

CHAPTER 171.

UNCLAIMED PROPERTY.

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171.01 Duty of consignee or bailee. Whenever any personal property shall be consigned to or deposited with any common carrier, forwarding merchant, wharfinger, warehouseman, innkeeper or the keeper of any depot for the storage of baggage, merchandise or other personal property, such consignee or bailee shall immediately cause to be entered in a proper book kept by him a description of such property with the date of the reception thereof; and if the same shall not have been so consigned or deposited for the purpose of being forwarded or disposed of according to directions received by such consignee or bailee at or before his reception thereof he shall immediately notify the owner by mail thereof, if his name and residence be known or can with reasonable diligence be ascertained.

171.02 Disposition of proceeds. If the owner of the property sold or his legal representatives shall, at any time within five years after such money shall have been deposited in the county treasury, furnish satisfactory evidence to the treasurer of the ownership of such property he or they shall be entitled to receive from such treasurer the amount so deposited with him. If not claimed within said time by the owner or his legal representatives the same shall belong to the county.

171.03 Officers' fees. The fees allowed to any justice of the peace under this chapter shall be one dollar for each day's service, and to any constable the same fees as are allowed by law for sales upon execution, and ten cents per folio for making an inventory of property.

171.04 Perishable property, held for carriage or storage, how disposed of. (1) If any property delivered to any forwarding merchant, wharfinger, or warehouseman, for carriage or storage, shall be in a state of decay, or manifestly liable to immediate damage and decay, the person in whose custody the same shall then be, his agent or attorney, may make an affidavit of such fact, and present the same to a circuit judge, county judge, court commissioner, or justice of the peace of the county in which such property shall then be, and such circuit judge, county judge, court commissioner, or justice of the peace, shall thereupon immediately make an order requiring the sheriff or any constable of such county to immediately inspect such property, and directing him, if the same shall be found by him to be in a state of decay, or manifestly liable to immediate damage or decay, to summarily sell the same without notice.

(2) If such sheriff or constable shall upon inspection, find such property to be in a state of decay, or manifestly liable to immediate damage or decay, he shall attach to such order his affidavit stating such fact, and shall make an inventory of said property, and shall thereupon summarily sell said property without notice, and shall make full return of his execution of said order to the judge or justice who issued the same, together with his affidavit, inventory, and the proceeds of said sale, after deducting his fees therefrom.

(3) From the proceeds of such sale, the judge or justice shall pay all legal charges that have been incurred in relation to such property, or a ratable proportion of each charge if the proceeds of such sale shall not be sufficient to pay all the charges; and the balance, if any there be, he shall immediately pay over to the treasurer of his county, with a copy of all the proceedings in said matter. The county treasurer shall file such copy in his office.

(4) The person in whose custody such property shall be when any such proceeding for the sale thereof shall be commenced, shall immediately notify the consignor and consignee of such sale, which notice shall be in writing, and shall be served by leaving a copy thereof with the consignor and consignee, personally or by mail.

171.05 Perishable property, held otherwise, how disposed of. If any such property shall be perishable or subject to decay by keeping, the person in whose custody such property shall then be, his agent or attorney, may make an affidavit of such fact and present

the same to a circuit judge, county judge, court commissioner, or justice of the peace of the county in which such property shall then be, and such circuit judge, county judge, court commissioner, or justice of the peace, shall thereupon immediately make an order requiring the sheriff or any constable of such county to immediately inspect such property, and if the same shall be found by him to be perishable or subject to decay by keeping, to make and return an affidavit of such fact. Upon the return of such affidavit, the judge or justice making such order shall immediately make an order requiring such sheriff or constable to sell such property at public auction, first giving ten days' public notice of the time and place of such sale by one publication in a newspaper published in the county, and serving upon the consignor, the consignee, and the custodian, of such property, if they shall be known, a copy of said notice by mail. Such sheriff or constable shall, at the time and place fixed by said notice, unless said property has been otherwise lawfully disposed of, sell said property at public auction, and shall make full return of his execution of said order, and return the same with an inventory of said property and the proceeds of said sale, after deducting his fees, to the judge or justice making said order. From the proceeds of such sale, said judge or justice shall pay all legal charges that have been incurred in relation to such property, or a ratable proportion of each charge, if the proceeds of such sale shall not be sufficient to pay all the charges; and the balance, if any there be, he shall immediately pay over to the treasurer of his county, with a copy of all the proceedings in said matter. The county treasurer shall file such copy in his office. The person in whose custody such property shall be when any such proceedings for the sale thereof shall be commenced, shall immediately notify the consignor and consignee of such sale, which notice shall be in writing, and shall be served by leaving a copy thereof with the consignor and consignee personally or by mail.

171.06 Unclaimed property, how disposed of. When any such property shall not be perishable or subject to decay and shall not be claimed and taken away within one year after it shall have been so received, the same may be sold as follows: The person in whose custody such property shall then be, his agent or attorney, may make an affidavit of the facts and present the same to a circuit judge, county judge, court commissioner, or justice of the peace of the county in which such property shall then be, and such circuit judge, county judge, court commissioner, or justice of the peace, shall thereupon immediately make an order requiring the sheriff or any constable of such county to sell such property at public auction, first giving sixty days' notice of the time and place of such sale to the consignor, the consignee, and the custodian of such property. Such notice shall be in writing and shall be served personally or by mail upon such of such persons the names and residences of whom are known. If the name or residence of any of such persons is unknown and cannot with reasonable diligence be ascertained, such sheriff or constable shall make an affidavit of such fact and shall thereupon cause such notice to be published in a newspaper of the county at least once in each week for six successive weeks before such sale. At the time and place of such sale such sheriff or constable shall sell said property at public auction and shall make a full return of his proceedings under said order to the judge or justice making the same, together with proof of service or publication of the notice of the sale, and an inventory of the property sold and the proceeds of such sale after deducting his fees. From the proceeds of such sale the judge or justice shall pay all legal charges that have been incurred in relation to such property, including the charges of the person in whose custody said property was when said proceedings were begun, or a ratable proportion of each charge if the proceeds of such sale shall not be sufficient to pay all the charges; and the balance, if any there be, he shall immediately pay over to the treasurer of his county, with a copy of all proceedings in said matter. The county treasurer shall file such copy in his office. The person in whose custody such property shall be when any such proceeding for the sale thereof shall be commenced, shall immediately notify the consignor and consignee of such sale, which notice shall be in writing, and shall be served by leaving a copy thereof with the consignor and consignee, personally or by mail.

171.07 Railroad liens for transportation. (1) Any property transported or stored, or left with any railroad company shall be subject to a lien for the lawful charges thereon for the transportation and storage thereof.

(2) If any property not perishable in its nature shall be permitted to remain in the possession of the railroad company, unclaimed or refused, for a period of sixty days, with the lawful charges thereon due and unpaid, such railroad company may proceed to sell the same at public auction at its freight station at the destination of the shipment, after mailing notice by United States mail of the amount of the charges to the consignor and consignee, if their whereabouts are known, or if their whereabouts be unknown, then to the consignor at the originating point of the shipment and to the consignee at the destination of the shipment, and in addition thereto posting, at its freight station, in a conspicuous place accessible to the public, for a period of ten days after the mailing of

such notices, a notice of the time and place of the proposed sale and a description of the property to be sold, if known, and if not, a description of the package in which it is contained, the amount of charges thereon and the name of the consignee and consignor thereof; provided, however, that if there be no satisfactory bid at such auction sale, the railroad company may remove the property to some other city of not less than five thousand inhabitants within the state and there proceed to sell the same at public auction after giving additional notice by mailing and posting as hereinbefore provided.

(3) Fruit, fresh fish, oysters, game, and other perishable property after having been retained for twenty-four hours after notice to consignee, if he be known, may be sold, either at public or private sale in the discretion of the railroad company, for the highest price that the same will bring.

(4) After the lawful charges of the railroad company for transportation and storage for the period of compulsory retention shall be deducted from the proceeds of the sale, the overplus, if any, shall be held by the railroad company subject to the order of the owner, and, at any time within twelve months after such sale, upon the demand of the owner, the railroad company shall pay the same to him.

171.08 Restored to donors or applied to charity. Whenever, upon the occurrence of a cyclone, conflagration or like calamity, five or more persons shall contribute moneys to a common fund for the relief of the sufferers by such calamity the surplus money, if exceeding twenty-five dollars in amount, remaining unexpended for such purpose in the hands of any person authorized to receive and disburse the same after the expiration of six months from the date of such calamity shall be disposed of as herein provided. Within ten days after the expiration of such six months the person having possession of such surplus shall make and cause to be published a complete itemized statement of all moneys paid into such fund, all disbursements therefrom and the amount of the unexpended balance. Such publication shall be made in some newspaper published in the town, city or village wherein such calamity occurred, or if no paper is published therein then such publication shall be made in some newspaper published in the county wherein such calamity occurred. There shall be annexed to and published with such statement a notice, signed by the person having possession of such surplus, to the effect that he will pay to each of the contributors to such fund his pro rata share of such surplus at a place or places named in such notice, after deducting expenses of publishing and posting the notice, if payment thereof shall be duly demanded within sixty days from the date of the publication of such notice, and that after the expiration of said period all moneys not so returned to contributors will be donated to one or more charities to be named in such notice. Within two days after the date of the publication of such notice and statement copies thereof shall be posted in three of the most public places in such town, city or village. Within five days after the expiration of said sixty days the person having such surplus in his possession shall deliver it to the charity or one or more of the charities mentioned in such notice, and on delivery of the same and the filing of a receipt therefor, with an affidavit of the publication, posting and mailing of such notice and statement, in the office of the clerk of the county in which such calamity occurred, shall not thereafter be liable or accountable therefor to the contributors of such fund, any portion of them or any other person.