

RESOLUTION

REGULATIONS RELATING TO DISPOSITION OF UNCLAIMED PROPERTY

WHEREAS, the State of Colorado has adopted a statutory scheme regarding unclaimed property under Article 13, Title 38 of the Colorado Revised Statutes, but specifically laid out an exemption under § 38-13-134, which states: “This article applies to any unclaimed or intangible property as provided in this article; but, where there is a conflict between this article and a specific statutory provision or local law relating to the disposition of tangible or intangible unclaimed property, such specific statutory provision or local law shall control the disposition of said property.”

WHEREAS, §§ 38-13-104(1) and 30-11-101(1)(i), C.R.S., authorize the Board of County Commissioners (“Board”) to adopt procedures regarding the disposition of unclaimed personal property acquired by an elected official or County employee in the performance of official duties; and

WHEREAS, the Board has previously adopted local regulations on the disposition of unclaimed and intangible property prior to the adoption of Article 13, Title 38 of the Colorado Revised Statutes, and

WHEREAS, the Board wishes to adopt and clarify such procedure for the disposition of unclaimed personal property, including tangible and intangible property.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Larimer County, Colorado to amend and adopt the following procedures:

DISPOSITION OF UNCLAIMED PERSONAL PROPERTY

Section 1. Purpose and Intent.

Pursuant to §§ 38-13-104(1) and 30-11-101(1)(i), C.R.S., and Article 13, Title 38 of the Colorado Revised Statutes, the County is authorized to adopt local law regarding the disposition of unclaimed and intangible property acquired by an elected official or County employee in performing official duties. It is not the intent of this Resolution to create an additional property interest in any process or notice prior to disposition of unclaimed property. Nothing in this resolution shall restrict disposition of property under another lawfully authorized process, with or without notice.

Section 2. Definitions.

- A. “Owner” shall mean a person or entity, including a corporation, partnership, association, governmental entity other than the County, or a duly authorized legal representative or successor in interest of such, who owns any unclaimed property held by the County.
- B. “Unclaimed property” means:
 - i. Any intangible property, including but not limited to, any income or increment derived therefrom, less any lawful charges, that is held by or under the control of the County and

which has not been claimed by its Owner for a period of more than one (1) year after it became payable or distributable to its Owner

a. This definition does not apply or include un-cashed warrants (checks) issued by the Larimer County Finance Department or the Larimer County Treasurer as they may be claimed by the payee at any time in the future and are not deemed abandoned/unclaimed under this resolution.

ii. Any tangible personal property which has been lost, abandoned or stolen and which has not been claimed by its Owner for ninety (90) days; or personal property to which the Owner has specifically disclaimed any interest.

C. "Custodian" means the elected official, director, manager or their designee in possession of unclaimed property and responsible for its disposition.

Section 3. Disposition of Unclaimed Property.

Any unclaimed property which is not returned to its Owner shall become the sole property of the County, and any claim of the Owner shall be forfeited. Such property shall only be disposed of after the exercise of due diligence to determine the Owner of such property in accordance with the procedures established by these regulations. It shall be the duty of the Custodian of any unclaimed property to keep records of all such property and to provide for its safekeeping. Each County department and elected official shall be responsible for the disposition of unclaimed property in their possession.

Section 4. Procedure for Disposition of Unclaimed Property.

The following procedure is to be used to determine the Owner of unclaimed property in the County's possession, if practical:

A. Notice to Owner.

Prior to the disposition of any unclaimed property having an estimated value of five hundred dollars (\$500.00) or more, the Custodian of such property may send a written notice by United States Postal Service, first class mail, to the last known address, if any, of the Owner of such unclaimed property. The last known address of the Owner shall be the last address of the Owner as shown by the records of the department or office holding the property. The notice shall include a description of the property, the amount or estimated value of the property, and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the Owner may claim the property. The notice shall also state that if the Owner fails to provide the Custodian with a written claim for the return of the property within thirty (30) days of the date of the notice, the property shall become the sole property of the County and any claim of the Owner to such property shall be deemed forfeited.

B. Notice by Publication.

Prior to disposition of any unclaimed property having an estimated value of less than five hundred dollars (\$500.00) the custodian may elect to either mail notice or publish pursuant to this section. In cases where the property is estimated to be less than five hundred dollars (\$500.00) and the custodian elects to publish, or where there is no last known address of the Owner, or where the mailed notice is returned as undeliverable, the Custodian may cause a notice to be published one

time in a newspaper of general circulation in the County. The notice may include a description of the property, the name of the Owner of the property (if known), the amount or estimated value of the property, and, when available, the purpose for which the property was deposited or otherwise held. The notice should also state that if the Owner fails to provide the Custodian with a written claim for the return of the property within thirty (30) days of the date of publication of the notice, the property shall be deemed forfeited. The cost of the publication may be deducted from the value of the unclaimed property and divided among each unclaimed property listed in the published notice. Custodians from County offices and departments may coordinate for a joint publication, in which case such notice shall also contain the specific office or department in possession of the unclaimed property.

C. No Known Potential Owner

If the Custodian does not have information that reasonably identifies a potential owner, no notice is necessary. Tangible property shall be retained for a period of ninety (90) days and intangible property shall be retained for a period of one (1) year. If no alleged owner comes forward to claim such property, it may be disposed of as authorized in Sections 5 and 6.

D. *De Minimis* Value

If the Custodian has possession of tangible property with a value of less than one hundred dollars (\$100.00), the Board finds that the retention, storage, administrative costs and burden on the taxpayers may outweigh the value of the property and therefore the property may be immediately disposed of without notice after ninety (90) days.

E. Nominal Value or Junk

Items with nominal value or junk (i.e. pencils, books, broken tents, flashlights, etc...) place a burden on taxpayers and outweigh the cost of retention, storage and administration, therefore the Board finds these items may be disposed of immediately without notice and without waiting any period of time.

F. Written Claim to be Filed Within 30 Days of Notice.

If written or published notice is issued, and the Custodian receives no written claim within the thirty (30) day claim period, the unclaimed property shall become the sole property of the County, and any claim of the Owner to such property shall be deemed forfeited. In some circumstances, the County may send/publish notice prior to the expiration of the abandonment period. In such circumstances, the deadline to assert a claim is automatically extended to thirty (30) days after the abandonment period runs.

G. Written Claims to Be Evaluated by Custodian.

If the Custodian receives a written claim within the claim period, the Custodian shall evaluate the claim and notify the claimant within thirty (30) days thereof that the claim has been approved or denied in whole or in part. The Custodian shall investigate the validity of any claim and may request that the claimant provide further supporting documentation prior to approving or denying such claim.

H. Multiple Claims to Unclaimed Property to be Resolved by Custodian.

In the event there is more than one claimant to the same property, the Custodian may resolve such claims or may deposit the property in dispute with the registry of the district court in an interpleader action.

I. Decision of the Custodian Final.

The Custodian shall, in the Custodian's sole discretion, resolve any claims. If the Custodian denies a claim, the unclaimed property becomes the sole property of the County, and any claim of the owner to such property is forfeited.

Section 5. Disposition of Unclaimed Intangible Property.

The proceeds of any unclaimed intangible property that have become the sole property of the County, pursuant to these regulations, shall be disposed of as directed by the applicable elected official or department head, and may be used for any public purpose.

Section 6. Disposition of Unclaimed Tangible Personal Property.

The Custodian in possession is authorized to dispose of any unclaimed personal property which has become the sole property of the County by sale, donation, auction, sealed bid as long as it is reasonable that personal information from the prior owner will not be transmitted. The County may convert such property for County use or the Custodian may destroy or otherwise dispose of the personal property. All proceeds from the sale, auction, bid or other disposition shall be used as directed by the applicable elected official or department head, and may be used for any public purpose. The sale, auction, bid or donation of personal tangible property by the County shall not include firearms, weapons, contraband, vehicles, animals, evidence in criminal cases or any property regulated or prohibited by state or federal law, or by other County regulations or policies.

Section 7. Custodian May Adopt Supplemental Procedures.

The Custodian of any unclaimed property is hereby authorized to establish supplemental procedures for the administration and disposition of unclaimed property. Such supplemental procedures shall not be in conflict with this Resolution, unless such process is established pursuant to another lawful process for disposition of property.

Effective this 27th day of October, 2020

BOARD OF COMMISSIONERS OF
LARIMER COUNTY, COLORADO

By: Steve Johnson
Chair

(SEAL)

ATTEST:

Richard L. Hart

Approved as to Form:

10/22/2020

