorizing the chief of police to transfer the money for deposit in the municipal general fund. The application shall describe the money or legal tender, the date the same came into the possession of the chief of police, and the name of the owner and the address of the owner, if known. Upon filing the application which may be joined with an application as described in subsection B of this section, a hearing shall be set not less than ten (10) days nor more than twenty (20) days from the filing of the application. Notice of the hearing shall be given as provided for in subsection C of this section. The notice shall state that upon failure of anyone to appear to prove ownership to the money or legal tender, the court shall order the same to be deposited in the municipal general fund. The notice may be combined with a notice to sell personal property

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as provided for in subsection B of this section. If no one appears to claim and prove ownership to the money or legal tender at the hearing, the court shall order the same to be transferred to the municipal general fund as provided in this subsection.

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

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

H. The municipality may provide by ordinance that a percentage of the money or legal tender deposited in the municipal general fund

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as provided in subsection D or E of this section may be paid as a finders fee for services rendered to any person who found the unclaimed personal property or money or legal tender and delivered it to, or registered it with, the chief of police or other agent of the municipality.

SECTION 2. This act shall become effective November 1, 2012.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/14/2012 - DO PASS.

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