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An Act

HOUSE BILL 05-1044

BY REPRESENTATIVE(S) Judd, and Frangas;
also SENATOR(S) Mitchell, and Teck.

CONCERNING THE INTERCEPTION OF THE PAYMENT OF SPECIFIED CLAIMS TO SATISFY CERTAIN OBLIGATIONS OF THE CLAIMANT, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 16-11-101.6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-11-101.6. Collection of fines and fees - methods - charges.

(6) (a) THE JUDICIAL DEPARTMENT MAY ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE STATE TREASURER, ACTING AS THE ADMINISTRATOR OF UNCLAIMED PROPERTY UNDER THE "UNCLAIMED PROPERTY ACT", ARTICLE 13 OF TITLE 38, C.R.S., FOR THE PURPOSE OF OFFSETTING AGAINST A CLAIM FOR UNCLAIMED PROPERTY THE AMOUNT OF OUTSTANDING FINES, FEES, COSTS, OR SURCHARGES OWED PURSUANT TO LAW OR AN ORDER ENTERED BY A COURT OF THIS STATE BY THE PERSON CLAIMING UNCLAIMED PROPERTY. WHEN AN OFFSET IS TO BE MADE, THE JUDICIAL DEPARTMENT OR THE COURT TO WHICH THE FINES, FEES, COSTS, OR SURCHARGES ARE OWED SHALL NOTIFY THE DEFENDANT IN WRITING THAT

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THE STATE INTENDS TO OFFSET THE DEFENDANT'S OUTSTANDING FINES, FEES, COSTS, OR SURCHARGES AGAINST HIS OR HER CLAIM FOR UNCLAIMED PROPERTY.

(b) THE STATE COURT ADMINISTRATOR MAY ADOPT RULES ESTABLISHING THE PROCESS BY WHICH AN UNCLAIMED PROPERTY CLAIMANT MAY OBJECT TO AN OFFSET AND REQUEST AN ADMINISTRATIVE REVIEW. THE SOLE ISSUES TO BE DETERMINED AT THE ADMINISTRATIVE REVIEW SHALL BE WHETHER THE PERSON IS REQUIRED TO PAY THE FINES, FEES, COSTS, OR SURCHARGES PURSUANT TO LAW OR AN ORDER ENTERED BY A COURT OF THIS STATE AND THE AMOUNT OF THE OUTSTANDING FINES, FEES, COSTS, OR SURCHARGES.

(c) FOR PURPOSES OF THIS SUBSECTION (6), "CLAIM FOR UNCLAIMED PROPERTY" MEANS A CASH CLAIM FILED IN ACCORDANCE WITH SECTION 38-13-117, C.R.S.

SECTION 2. Article 18.5 of title 16 , Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-18.5-106.7. Unclaimed property offset. (1) THE JUDICIAL DEPARTMENT MAY ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE STATE TREASURER, ACTING AS THE ADMINISTRATOR OF UNCLAIMED PROPERTY UNDER THE "UNCLAIMED PROPERTY ACT", ARTICLE 13 OF TITLE 38, C.R.S., FOR THE PURPOSE OF OFFSETTING AGAINST A CLAIM FOR UNCLAIMED PROPERTY THE UNPAID AMOUNT OF RESTITUTION THE PERSON MAKING THE CLAIM HAS BEEN ORDERED TO PAY PURSUANT TO SECTION 18-1.3-603 OR 19-2-918, C.R.S. WHEN AN OFFSET IS TO BE MADE, THE JUDICIAL DEPARTMENT OR THE COURT IN WHICH THE PERSON'S RESTITUTION OBLIGATION IS PENDING SHALL NOTIFY THE PERSON IN WRITING THAT THE STATE INTENDS TO OFFSET THE AMOUNT OF THE PERSON'S UNPAID RESTITUTION OBLIGATION AGAINST HIS OR HER CLAIM FOR UNCLAIMED PROPERTY.

(2) THE STATE COURT ADMINISTRATOR MAY ADOPT RULES ESTABLISHING THE PROCESS BY WHICH AN UNCLAIMED PROPERTY CLAIMANT MAY OBJECT TO AN OFFSET AND REQUEST AN ADMINISTRATIVE REVIEW. THE SOLE ISSUES TO BE DETERMINED AT THE ADMINISTRATIVE REVIEW SHALL BE WHETHER THE PERSON IS REQUIRED TO PAY RESTITUTION PURSUANT TO AN ORDER ENTERED BY A COURT OF THIS STATE AND THE AMOUNT OF THE OUTSTANDING RESTITUTION.

(3) FOR PURPOSES OF THIS SECTION, "CLAIM FOR UNCLAIMED PROPERTY" MEANS A CASH CLAIM FILED IN ACCORDANCE WITH SECTION 38-13-117, C.R.S.

SECTION 3. Article 13 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-13-118.5. Unclaimed property offset. (1) THE STATE DEPARTMENT MAY ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE STATE TREASURER, ACTING AS THE ADMINISTRATOR OF UNCLAIMED PROPERTY UNDER THE "UNCLAIMED PROPERTY ACT", ARTICLE 13 OF TITLE 38, C.R.S., FOR THE PURPOSE OF OFFSETTING AGAINST A CLAIM FOR UNCLAIMED PROPERTY THE AMOUNT OF CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED WITH MAINTENANCE OWED BY THE PERSON CLAIMING THE UNCLAIMED PROPERTY.

(2) THE STATE DEPARTMENT SHALL NOTIFY AN OBLIGATED PERSON IN WRITING THAT THE STATE INTENDS TO OFFSET THE PERSON'S CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED WITH MAINTENANCE AGAINST THE PERSON'S CLAIM FOR UNCLAIMED PROPERTY. THE NOTIFICATION SHALL INCLUDE INFORMATION ON THE PERSON'S RIGHT TO OBJECT TO THE OFFSET AND TO REQUEST AN ADMINISTRATIVE REVIEW.

(3) FOR PURPOSES OF THIS SECTION, "CLAIM FOR UNCLAIMED PROPERTY" MEANS A CASH CLAIM SUBMITTED IN ACCORDANCE WITH SECTION 38-13-117, C.R.S.

SECTION 4. 38-13-117 (1) and (3) (a), Colorado Revised Statutes, are amended to read:

38-13-117. Filing of claim with administrator. (1) A person, excluding another state, this state, or a governmental agency of this state, claiming an interest in any property paid or delivered to the administrator may file with him or her a claim on a form prescribed by the administrator and verified by the claimant. If the value of the property claimed is one hundred dollars or less, the administrator may waive the requirement that the claimant verify the claim. THE ADMINISTRATOR SHALL REQUIRE THE CLAIMANT TO SUBMIT HIS OR HER SOCIAL SECURITY NUMBER OR FEDERAL

EMPLOYER IDENTIFICATION NUMBER, WHICHEVER IS APPLICABLE. THE SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER SHALL NOT BECOME PART OF THE PUBLIC RECORDS OF THE ADMINISTRATOR.

(3) (a) SUBJECT TO THE PROVISIONS OF SECTIONS 38-13-117.3, 38-13-117.5, AND 38-13-117.7, if a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, together with any additional amount required by section 38-13-114. If the property claimed was interest-bearing to the owner on the date of surrender by the holder, the administrator also shall pay simple interest at a rate of six percent a year or any lesser rate the property earned while in the possession of the holder. Such interest begins to accrue when the property is delivered to the administrator and ceases on the expiration of five years after delivery or the date on which payment is made to the owner. No interest on interest-bearing property is payable for any period before July 1, 1987.

SECTION 5. Article 13 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

38-13-117.3. Claims offset for child support. (1) BEFORE PAYING A CLAIM IN AN AMOUNT EXCEEDING SIX HUNDRED DOLLARS PURSUANT TO SECTION 38-13-117 (3), THE ADMINISTRATOR SHALL OFFSET AGAINST THE AMOUNT OF THE CLAIM THE CLAIMANT'S OBLIGATIONS TO PAY CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED WITH MAINTENANCE. THE ADMINISTRATOR MAY ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF HUMAN SERVICES TO IMPLEMENT THIS SECTION AND SECTION 26-13-118.5, C.R.S.

(2) (a) IF A CLAIMANT OWES CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED WITH MAINTENANCE, AND ALSO OWES RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AS DESCRIBED IN SECTION 38-13-117.5 OR DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AS DESCRIBED IN SECTION 38-13-117.7, OR BOTH, THE UNCLAIMED PROPERTY OFFSET AGAINST THE CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN

COMBINED WITH MAINTENANCE SHALL TAKE PRIORITY AND BE APPLIED FIRST.

(b) IF A CLAIMANT OWES BOTH RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AND DELINQUENT STATE TAXES, PENALTIES, OR INTEREST, AFTER PAYMENT IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2), IF APPLICABLE, ANY REMAINING UNCLAIMED PROPERTY SHALL BE APPLIED FIRST TOWARD THE PAYMENT OF THE OUTSTANDING RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AND PROCESSED IN ACCORDANCE WITH SECTION 38-13-117.5 AND THEN APPLIED TO THE PAYMENT OF DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AND PROCESSED IN ACCORDANCE WITH SECTION 38-13-117.7.

(c) IF A CLAIMANT OWES RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES OR DELINQUENT STATE TAXES, PENALTIES, OR INTEREST, AFTER PAYMENT IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (2), IF APPLICABLE, ANY REMAINING UNCLAIMED PROPERTY SHALL BE APPLIED TOWARD THE PAYMENT OF THE OUTSTANDING RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AND PROCESSED IN ACCORDANCE WITH SECTION 38-13-117.5 OR TOWARD THE DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AND PROCESSED IN ACCORDANCE WITH SECTION 38-13-117.7, WHICHEVER IS APPLICABLE.

38-13-117.5. Claims offset for judicial restitution, fines, fees, costs, or surcharges. (1) BEFORE PAYING A CLAIM IN AN AMOUNT EXCEEDING SIX HUNDRED DOLLARS PURSUANT TO SECTION 38-13-117 (3), THE ADMINISTRATOR SHALL OFFSET AGAINST THE AMOUNT OF THE CLAIM THE CLAIMANT'S OUTSTANDING COURT FINES, FEES, COSTS, OR SURCHARGES OR RESTITUTION. THE ADMINISTRATOR MAY ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE JUDICIAL DEPARTMENT TO IMPLEMENT THIS SECTION AND SECTIONS 16-11-101.6 (6) AND 16-18.5-106.7, C.R.S.

(2) IF A CLAIMANT OWES FINES, FEES, COSTS, OR SURCHARGES OR RESTITUTION AS DESCRIBED IN THIS SECTION AND ALSO OWES CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED WITH MAINTENANCE AS DESCRIBED IN SECTION 38-13-117.3 OR DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AS DESCRIBED IN SECTION 38-13-117.7, OR BOTH, THE UNCLAIMED PROPERTY OFFSETS SHALL BE APPLIED IN ACCORDANCE WITH THE PRIORITY SET FORTH IN SECTION 38-13-117.3 (2).

38-13-117.7. Claims offset for state tax delinquencies.

(1) BEFORE PAYING A CLAIM IN AN AMOUNT EXCEEDING SIX HUNDRED DOLLARS PURSUANT TO SECTION 38-13-117 (3), THE ADMINISTRATOR SHALL COMPARE THE SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER OF THE CLAIMANT WITH THE NUMBERS CERTIFIED BY THE DEPARTMENT OF REVENUE FOR THE PURPOSE OF THE UNCLAIMED PROPERTY OFFSET AS PROVIDED IN SECTION 39-21-121, C.R.S.

(2) IF THE SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER OF A CLAIMANT APPEARS AMONG THE NUMBERS CERTIFIED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-21-121, C.R.S., THE ADMINISTRATOR SHALL SUSPEND THE PAYMENT OF THE CLAIM UNTIL THE REQUIREMENTS OF SECTION 39-21-121, C.R.S., ARE MET. IF, AFTER CONSULTING WITH THE DEPARTMENT, THE ADMINISTRATOR DETERMINES THAT THE CLAIMANT IS OBLIGATED TO PAY THE AMOUNTS CERTIFIED UNDER SECTION 39-21-121, C.R.S., THE ADMINISTRATOR SHALL WITHHOLD FROM THE AMOUNT OF THE UNCLAIMED PROPERTY PAID TO THE CLAIMANT AN AMOUNT EQUAL TO THE AMOUNT OF DELINQUENT STATE TAXES, PENALTIES, OR INTEREST. IF THE AMOUNT OF THE UNCLAIMED PROPERTY IS LESS THAN OR EQUAL TO THE AMOUNT OF DELINQUENT STATE TAXES, PENALTIES, OR INTEREST, THE ADMINISTRATOR SHALL WITHHOLD THE ENTIRE AMOUNT OF THE UNCLAIMED PROPERTY. THE ADMINISTRATOR SHALL TRANSMIT ANY UNCLAIMED PROPERTY SO WITHHELD TO THE DEPARTMENT FOR DISBURSEMENT AS DIRECTED IN SECTION 39-21-121, C.R.S.

(3) IF A CLAIMANT OWES DELINQUENT STATE TAXES, PENALTIES, OR INTEREST AS DESCRIBED IN THIS SECTION AND ALSO OWES CURRENT CHILD SUPPORT, CHILD SUPPORT DEBT, RETROACTIVE CHILD SUPPORT, CHILD SUPPORT ARREARAGES, CHILD SUPPORT COSTS, OR CHILD SUPPORT WHEN COMBINED WITH MAINTENANCE AS DESCRIBED IN SECTION 38-13-117.3 OR RESTITUTION OR FINES, FEES, COSTS, OR SURCHARGES AS DESCRIBED IN SECTION 38-13-117.5, OR BOTH, THE UNCLAIMED PROPERTY OFFSET SHALL BE APPLIED IN ACCORDANCE WITH THE PRIORITY SET FORTH IN SECTION 38-13-117.3 (2).

SECTION 6. Part 1 of article 21 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-21-121. Unclaimed property offset. (1) (a) THE DEPARTMENT SHALL PERIODICALLY CERTIFY TO THE STATE TREASURER, ACTING AS THE ADMINISTRATOR OF UNCLAIMED PROPERTY UNDER THE "UNCLAIMED

PROPERTY ACT", ARTICLE 13 OF TITLE 38, C.R.S., INFORMATION REGARDING PERSONS WHO ARE LIABLE FOR THE PAYMENT OF TAXES, PENALTIES, OR INTEREST IMPOSED PURSUANT TO ARTICLES 22 TO 33 OF THIS TITLE THAT ARE DELINQUENT AND IN DISTRAINT.

(b) THE INFORMATION DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL INCLUDE THE SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, WHICHEVER IS APPLICABLE, OF THE PERSON OWING THE DELINQUENT TAXES, PENALTIES, OR INTEREST, THE AMOUNT OWED, AND ANY OTHER IDENTIFYING INFORMATION REQUIRED BY THE STATE TREASURER.

(2) (a) PRIOR TO THE PAYMENT OF A CLAIM FOR UNCLAIMED PROPERTY PURSUANT TO SECTION 38-13-117, C.R.S., THE STATE TREASURER SHALL COMPARE THE SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, WHICHEVER IS APPLICABLE, OF THE CLAIMANT WITH THOSE CERTIFIED BY THE DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION. IF THE NAME AND ASSOCIATED SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER OF A CLAIMANT APPEARS AMONG THOSE CERTIFIED, THE STATE TREASURER SHALL OBTAIN THE CURRENT ADDRESS OF THE CLAIMANT, SUSPEND THE PAYMENT OF THE CLAIM, AND NOTIFY THE DEPARTMENT. THE NOTIFICATION SHALL INCLUDE THE NAME, HOME ADDRESS, AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER OF THE CLAIMANT.

(b) AFTER RECEIPT OF THE NOTIFICATION FROM THE STATE TREASURER THAT A PERSON CLAIMING UNCLAIMED PROPERTY PURSUANT TO SECTION 38-13-117, C.R.S., APPEARS AMONG THOSE CERTIFIED BY THE DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE PERSON, IN WRITING, THAT THE STATE INTENDS TO OFFSET THE PERSON'S DELINQUENT STATE TAXES, PENALTIES, OR INTEREST LIABILITY AGAINST THE PERSON'S CLAIM FOR UNCLAIMED PROPERTY.

(3) EXCEPT AS OTHERWISE PROVIDED IN SECTION 38-13-117.3 (2), C.R.S., UPON NOTIFICATION BY THE STATE TREASURER OF THE AMOUNTS OF UNCLAIMED PROPERTY HELD PURSUANT TO SECTION 38-13-117.7, C.R.S., THE DEPARTMENT SHALL APPLY SUCH AMOUNTS TO THE PERSON'S DELINQUENT STATE TAX LIABILITY.

(4) THE DEPARTMENT SHALL PROMULGATE RULES PURSUANT TO

ARTICLE 4 OF TITLE 24, C.R.S., ESTABLISHING PROCEDURES TO IMPLEMENT THIS SECTION.

(5) FOR PURPOSES OF THIS SECTION, "CLAIM FOR UNCLAIMED PROPERTY" MEANS A CASH CLAIM SUBMITTED IN ACCORDANCE WITH SECTION 38-13-117, C.R.S.

SECTION 7. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the unclaimed property trust fund created in section 38-13-116.5 (1) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of treasury, for allocation to the unclaimed property program, for the fiscal year beginning July 1, 2005, the sum of fifteen thousand two hundred eighty-six dollars (\$15,286) and 0.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 8. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 10, 2005, if adjournment sine die is on May 11, 2005); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or

part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO