

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 01-0336.01 Jason Gelender

SENATE BILL 01-037

SENATE SPONSORSHIP

Hillman,

HOUSE SPONSORSHIP

Stengel,

Senate Committees

Business, Labor, and Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONVERSION OF CERTAIN AMOUNTS OF MONEY**
102 **OWED BY THE DEPARTMENT OF REVENUE TO A TAXPAYER THAT**
103 **IS REPRESENTED BY A WARRANT THAT HAS BEEN CANCELLED**
104 **INTO UNCLAIMED PROPERTY FOR WHICH A CLAIM MAY BE FILED**
105 **UNDER THE "UNCLAIMED PROPERTY ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the department of revenue to forward to the state treasurer specified information regarding any state income tax refund or grant for property taxes, rent, or heat or fuel expenses assistance represented by a warrant that has not been presented for payment within 6 months from its

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
Amended 2nd Reading
April 5, 2001

date of issuance and that has been cancelled by the department or by the state controller in accordance with standard operating procedures and an amount of money equal to the amount of the warrant. Gives the amount of such a refund or grant the status of unclaimed property that is presumed abandoned and adds such amount to intangible property that may be claimed pursuant to the provisions of the "Unclaimed Property Act". Allows the department to reclaim from the unclaimed property fund any amount forwarded by the department to the state treasurer that was based on a warrant representing an erroneous refund or grant.

Requires a person claiming a refund or grant represented by a cancelled warrant to file a claim for the amount of the refund or grant with the state treasurer under the "Unclaimed Property Act" rather than with the department of revenue. Requires the department and the state treasurer to cooperate to ensure that any taxpayer who contacts the department to claim the amount of a refund represented by a cancelled warrant is provided with the information or assistance necessary to obtain the refund from the state treasurer.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 38-13-102 (7) (a), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

4 **38-13-102. Definitions and use of terms.** As used in this article,
5 unless the context otherwise requires:

6 (7) (a) "Intangible property" includes:

7 (VII) ON AND AFTER OCTOBER 1, 2002, ANY AMOUNT DUE AND
8 PAYABLE AS A REFUND OF COLORADO INCOME TAX.

9 **SECTION 2.** The introductory portion to 38-13-104 (1), Colorado
10 Revised Statutes, is amended to read:

11 **38-13-104. General rules for taking custody of intangible**
12 **unclaimed property.** (1) Unless otherwise provided in this article or by
13 other statute or local law, intangible property is subject to the custody of
14 this state as unclaimed property if the conditions raising a presumption of
15 abandonment under section 38-13-103 or sections 38-13-105 to
16 ~~38-13-109.5~~ 38-13-109.7 are satisfied and:

1 **SECTION 3.** Article 13 of title 38, Colorado Revised Statutes, is
2 amended BY THE ADDITION OF A NEW SECTION to read:

3 **38-13-109.7. Income tax refunds.** ON AND AFTER OCTOBER 1,
4 2002, ANY AMOUNT DUE AND PAYABLE AS A REFUND OF COLORADO
5 INCOME TAX OR GRANT FOR PROPERTY TAXES, RENT, OR HEAT OR FUEL
6 EXPENSES ASSISTANCE REPRESENTED BY A WARRANT THAT HAS NOT BEEN
7 PRESENTED FOR PAYMENT WITHIN SIX MONTHS FROM THE DATE OF
8 ISSUANCE OF THE WARRANT AND THAT HAS BEEN FORWARDED BY THE
9 DEPARTMENT OF REVENUE TO THE ADMINISTRATOR PURSUANT TO SECTION
10 39-21-108 (5), C.R.S., IS PRESUMED ABANDONED.

11 **SECTION 4.** 39-21-108, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **39-21-108. Refunds.** (5) (a) ON AND AFTER OCTOBER 1, 2002,
14 ANY WARRANT REPRESENTING A REFUND OF INCOME TAX IMPOSED BY
15 ARTICLE 22 OF THIS TITLE OR A GRANT FOR PROPERTY TAXES, RENT, OR
16 HEAT OR FUEL EXPENSES ASSISTANCE ALLOWED BY ARTICLE 31 OF THIS
17 TITLE THAT CANNOT BE DELIVERED TO THE TAXPAYER OR THAT IS NOT
18 PRESENTED FOR PAYMENT WITHIN SIX MONTHS FROM ITS DATE OF ISSUANCE
19 SHALL BE VOID. ON AND AFTER OCTOBER 1, 2002, UPON THE
20 CANCELLATION OF A WARRANT IN ACCORDANCE WITH THE STANDARD
21 OPERATING PROCEDURES OF THE DEPARTMENT OR THE STATE CONTROLLER,
22 THE DEPARTMENT SHALL FORWARD TO THE STATE TREASURER THE NAME
23 OF THE TAXPAYER AS IT APPEARS ON THE WARRANT, THE TAXPAYER
24 IDENTIFICATION NUMBER, THE TAXPAYER'S LAST KNOWN ADDRESS, THE
25 AMOUNT OF THE CANCELLED WARRANT, AND AN AMOUNT OF MONEY EQUAL
26 TO THE AMOUNT SPECIFIED IN THE WARRANT SO THAT THE STATE
27 TREASURER MAY MAKE THE REFUND PURSUANT TO THE PROVISIONS OF THE

1 "UNCLAIMED PROPERTY ACT", ARTICLE 13 OF TITLE 38, C.R.S.

2 (b) THE DEPARTMENT MAY RECLAIM FROM THE UNCLAIMED
3 PROPERTY FUND AND CREDIT TO THE APPROPRIATE STATE REVENUE FUND
4 ANY AMOUNT FORWARDED BY THE DEPARTMENT TO THE STATE TREASURER
5 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5) THAT WAS BASED ON
6 A WARRANT REPRESENTING AN ERRONEOUS REFUND OR GRANT. IF THE
7 STATE TREASURER ISSUED AN ERRONEOUS REFUND OR GRANT TO THE
8 PERSON NAMED ON THE WARRANT, THE TREASURER SHALL PROVIDE PROOF
9 OF THAT PAYMENT TO THE DEPARTMENT AND THE DEPARTMENT MAY
10 ASSESS THAT AMOUNT PURSUANT TO SECTION 39-21-103 (1).

11 **SECTION 5.** 39-21-113, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **39-21-113. Reports and returns.** (12) NOTWITHSTANDING THE
14 PROVISIONS OF THIS SECTION, ON AND AFTER OCTOBER 1, 2002, FOR THE
15 PURPOSE OF ENABLING THE STATE TREASURER TO MAKE INCOME TAX
16 REFUNDS PURSUANT TO THE PROVISIONS OF THE "UNCLAIMED PROPERTY
17 ACT", ARTICLE 13 OF TITLE 38, C.R.S., THE DEPARTMENT SHALL SUPPLY
18 THE STATE TREASURER WITH INFORMATION AS REQUIRED BY SECTION
19 39-21-108 (5).

20 **SECTION 6.** 39-22-604 (12) (a), Colorado Revised Statutes, is
21 amended to read:

22 **39-22-604. Withholding tax - requirement to withhold - tax lien**
23 **- exemption from lien.** (12) (a) (I) Moneys remitted by employers under
24 this section shall be deposited with the state treasurer and by him OR HER
25 credited to a fund hereby established, denominated the "income tax
26 withholding fund". Refunds as provided for by this section shall be made
27 from this fund in the same manner as refunds are made under section

1 39-21-108. EXCEPT FOR MONEYS TO BE TRANSFERRED TO THE STATE
2 TREASURER PURSUANT TO SECTION 39-21-108(5), all unexpended balances
3 on hand in said fund on June 30, 1971, and each June 30 thereafter, or at
4 any time as shall be determined by the controller, with the approval of the
5 state treasurer, shall be credited to the general fund of the state. The
6 unexpended balance shall include all moneys ~~which~~ THAT for any reason
7 cannot be refunded. All warrants ~~which~~ THAT cannot be delivered to the
8 taxpayer and ~~which~~ THAT are not presented for payment within six months
9 from the date of issuance thereof shall be void, and the moneys
10 represented thereby shall be included in the unexpended balance in said
11 fund at the expiration of said year. EXCEPT AS PROVIDED IN
12 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), persons entitled to the refund
13 of moneys represented by warrants ~~which~~ THAT cannot be delivered to the
14 taxpayer and ~~which~~ THAT are not presented for payment within six months
15 from the date of issuance thereof may file claims for refund at any time
16 within four years from the date the income tax return ~~which~~ THAT
17 establishes the right to the refund was required to be filed. Claims for
18 refund not filed within the prescribed four-year period shall not be
19 allowed or paid BY THE DEPARTMENT OF REVENUE.

20 (II) ON AND AFTER OCTOBER 1, 2002, IF THE DEPARTMENT OF
21 REVENUE HAS CANCELLED A WARRANT PURSUANT TO SECTION 39-21-108
22 THAT HAS NOT BEEN PRESENTED AND HAS FORWARDED TO THE STATE
23 TREASURER INFORMATION AND AN AMOUNT OF MONEY EQUAL TO THE
24 AMOUNT OF THE WARRANT AS REQUIRED BY SECTION 39-21-108 (5), THE
25 TAXPAYER MUST FILE THE CLAIM FOR THE AMOUNT OF THE REFUND WITH
26 THE STATE TREASURER PURSUANT TO THE "UNCLAIMED PROPERTY ACT",
27 ARTICLE 13 OF TITLE 38, C.R.S. THE DEPARTMENT AND THE STATE

1 TREASURER SHALL COOPERATE TO ENSURE THAT ANY TAXPAYER WHO
2 CONTACTS THE DEPARTMENT OF REVENUE TO CLAIM THE AMOUNT OF A
3 REFUND REPRESENTED BY A CANCELLED WARRANT IS PROVIDED WITH THE
4 INFORMATION OR ASSISTANCE NECESSARY TO OBTAIN THE REFUND FROM
5 THE STATE TREASURER.

6 **SECTION 7. Effective date - applicability.** (1) This act shall
7 take effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly that is
9 allowed for submitting a referendum petition pursuant to article V, section
10 1 (3) of the state constitution; except that, if a referendum petition is filed
11 against this act or an item, section, or part of this act within such period,
12 then the act, item, section, or part, if approved by the people, shall take
13 effect on the date of the official declaration of the vote thereon by
14 proclamation of the governor.

15 (2) The provisions of this act shall apply to warrants representing
16 income tax refunds that have not been presented and have been cancelled
17 in accordance with the standard operating procedures of the department
18 of revenue or the state controller on or after _____
19 October 1, 2002.