

CHAPTER 1002

H.B. No. 2187

AN ACT

relating to certain unclaimed or abandoned personal property seized by peace officers.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Article 18.17, Code of Criminal Procedure, is amended to read as follows:

Art. 18.17. DISPOSITION OF ABANDONED OR UNCLAIMED PROPERTY. (a) All unclaimed or abandoned personal property of every kind, except whiskey, wine and beer, seized by any ~~[state or county]~~ peace officer in the State of Texas which is not held as evidence to be used in any pending case and has not been ordered destroyed or returned to the person entitled to possession of the same by a magistrate, which shall remain unclaimed for a period of 30 days shall be delivered for sale to the purchasing agent of the *municipality or county* in which the property was seized. *If a peace officer of a municipality seizes the property, the peace officer shall deliver the property to the purchasing agent of the municipality. If any other peace officer seizes the property, the peace officer shall deliver the property to the purchasing agent of the county.* If the county has no purchasing agent, then such property shall be sold by the sheriff of the county.

(b) The *municipal or county* purchasing agent or *the* sheriff of the county, as the case may be, shall mail a notice to the last known address of the owner of such property by certified mail. Such notice shall describe the property being held, give the name and

address of the officer holding such property, and shall state that if the owner does not claim such property within six months from the date of the notice such property will be sold and the proceeds of such sale, after deducting the reasonable expense of keeping such property and the costs of the sale, placed in the [county] treasury of the municipality or county giving the notice.

(c) If the owner of such property is unknown or if the address of the owner is unknown, then the *municipal or county purchasing agent* or the sheriff, as the case may be, shall cause to be published once in a paper of general circulation in the *municipality or county* a notice containing a description of the property held, the name of the owner if known, the name and address of the officer holding such property, and a statement that if the owner does not claim such property within six months from the date of the publication such property will be sold and the proceeds of such sale, after deducting the reasonable expense of keeping such property and the costs of the sale, placed in the [county] treasury of the *municipality or county selling the property*.

(d) The sale of any property hereunder shall be preceded by a notice published once at least three weeks prior to the date of such sale in a newspaper of general circulation in the *municipality or county* where the sale is to take place, stating the description of the property, the names of the owner if known, and the date and place that such sale will occur. If the *municipal or county purchasing agent or sheriff*, as the case may be, shall consider any bid as insufficient, he need not sell such property but may decline such bid and reoffer such property for sale.

(e) The real owner of any property sold shall have the right to file a claim to the proceeds of such sale with the commissioners court of the county or with the governing body of the *municipality* in which the sale took place. If the claim is allowed by the commissioners court or the governing body of the *municipality*, the *municipal or county treasurer* shall pay the owner such funds as were paid into the treasury of the *municipality or county* as proceeds of the sale. If the claim is denied by the commissioners court or the governing body or if said court or body fails to act upon such claim within 90 days, the claimant may sue the *municipal or county treasurer* in a court of competent jurisdiction in the county, and upon sufficient proof of ownership, recover judgment against such *municipality or county* for the recovery of the proceeds of the sale.

(f) For the purposes of this article, "*purchasing agent of the municipality*" means the person who is primarily responsible for making purchases on behalf of a *municipality*.

(g) If the provisions of this section have been met and the property is scheduled for sale, the *municipal or county law enforcement agency* that originally seized the property may request and have the property converted to agency use. The agency shall return the property to the *purchasing agent or sheriff* for sale when the agency has completed the intended use of the property.

SECTION 2. This Act takes effect September 1, 1987, and applies to the disposition of property or proceeds of property unclaimed or abandoned on or after that date. The disposition of property or proceeds of property unclaimed or abandoned before that date is covered by the law in effect on the date the property was unclaimed or abandoned, and the former law is continued in effect for this purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 23, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2187 on May 26, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 21, 1987, by a viva-voce vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.