

THE OHIO COUNCIL OF

# *Retail Merchants*

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WRITTEN TESTIMONY REGARDING

SUBSTITUTE HOUSE BILL 270

Ohio House Finance Committee

David A. Froling, Esq.  
Tax Counsel for the Ohio Council of Retail Merchants

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Co-Chairmen Oelslager and Callender and members of the Committee, the Ohio Council of Retail Merchants appreciates the opportunity to submit these written comments in support of Sub. H.B. 270.

At the outset, it is important to state that unclaimed property law is not easily understood. Most people have a general understanding of unclaimed property law but most people are not fully aware of what the law requires from a compliance standpoint, and most people do not know how difficult and time consuming it is to identify and report unclaimed property.

Unclaimed property law dates back to English common law which established that unclaimed or abandoned property reverts to the Crown. As to the United States, unclaimed property law dates back to the 19<sup>th</sup> century. The State, as representative of its residents, asserts its right of “escheatment” by virtue of its police power, and assumes, for the benefit of its residents, protective custody of unclaimed or abandoned property within its borders.

Initially, United States unclaimed property law was limited to just real property. During the first half of the twentieth century states began including tangible property and intangible property. Ohio was a bit late to do so when it enacted Revised Code Chapter 169 in 1967.

Since 1967, however, Ohio has been a leader in terms of modernizing its unclaimed property laws. In 2000, Ohio was one of the first states to exempt business-to-business transactions from unclaimed funds reporting. In 2001, Ohio was one of the first states to exempt gift cards from unclaimed funds reporting. Not long thereafter Ohio was one of the first states to not allow contract auditors to earn a contingency fee - - although this restriction can be tightened up a bit.

These favorable amendments resulted in the Council of State Taxation giving Ohio a “B” grade in 2013 which resulted in COST ranking Ohio the tenth best state in the nation. The Council respectfully submits COST made a mistake in their scoring and should have given Ohio a B+ which would have put Ohio in a tie for seventh best.

As this history might suggest, and relative to evaluating H.B. 270, it is important to be mindful that unclaimed property law is not a “tax.” As to Ohio, this is somewhat evident by the fact that Ohio unclaimed property law is in Title One of the Revised Code, and not Title Fifty-Seven. Adding to its complexity is the fact that unclaimed property law uses terminology that is not typically used in tax statutes. The record keeping requirements are challenging given the varying dormancy periods. The notification requirements present unique challenges. And often times the employee tasked with compliance lacks experience with this “regulatory” requirement.

H.B. 270 is an excellent bill because it keeps Ohio on the continuum of modernizing its law to ease the administrative burden associated with compliance. H.B. 270 should serve as a model for other states to follow. H.B. 270 should cause Ohio to at least maintain, if not improve its ranking when COST produces its report later this year.

The proposed amendments to R.C. 169.01(B) are particularly attractive to retailers. So too are the proposed amendments that modernize the statute of limitations and penalty provisions. The Council anticipates these amendments will be well received by the business community at large. We appreciate Rep. Merrin taking on the task of forwarding Substitute House Bill 270. Thank you in advance for your favorable consideration.