

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2235

By: Ford

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 2021, Section 34-104, which relates to disposition of personal property, money, or legal tender; modifying where proceeds from forfeited property may be deposited; modifying where monies forfeited may be deposited; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2021, Section 34-104, is amended to read as follows:

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

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

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

1        3. The property or money or legal tender or any part thereof is  
2 no longer needed to be held as evidence or for any other purpose in  
3 connection with any litigation. In the event the property, money or  
4 legal tender was seized by the police department in connection with  
5 a criminal investigation or arrest, this determination shall be made  
6 by the court which has jurisdiction over the criminal offense, if an  
7 information or indictment is pending, pursuant to Section 1321 of  
8 Title 22 of the Oklahoma Statutes, or by a prosecuting authority if  
9 charges have been disposed of or have been declined.

10        B. The municipality may file an application in the district  
11 court in which the situs of government of the municipality is  
12 located requesting the authority of the court to conduct a sale of  
13 the personal property which has a market value. The application  
14 shall contain a list describing the property, the date the property  
15 came into the possession of the municipality, and the name of the  
16 owner and the person in last possession, if different, and the  
17 address of the person, if known. The court shall set the  
18 application for hearing not less than fifteen (15) days after filing  
19 of the application.

20        C. In any instance where the property has an actual or apparent  
21 value of more than Two Hundred Fifty Dollars (\$250.00), at least  
22 eleven (11) days prior to the date of the hearing, written notice of  
23 the hearing shall be sent by first-class mail, postage prepaid, to  
24 each owner and person last in possession of the property at the

1 address as listed in the application. If the owner of any property  
2 with an actual or apparent value exceeding Five Hundred Dollars  
3 (\$500.00) is unable to be served written notice by first-class mail,  
4 notice shall be provided by one publication at least three (3) days  
5 prior to the hearing in a newspaper of general circulation in the  
6 county where the property is in custody. The notice shall contain  
7 the place and date of the hearing and a description of the property,  
8 or the location of a list available for review during business hours  
9 in which the property is described and any known owner identified.  
10 The notice shall be posted at the assigned place for the posting of  
11 municipal notices, and at two other public places in the  
12 municipality.

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

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

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

21 3. Transfer the property to a third-party agent under contract  
22 with the municipality for sale by Internet or other electronic  
23 means, regardless of whether the sale structure or distribution site  
24 is within the State of Oklahoma; or

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

3        If the means of disposition involve a sale or donation to the  
4 third party, the chief of police or designee shall make a return of  
5 the donation or sale and the order of the court confirming the  
6 donation or sale shall vest title to the property in the recipient  
7 or purchaser. After payment of court costs and other expenses, the  
8 remainder of money received from the sale of the personal property  
9 shall be deposited in any special project fund, designated and  
10 established by the municipality, and not to the municipal general  
11 fund.

12        E. All money or legal tender which has come into the possession  
13 of the municipality pursuant to the circumstances provided for in  
14 subsection A of this section shall be transferred by the chief of  
15 police or designee to the municipal clerk or municipal treasurer for  
16 deposit in any special project fund, designated and established by  
17 the municipality, and not to the municipal general fund. Prior to  
18 any transfer, the municipality shall file an application in the  
19 district court requesting the court to enter an order authorizing  
20 the chief of police or designee to transfer the money for deposit in  
21 any special project fund, designated and established by the  
22 municipality, and not to the municipal general fund. The  
23 application shall describe the money or legal tender, the date the  
24 same came into the possession of the police department, and the name

1 of the owner and the address of the owner, if known. Upon filing  
2 the application which may be joined with an application as described  
3 in subsection B of this section, a hearing shall be set not less  
4 than fifteen (15) days from the filing of the application. Notice  
5 of the hearing shall be given as provided for in subsection C of  
6 this section. The notice shall state that upon failure of anyone to  
7 appear to prove ownership to the money or legal tender, the court  
8 shall order the same to be deposited in any special project fund,  
9 designated and established by the municipality, and not to the  
10 municipal general fund. The notice may be combined with a notice to  
11 sell personal property as provided for in subsection B of this  
12 section. If no one appears to claim and prove ownership to the  
13 money or legal tender at the hearing, the court shall order the same  
14 to be transferred to any special project fund, designated and  
15 established by the municipality, and not to the municipal general  
16 fund as provided in this subsection.

17 Notwithstanding any other provision of this section, if  
18 authorized by ordinance, the municipality may transfer any currency  
19 received into a depository account for the benefit of its known or  
20 unknown owners prior to any court order for disposition of the money  
21 or legal tender.

22 F. Except as provided in this subsection, the provisions of  
23 this section shall not apply to any dangerous or deadly weapons,  
24 narcotic or poisonous drugs, explosives, or any property of any kind

1 or character, the possession of which is prohibited by law. By  
2 order of the trial court, any property filed as an exhibit or held  
3 by the municipality as evidence or as contraband shall be destroyed  
4 or sold or disposed of, pursuant to the conditions prescribed in the  
5 order. To the extent the provisions of this section do not apply,  
6 the court shall follow the procedures in Section 1321 of Title 22 of  
7 the Oklahoma Statutes. No forfeiture proceeding shall be necessary  
8 to authorize the destruction of property that cannot be returned  
9 lawfully to its owner.

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

21 H. The municipality may provide by ordinance that a percentage  
22 of the money or legal tender deposited in any special project fund,  
23 designated and established by the municipality, and not to the  
24 municipal general fund as provided in subsection D or E of this

1 section may be paid as a finder's fee for services rendered to any  
2 person who found the unclaimed personal property or money or legal  
3 tender and delivered it to, or registered it with, the chief of  
4 police or other agent of the municipality.

5 I. The municipality may provide written notice at the time of  
6 arrest or detention that certain property is available for return  
7 within ninety (90) days, if the property was not seized as evidence.  
8 If the property is or appears to be worth less than Two Hundred  
9 Fifty Dollars (\$250.00), no further notice is required prior to  
10 obtaining a court order for disposition of the property in  
11 accordance with this section. A notice left with a detainee's  
12 personal property at the detention facility shall be presumed to  
13 have been returned to the detainee at the time of his or her release  
14 and shall satisfy the officer's obligation to deliver a receipt to  
15 the detainee in connection with an arrest for a public offense.

16 SECTION 2. This act shall become effective November 1, 2023.

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