

By Senator Horne

6-692-00

See HB

1 A bill to be entitled
2 An act relating to unclaimed property; revising
3 provisions of ch. 717, F.S., to refer to
4 property considered abandoned as unclaimed
5 property; amending s. 717.101, F.S.; revising
6 certain definitions; amending ss. 717.102,
7 717.103, 717.1035, 717.104, 717.105, 717.107,
8 717.108, 717.109, 717.1101, 717.111, 717.113,
9 717.115, 717.116, 717.1201, 717.122, 717.125,
10 717.129, F.S.; changing references to property
11 from being abandoned to being unclaimed;
12 amending s. 717.106, F.S., to conform;
13 providing an additional criterion for certain
14 property in financial organizations being
15 presumed unclaimed; amending s. 717.112, F.S.,
16 to conform; providing a presumption that
17 certain intangible property is unclaimed under
18 certain circumstances; amending s. 717.117,
19 F.S., to conform; deleting a report
20 verification requirement; revising unclaimed
21 property report requirements; revising search
22 and notification requirements for inactive
23 accounts; amending s. 717.118, F.S., to
24 conform; revising certain notification
25 procedures; amending s. 717.119, F.S., to
26 conform; authorizing payment of unclaimed funds
27 by electronic transfer; deleting an
28 authorization to deduct reasonable fees from
29 certain sale proceeds; providing valuation and
30 remission of contents of safety-deposit boxes;
31 amending s. 717.122, F.S., to conform;

1 authorizing the department to dispose of
2 certain property under certain circumstances;
3 amending s. 717.123, F.S.; revising provisions
4 relating to the disposition of funds held by
5 the Department of Banking and Finance with
6 respect to unclaimed property; amending s.
7 717.124, F.S.; revising certain procedures for
8 filing claims by owner's representatives and
9 receiving and making payments to an owner or
10 owner's representative; amending s. 717.1241;
11 revising provisions governing the resolution of
12 conflicting ownership claims between certain
13 persons; amending s. 717.1243, F.S.; revising
14 provisions for disposition of claims from small
15 estate accounts; amending s. 717.132, F.S.;
16 providing for deposit of administrative fines
17 into the Unclaimed Property Trust Fund;
18 amending s. 717.135, F.S.; revising provisions
19 relating to unenforceability of certain
20 agreements to locate reported property;
21 requiring disclosure of certain information;
22 limiting certain recovery fees; specifying
23 agreement requirements; amending s. 717.138,
24 F.S.; revising the rulemaking authority of the
25 Department of Banking and Finance; amending s.
26 732.107, F.S.; repealing an interest rate
27 requirement relating to payments of amounts of
28 escheated property; repealing s. 717.137, F.S.,
29 relating to effect and application of certain
30 provisions; providing an effective date.
31

1 Be It Enacted by the Legislature of the State of Florida:

2
3 Section 1. Present subsections (8) through (18) of
4 section 717.101, Florida Statutes, are renumbered as
5 subsections (9) through (19), respectively, a new subsection
6 (8) is added to that section, and present subsection (12),
7 which is renumbered as subsection (13), is amended, to read:

8 717.101 Definitions.--As used in this chapter, unless
9 the context otherwise requires:

10 (8) "Due diligence" means the use of reasonable and
11 prudent methods under particular circumstances to locate
12 apparent owners of inactive accounts using the taxpayer
13 identification number, if known, which may include, but are
14 not limited to, using a nationwide database, cross-indexing
15 with other records of the holder, mailing to the last known
16 address unless the last known address is known to be
17 inaccurate, or engaging a licensed agency or company capable
18 of conducting such search and providing updated addresses.

19 (13)~~(12)~~ "Last known address" means a description of
20 the location of the apparent owner sufficient for the purpose
21 of the delivery of mail. For the purposes of identifying,
22 reporting, and remitting to the department property that is
23 presumed to be unclaimed, the term "last known address"
24 includes any partial description of the location of the
25 apparent owner sufficient to establish that the apparent owner
26 was a resident of this state at the time of last contact with
27 the apparent owner or at the time the property became due and
28 payable.

29 Section 2. Subsection (1) of section 717.102, Florida
30 Statutes, is amended to read:

31

1 717.102 Property presumed unclaimed ~~abandoned~~; general
2 rule.--

3 (1) All intangible property, including any income or
4 increment thereon less any lawful charges, that is held,
5 issued, or owing in the ordinary course of the holder's
6 business and ~~has remained unclaimed by~~ the owner fails to
7 claim such property for more than 5 years after the property
8 it becomes payable or distributable is presumed unclaimed
9 ~~abandoned~~, except as otherwise provided by this chapter.

10 Section 3. Section 717.103, Florida Statutes, is
11 amended to read:

12 717.103 General rules for taking custody of intangible
13 unclaimed property.--Unless otherwise provided in this chapter
14 or by other statute of this state, intangible property is
15 subject to the custody of the department as unclaimed property
16 if the conditions leading to a presumption that the property
17 is unclaimed ~~of abandonment~~ as described in ss. 717.102 and
18 717.105-717.116 are satisfied and:

19 (1) The last known address, as shown on the records of
20 the holder, of the apparent owner is in this state;

21 (2) The records of the holder do not reflect the
22 identity of the person entitled to the property, and it is
23 established that the last known address of the person entitled
24 to the property is in this state;

25 (3) The records of the holder do not reflect the last
26 known address of the apparent owner, and it is established
27 that:

28 (a) The last known address of the person entitled to
29 the property is in this state; or

30 (b) The holder is a domiciliary or a government or
31 governmental subdivision or agency of this state and has not

1 previously paid the property to the state of the last known
2 address of the apparent owner or other person entitled to the
3 property;

4 (4) The last known address, as shown on the records of
5 the holder, of the apparent owner or other person entitled to
6 the property is in a state that does not provide by law for
7 the escheat or custodial taking of the property, or its
8 escheat or unclaimed property law is not applicable to the
9 property, and the holder is a domiciliary or a government or
10 governmental subdivision or agency of this state;

11 (5) The last known address, as shown on the records of
12 the holder, of the apparent owner is in a foreign nation and
13 the holder is a domiciliary or a government or governmental
14 subdivision or agency of this state; or

15 (6) The transaction out of which the property arose
16 occurred in this state, and;

17 (a)1. The last known address of the apparent owner or
18 other person entitled to the property is unknown; or

19 2. The last known address of the apparent owner or
20 other person entitled to the property is in a state that does
21 not provide by law for the escheat or custodial taking of the
22 property, or its escheat or unclaimed property law is not
23 applicable to the property; and

24 (b) The holder is a domiciliary of a state that does
25 not provide by law for the escheat or custodial taking of the
26 property, or its escheat or unclaimed property law is not
27 applicable to the property.

28 Section 4. Section 717.1035, Florida Statutes, is
29 amended to read:

30 717.1035 Property originated or issued by this state,
31 any political subdivision of this state, or any entity

1 incorporated, organized, created, or otherwise located in the
2 state.--

3 (1) All intangible property, including, but not
4 limited to, any interest, dividend, or other earnings thereon,
5 less any lawful charges, held by a business association,
6 federal, state, or local government or governmental
7 subdivision, agency, or entity, or any other person or entity,
8 regardless of where the holder may be found, if the owner has
9 not claimed or corresponded in writing concerning the property
10 within 3 years after the date prescribed for payment or
11 delivery, is presumed to be unclaimed property ~~abandoned~~ and
12 subject to the custody of this state as such unclaimed
13 ~~property~~ if:

14 (a) The last known address of the owner is unknown;
15 and

16 (b) The person or entity originating or issuing the
17 intangible property is this state or any political subdivision
18 of this state, or the person or entity is incorporated,
19 organized, created, or otherwise located in this state.

20 (2) The provisions of subsection (1) shall not apply
21 to property which is or may be presumed unclaimed ~~abandoned~~
22 and subject to the custody of this state pursuant to any other
23 provision of law containing a dormancy period different than
24 that prescribed in subsection (1).

25 (3) The provisions of subsection (1) shall apply to
26 all property held at the time of enactment, or at any time
27 thereafter, regardless of when such property became or becomes
28 presumptively unclaimed ~~abandoned~~.

29 Section 5. Subsections (1), (2), and (5) of section
30 717.104, Florida Statutes, are amended to read:

31 717.104 Traveler's checks and money orders.--

1 (1) Subject to subsection (4), any sum payable on a
2 traveler's check that has been outstanding for more than 15
3 years after its issuance is presumed unclaimed ~~abandoned~~
4 unless the owner, within 15 years, has communicated in writing
5 with the issuer concerning it or otherwise indicated an
6 interest as evidenced by a memorandum or other record on file
7 with ~~prepared by an employee of~~ the issuer.

8 (2) Subject to subsection (4), any sum payable on a
9 money order or similar written instrument, other than a third
10 party bank check, that has been outstanding for more than 7
11 years after its issuance is presumed unclaimed ~~abandoned~~
12 unless the owner, within 7 years, has communicated in writing
13 with the issuer concerning it or otherwise indicated an
14 interest as evidenced by a memorandum or other record on file
15 with ~~prepared by an employee of~~ the issuer.

16 (5) Notwithstanding any other provision of this
17 chapter, subsection (4) applies to sums payable on traveler's
18 checks, money orders, and similar written instruments presumed
19 unclaimed ~~abandoned~~ on or after February 1, 1965, except to
20 the extent that those sums have been paid over to a state
21 prior to January 1, 1974.

22 Section 6. Subsection (1) of section 717.105, Florida
23 Statutes, is amended to read:

24 717.105 Checks, drafts, and similar instruments issued
25 or certified by banking and financial organizations.--

26 (1) Any sum payable on a check, draft, or similar
27 instrument, except those subject to ss. 717.104 and 717.115,
28 on which a banking or financial organization is directly
29 liable, including, but not limited to ~~by way of illustration~~
30 ~~and not limitation~~, a cashier's check or ~~and~~ a certified
31 check, which has been outstanding for more than 5 years after

1 it was payable or after its issuance if payable on demand, is
2 presumed unclaimed ~~abandoned~~ unless the owner, within 5 years,
3 has communicated in writing with the banking or financial
4 organization concerning it or otherwise indicated an interest
5 as evidenced by a memorandum or other record on file with
6 ~~prepared by an employee of~~ the banking or financial
7 organization.

8 Section 7. Subsection (1) of section 717.106, Florida
9 Statutes, is amended to read:

10 717.106 Bank deposits and funds in financial
11 organizations.--

12 (1) Any demand, savings, or matured time deposit with
13 a banking or financial organization, including deposits that
14 are automatically renewable, and any funds paid toward the
15 purchase of shares, a mutual investment certificate, or any
16 other interest in a banking or financial organization is
17 presumed unclaimed ~~abandoned~~ unless the owner has, within 5
18 years:

19 (a) ~~In the case of a deposit,~~ Increased or decreased
20 the amount of the deposit or presented the passbook or other
21 similar evidence of the deposit for the crediting of interest;

22 (b) Communicated in writing with the banking or
23 financial organization concerning the property;

24 (c) Otherwise indicated an interest in the property as
25 evidenced by a memorandum or other record on file with
26 ~~prepared by an employee of~~ the banking or financial
27 organization;

28 (d) Owned other property to which paragraph (a),
29 paragraph (b), or paragraph (c) is applicable and if the
30 banking or financial organization communicates in writing with
31 the owner with regard to the property that would otherwise be

1 presumed unclaimed ~~abandoned~~ under this subsection at the
2 address to which communications regarding the other property
3 regularly are sent; or

4 (e) Had another relationship with the banking or
5 financial organization concerning which the owner has:

6 1. Communicated in writing with the banking or
7 financial organization; or

8 2. Otherwise indicated an interest as evidenced by a
9 memorandum or other record on file with ~~prepared by an~~
10 ~~employee of~~ the banking or financial organization and if the
11 banking or financial organization communicates in writing with
12 the owner with regard to the property that would otherwise be
13 unclaimed ~~abandoned~~ under this subsection at the address to
14 which communications regarding the other relationship
15 regularly are sent.

16 (f) Received first class mail, which was not returned
17 as undeliverable, in the normal course of business at the
18 address reflected in the banking or financial organization's
19 records.

20 Section 8. Subsection (1) of section 717.107, Florida
21 Statutes, is amended to read:

22 717.107 Funds owing under life insurance policies.--

23 (1) Funds held or owing under any life or endowment
24 insurance policy or annuity contract which has matured or
25 terminated are presumed unclaimed ~~abandoned~~ if unclaimed for
26 more than 5 years after the funds became due and payable as
27 established from the records of the insurance company holding
28 or owing the funds, but property described in paragraph (3)(b)
29 is presumed unclaimed ~~abandoned~~ if such property is not
30 claimed ~~unclaimed~~ for more than 2 years.

31

1 Section 9. Section 717.108, Florida Statutes, is
2 amended to read:

3 717.108 Deposits held by utilities.--Any deposit,
4 including any interest thereon, made by a subscriber with a
5 utility to secure payment or any sum paid in advance for
6 utility services to be furnished, less any lawful charges,
7 that remains unclaimed by the owner for more than 1 year after
8 termination of the services for which the deposit or advance
9 payment was made is presumed unclaimed ~~abandoned~~.

10 Section 10. Section 717.109, Florida Statutes, is
11 amended to read:

12 717.109 Refunds held by business associations.--~~Except~~
13 ~~to the extent otherwise ordered by the court or administrative~~
14 ~~agency,~~Any sum that a business association has been ordered
15 to refund by a court or administrative agency which has not
16 been claimed ~~remained unclaimed~~ by the owner for more than 1
17 year after it became payable in accordance with the final
18 determination or order providing for the refund, regardless of
19 whether the final determination or order requires any person
20 entitled to a refund to make a claim for it, is presumed
21 unclaimed ~~abandoned~~.

22 Section 11. Subsections (1), (2), (3), and (4) of
23 section 717.1101, Florida Statutes, are amended to read:

24 717.1101 Stock and other intangible interests in
25 business associations.--

26 (1) Except as provided in subsections (2) and (5), any
27 stock or other intangible ownership interest in a business
28 association, the existence of which is evidenced by record
29 available to the association, is presumed unclaimed ~~abandoned~~
30 and, with respect to the interest, the association is the
31 holder, if a dividend, distribution, or other sum payable as a

1 result of the interest is not claimed ~~has~~ for 5 years ~~remained~~
2 ~~unclaimed~~ by the owner and the owner has not within 5 years:

3 (a) Communicated in writing with the association or
4 its agent regarding the interest or a dividend, distribution,
5 or other sum payable as a result of the interest; or

6 (b) Otherwise communicated with the association
7 regarding the interest or a dividend, distribution, or other
8 sum payable as a result of the interest, as evidenced by a
9 memorandum or other record on file with the association or its
10 agent ~~prepared by an employee of the association or its agent.~~

11 (2) At the expiration of a 5-year period following the
12 failure of the owner to claim a dividend, distribution, or
13 other sum payable to the owner as a result of the interest,
14 the interest shall not be presumed unclaimed ~~abandoned~~ unless
15 there have been at least five dividends, distributions, or
16 other sums paid during the period, none of which has been
17 claimed. If five dividends, distributions, or other sums are
18 paid during the 5-year period, the period leading to a
19 presumption that the interest is unclaimed ~~of abandonment~~
20 commences on the date payment of the first such unclaimed
21 dividend, distribution, or other sum became due and payable.
22 If five dividends, distributions, or other sums are not paid
23 during the presumptive period, the period continues to run
24 until there have been five consecutive dividends,
25 distributions, or other sums that have not been claimed by the
26 owner.

27 (3) The running of such ~~the~~ 5-year period ~~of~~
28 ~~abandonment~~ ceases immediately upon the occurrence of one or
29 more of the conditions referred to in subsection (1). If any
30 future dividend, distribution, or other sum payable to the
31 owner as a result of the interest is subsequently not claimed

1 by the owner, a new period in which the property is presumed
2 unclaimed ~~of abandonment~~ commences and relates back only to
3 the time a subsequent dividend, distribution, or other sum
4 became due and payable.

5 (4) At the same time any interest is presumed
6 unclaimed ~~abandoned~~ under this section, any dividend,
7 distribution, or other sum then held for or owing to the owner
8 as a result of the interest, ~~and not previously presumed~~
9 ~~abandoned~~, is presumed unclaimed ~~abandoned~~.

10 Section 12. Section 717.111, Florida Statutes, is
11 amended to read:

12 717.111 Property of business associations held in
13 course of dissolution.--All intangible property distributable
14 in the course of a voluntary or involuntary dissolution of a
15 business association which is not claimed ~~remains unclaimed~~ by
16 the owner for more than 6 months after the date specified for
17 final distribution is presumed unclaimed ~~abandoned~~.

18 Section 13. Subsection (1) of section 717.112, Florida
19 Statutes, is amended, and subsection (5) is added to that
20 section, to read:

21 717.112 Property held by agents and fiduciaries.--

22 (1) All intangible property and any income or
23 increment thereon held in a fiduciary capacity for the benefit
24 of another person is presumed unclaimed ~~abandoned~~ unless the
25 owner has within 5 years after it has become payable or
26 distributable increased or decreased the principal, accepted
27 payment of principal or income, communicated concerning the
28 property, or otherwise indicated an interest as evidenced by a
29 memorandum or other record on file with ~~prepared by the~~
30 ~~fiduciary or an employee of the fiduciary.~~

31

1 (5) All intangible property issued by a government or
2 governmental subdivision or agency, public corporation, or
3 public authority, and any income or increment thereon, held in
4 an agency capacity for the governmental subdivision, agency,
5 public corporation, or public authority, for the benefit of
6 the owner of record, is presumed unclaimed unless the owner
7 has, within 1 year after such property has become payable or
8 distributable, increased or decreased the principal, accepted
9 payment of the principal or income, communicated concerning
10 the property, or otherwise indicated an interest in the
11 property as evidenced by a memorandum or other record on file
12 with the fiduciary.

13 Section 14. Section 717.113, Florida Statutes, is
14 amended to read:

15 717.113 Property held by courts and public
16 agencies.--All intangible property held for the owner by any
17 court, government or governmental subdivision or agency,
18 public corporation, or public authority that has not been
19 claimed ~~remained unclaimed~~ by the owner for more than 1 year
20 after it became payable or distributable is presumed
21 abandoned. Notwithstanding the provisions of this section,
22 funds deposited in the Minerals Trust Fund pursuant to s.
23 377.247 are presumed unclaimed ~~abandoned~~ only if the funds
24 have not been claimed ~~remained unclaimed~~ by the owner for more
25 than 5 years after ~~from~~ the date of first production from the
26 well.

27 Section 15. Section 717.115, Florida Statutes, is
28 amended to read:

29 717.115 Wages.--Unpaid wages, including wages
30 represented by unrepresented payroll checks, owing in the
31 ordinary course of the holder's business that have not been

1 claimed ~~remained unclaimed~~ by the owner for more than 1 year
2 after becoming payable are presumed unclaimed ~~abandoned~~.

3 Section 16. Section 717.116, Florida Statutes, is
4 amended to read:

5 717.116 Contents of safe-deposit box or other
6 safekeeping repository.--All tangible and intangible property
7 held in a safe-deposit box or any other safekeeping repository
8 in this state in the ordinary course of the holder's business,
9 and proceeds resulting from the sale of the property permitted
10 by law, that has not been claimed ~~remain unclaimed~~ by the
11 owner for more than 3 years after the lease or rental period
12 on the box or other repository has expired are presumed
13 unclaimed ~~abandoned~~.

14 Section 17. Section 717.117, Florida Statutes, is
15 amended to read:

16 717.117 Report of unclaimed ~~abandoned~~ property.--

17 (1) Every person holding funds or other property,
18 tangible or intangible, presumed unclaimed ~~abandoned~~ and
19 subject to custody as unclaimed property under this chapter
20 shall report to the department on such forms as the department
21 may prescribe by rule ~~with respect to the property as provided~~
22 ~~in this section~~. In lieu of forms, the holder may submit the
23 required information via electronic medium as the department
24 may prescribe by rule.

25 ~~(2) The report shall be verified. Verification of a~~
26 ~~private corporation or unincorporated association shall be~~
27 ~~made by an officer; of a partnership, by a partner; and of a~~
28 ~~public corporation, by its chief fiscal officer.~~The report
29 must include:

30 (a) Except for ~~with respect to~~ traveler's checks and
31 money orders, the name and taxpayer ~~social security number or~~

1 ~~federal employer~~ identification number, if known, and last
2 known address, if any, of each person appearing from the
3 records of the holder to be the owner of any property that is
4 presumed unclaimed and that has of a value of \$50 or more
5 ~~presumed abandoned under this chapter.~~

6 (b) For ~~in the case of~~ unclaimed funds that have a
7 value of \$50 or more held or owing under any life or endowment
8 insurance policy or annuity contract, the full name, taxpayer
9 ~~social security number, or federal employer~~ identification
10 number, date of birth, if known, and last known address of the
11 insured or annuitant and of the beneficiary according to
12 records of the insurance company holding or owing the funds.

13 (c) For all tangible property held ~~in the case of the~~
14 ~~contents of~~ a safe-deposit box or other safekeeping repository
15 ~~or in the case of other tangible property~~, a description of
16 the property and the place where the property it is held and
17 may be inspected by the department, and any amounts owing to
18 the holder. Contents of a safe-deposit box or other
19 safekeeping repository which consist of documents or writings
20 of a private nature and which have little or no apparent value
21 shall not be presumed unclaimed ~~abandoned~~.

22 (d) The nature and identifying number, if any, or
23 description of the property and the amount appearing from the
24 records to be due, ~~but~~ Items of value under \$50 each may be
25 reported in the aggregate.

26 (e) The date the property became payable, demandable,
27 or returnable, and the date of the last transaction with the
28 apparent owner with respect to the property.

29 (f) Any person or business entity holding funds
30 presumed unclaimed and having ~~abandoned~~ of a total value of
31 \$10 or less may file a zero balance ~~negative or nothing-owed~~

1 report for that reporting period. The balance brought forward
2 to the new reporting period is zero.

3 (g) Such other information ~~as which~~ the department may
4 prescribe ~~prescribes~~ by rule as necessary for the
5 administration of this chapter.

6 (h) Credit balances, customer overpayments, security
7 deposits, and refunds having a value of less than \$10 shall
8 not be presumed unclaimed ~~abandoned~~.

9 ~~(2)(3)~~ If the holder of ~~person holding~~ property
10 presumed unclaimed ~~abandoned~~ and subject to custody as
11 unclaimed property is a successor holder ~~to other persons who~~
12 ~~previously held the property for the apparent owner~~ or if the
13 holder has changed the holder's ~~his or her~~ name while in
14 possession of ~~holding~~ the property, the holder ~~he or she~~ shall
15 file with the holder's ~~his or her~~ report all known names and
16 addresses of each prior ~~previous~~ holder of the property.
17 Compliance with this subsection means that the holder
18 exercises reasonable and prudent efforts to determine the
19 names of all prior holders.

20 ~~(3)(4)~~ The report must be filed before May 1 of each
21 year. Such report shall apply to the preceding calendar year.
22 If such report is not filed on or before the applicable filing
23 date, the holder shall pay to the department a penalty of \$10
24 per day for each day the report is delinquent, but such
25 penalty shall not exceed \$500. As necessary for proper
26 administration of this chapter, the department may waive any
27 penalty due with appropriate justification. On written
28 request by any person required to file a report, the
29 department may postpone the reporting date.

30 ~~(4)(5)~~ Holders of inactive accounts shall use due
31 diligence to locate apparent owners. ~~Not more than 120 days~~

1 ~~prior to filing the report required by this section, the~~
2 ~~holder in possession of property presumed abandoned and~~
3 ~~subject to custody as unclaimed property under this chapter~~
4 ~~shall send written notice to the apparent owner at his or her~~
5 ~~last known address informing him or her that the holder is in~~
6 ~~possession of property subject to this chapter if:~~

7 (a) When an owner's account becomes inactive, the
8 holder shall conduct at least one search for the apparent
9 owner using due diligence. For purposes of this section, an
10 account is inactive if 1 year has transpired after the last
11 owner-initiated account activity, the expiration date on the
12 instrument or contract, or first-class mail has been returned
13 as undeliverable.

14 1. Within 180 days after an account becomes inactive,
15 the holder shall conduct a search to locate the apparent owner
16 of the property. The holder may satisfy such requirement by
17 conducting one annual search for the owners of all accounts
18 which have become inactive during the prior year.

19 2. Within 30 days after receiving updated address
20 information, the holder shall provide notice by telephone or
21 first-class mail to the current address notifying the apparent
22 owner that the holder is in possession of property which is
23 presumed unclaimed and may be remitted to the department. The
24 notice shall also provide the apparent owner with the address
25 or the telephone number of an office where the apparent owner
26 may claim the property or reestablish the inactive account.

27 ~~The holder has in its records an address for the apparent~~
28 ~~owner which the holder's records do not disclose to be~~
29 ~~inaccurate.~~

30 (b) The claim of the apparent owner is not barred by
31 the statute of limitations.

1 ~~(5)(6)~~ Any holder of intangible property may file with
2 the department a petition for determination that the property
3 is unclaimed ~~abandoned~~ requesting the department to accept
4 custody of the property. The petition shall state any special
5 circumstances that exist, contain the information required by
6 subsection (2), and show that a diligent search has been made
7 to locate the owner. If the department finds that the proof
8 of diligent search is satisfactory, it shall give notice as
9 provided in s. 717.118 and accept custody of the property.

10 ~~(6)(7)~~ Upon ~~On~~ written request by any entity required
11 to file a report, stating such entity's ~~their~~ justification
12 for such action, the department may place that entity in an
13 inactive status as an unclaimed ~~abandoned~~ property "holder."

14 ~~(7)(8)~~ This section shall not apply to the unclaimed
15 patronage refunds as provided for by contract or through bylaw
16 provisions of entities organized under chapter 425.

17 Section 18. Section 717.118, Florida Statutes, is
18 amended to read:

19 717.118 Notice and publication of lists of unclaimed
20 ~~abandoned~~ property.--

21 (1) It is specifically recognized that the state has
22 an obligation to make an effort to notify owners of unclaimed
23 ~~abandoned~~ property in a cost-effective manner. In order to
24 provide all the citizens of this state an effective and
25 efficient program for the recovery of unclaimed ~~abandoned~~
26 property, the department shall use cost-effective means to
27 make a single active attempt to notify owners of the existence
28 of unclaimed ~~abandoned~~ property held by the department. Such
29 active attempt to locate apparent owners shall include any
30 attempt by the department to directly contact the owner.
31 Other ~~The~~ means of notification, such as publication of the

1 names of owners in the newspaper, on television, on the
2 Internet, or through other promotional efforts in which the
3 department does not directly attempt to contact the owner are
4 expressly declared to be passive attempts. Nothing in this
5 subsection precludes other agencies or entities of state
6 government from notifying owners of the existence of unclaimed
7 property or attempting to locate apparent owners of unclaimed
8 property.~~may include post, print, visual, telecommunications,~~
9 ~~or electronic media. Publication of the names of owners on the~~
10 ~~Internet is not an attempt to notify owners under this~~
11 ~~subsection. The department shall implement such notification~~
12 ~~within 13 months following the receipt of the report required~~
13 ~~by s. 717.117.~~

14 (2) The following notification requirements shall
15 apply:

16 (a) Notifications that are published or televised may
17 ~~shall~~ consist of the names of apparent owners of unclaimed
18 ~~abandoned~~ property, ~~listed in alphabetical order,~~ and
19 information regarding recovery of unclaimed ~~abandoned~~ property
20 from the department. Such notification may ~~shall~~ be televised
21 or published in the county in which the last known address of
22 the apparent owner is located or, if the address is unknown,
23 in the county in which the holder has its principal place of
24 business. Published notifications may ~~must~~ be in accordance
25 with s. 50.011.

26 (b) Notification provided directly to individual
27 apparent owners shall consist of a description of the property
28 and information regarding recovery of unclaimed ~~abandoned~~
29 property from the department.

30 (3) The department may ~~shall~~ publish in the notice any
31 items of more than \$100.

1 (4) This section is not applicable to sums payable on
2 traveler's checks, money orders, and other written instruments
3 presumed unclaimed ~~abandoned~~ under s. 717.104.

4 Section 19. Section 717.119, Florida Statutes, is
5 amended to read:

6 717.119 Payment or delivery of unclaimed ~~abandoned~~
7 property.--

8 (1) Every person who is required to file a report
9 under s. 717.117 shall simultaneously pay or deliver to the
10 department all unclaimed ~~abandoned~~ property required to be
11 reported. Such payment or delivery shall accompany the report
12 as required in this chapter for the preceding calendar year.

13 (2) Payment of unclaimed funds may be made to the
14 department by electronic funds transfer.

15 (3)~~(2)~~ If the owner establishes the right to receive
16 the unclaimed ~~abandoned~~ property to the satisfaction of the
17 holder before the property has been delivered to the
18 department or it appears that for some other reason the
19 presumption that the property is unclaimed ~~of abandonment~~ is
20 erroneous, the holder need not pay or deliver the property to
21 the department, ~~which will no longer be presumed abandoned,~~
22 ~~but~~ In lieu of delivery, the holder ~~thereof~~ shall file a
23 verified written explanation of the proof of claim or of the
24 error in the presumption that the property was unclaimed ~~of~~
25 ~~abandonment.~~

26 (4)~~(3)~~ All stock or other intangible ownership
27 interest reported under this chapter on the annual report
28 filing required in s. 717.117 shall be ~~sold and the proceeds~~
29 ~~remitted to the department with the report. Reasonable fees~~
30 ~~within the industry's standards may be deducted from the~~
31 ~~proceeds for the costs of selling the stock or other~~

1 ~~intangible ownership interest.~~ Upon delivery of the stock or
2 other intangible ownership interest net proceeds to the
3 department, the holder and any transfer agent, registrar, or
4 other person acting for or on behalf of a holder is relieved
5 of all liability of every kind in accordance with the
6 provisions of s. 717.1201 to every person for any losses or
7 damages resulting to the person by the ~~sale and~~ delivery to
8 the department of the stock or other intangible ownership
9 interest net proceeds.

10 (5)(4) All intangible and tangible property held in a
11 safe-deposit box or any other safekeeping repository reported
12 under s. 717.117 shall not be delivered to the department
13 until 120 days after the report due date. Holders may remit
14 the value of cash and coins found in unclaimed safety-deposit
15 boxes to the department by cashier's check or by electronic
16 funds transfer, unless the cash or coins have a value above
17 face value. The department shall identify by rule those cash
18 and coin items having a numismatic value. Cash and coin items
19 identified as having a numismatic value shall be remitted to
20 the department in their original form.

21 (a) If such property is not paid or delivered to the
22 department filed on or before the applicable payment or
23 delivery filing date, the holder shall pay to the department a
24 penalty of \$10 for each safe-deposit box received late, but
25 such penalty shall not exceed \$1,000. ~~As necessary for proper~~
26 ~~administration of this chapter,~~

27 (b) The department may waive any penalty due with
28 appropriate justification, as provided by rule.

29 (c) ~~On~~ Upon written request by any person required to
30 deliver safe-deposit box contents, the department may postpone
31 the delivery.

1 (6)~~(5)~~ Any holder may request an extension in writing
2 of up to 60 days for the delivery of property if extenuating
3 circumstances exist for the late delivery of the property.
4 Any such extension,~~and~~ the department may grant shall be such
5 ~~an extension~~ in writing.

6 Section 20. Subsection (6) of section 717.1201,
7 Florida Statutes, is amended to read:

8 717.1201 Custody by state; holder relieved from
9 liability; reimbursement of holder paying claim; reclaiming
10 for owner; defense of holder; payment of safe-deposit box or
11 repository charges.--

12 (6) For the purposes of this section, the term "good
13 faith" means that:

14 (a) Payment or delivery was made in a reasonable
15 attempt to comply with this chapter.

16 (b) The person delivering the property was not a
17 fiduciary then in breach of trust in respect to the property
18 and had a reasonable basis for believing, based on the facts
19 then known to that person, that the property was unclaimed
20 ~~abandoned~~ for the purposes of this chapter.

21 (c) There is no showing that the records pursuant to
22 which the delivery was made did not meet reasonable commercial
23 standards of practice in the industry.

24 Section 21. Subsections (1), (2), and (3) of section
25 717.122, Florida Statutes, are amended to read:

26 717.122 Public sale of abandoned property.--

27 (1) Except as provided in subsection (2), the
28 department after the receipt of unclaimed ~~abandoned~~ property
29 shall sell it to the highest bidder at public sale wherever ~~in~~
30 ~~whatever city in the state affords~~ in the judgment of the
31 department the most favorable market for the property involved

1 exists. The department may decline the highest bid and
2 reoffer the property for sale if in the judgment of the
3 department the bid is insufficient. The department shall have
4 the discretion to withhold from sale any unclaimed ~~abandoned~~
5 property that the department deems to be of benefit to the
6 people of the state. If in the judgment of the department the
7 probable cost of sale exceeds the value of the property, it
8 need not be offered for sale and may be disposed of as the
9 department determines appropriate. Any sale held under this
10 section must be preceded by a single publication of notice, at
11 least 3 weeks in advance of sale, in a newspaper of general
12 circulation in the county in which the property is to be sold.

13 (2) Securities listed on an established stock exchange
14 must be sold at prices prevailing at the time of sale on the
15 exchange. Other securities may be sold over the counter at
16 prices prevailing at the time of sale or by any other method
17 the department deems advisable. The department may authorize
18 the agent or broker acting on behalf of the department to
19 deduct fees from the proceeds of these sales at a rate agreed
20 upon in advance by the agent or broker and the department.
21 The department shall reimburse owners accounts for these
22 brokerage fees from the State School Fund unless the
23 securities are sold at the owner's request.

24 (3) Unless the department deems it to be in the public
25 interest to do otherwise, all securities presumed unclaimed
26 ~~abandoned~~ and delivered to the department may be sold upon
27 receipt. Any person making a claim pursuant to this chapter
28 is entitled to receive either the securities delivered to the
29 department by the holder, if they still remain in the hands of
30 the department, or the proceeds received from sale, less any
31 amounts deducted pursuant to subsection (2) or s. 717.119 ~~s.~~

1 ~~717.123~~, but no person has any claim under this chapter
2 against the state, the holder, any transfer agent, any
3 registrar, or any other person acting for or on behalf of a
4 holder for any appreciation in the value of the property
5 occurring after delivery by the holder to the state.

6 Section 22. Section 717.123, Florida Statutes, is
7 amended to read:

8 717.123 Deposit of funds.--

9 (1) All funds received under this chapter, including
10 the proceeds from the sale of unclaimed ~~abandoned~~ property
11 under s. 717.122, shall forthwith be deposited by the
12 department in the Unclaimed Property Trust State School Fund.
13 ~~except that~~ The department shall retain, from funds received
14 under this chapter, in a separate account an amount not
15 exceeding ~~\$853~~ million from which the department ~~it~~ shall
16 make prompt payment of claims allowed by the department and
17 shall pay the ~~it~~ costs incurred by the department in
18 administering and enforcing this chapter. ~~shall be reimbursed~~
19 ~~from the~~ All remaining funds received by the department under
20 this chapter shall be deposited by the department into the
21 State School Fund.

22 (2) The department shall record the name and last
23 known address of each person appearing from the holder's
24 reports to be entitled to the unclaimed ~~abandoned~~ property in
25 the total amounts of \$5 or greater; the name and the last
26 known address of each insured person or annuitant; and with
27 respect to each policy or contract listed in the report of an
28 insurance corporation, its number, the name of the
29 corporation, and the amount due.

30 Section 23. Subsection (5) of section 717.124, Florida
31 Statutes, is amended to read:

1 717.124 Filing of claim with department.--
2 (5)(a) If a claimant authorizes a ~~assigns his or her~~
3 ~~rights to receive payment to an attorney or private~~
4 ~~investigative agency which is duly licensed to do business in~~
5 ~~this state to claim the unclaimed property on the claimant's~~
6 ~~behalf pursuant to a written agreement with such claimant, the~~
7 ~~department is authorized to make distribution of the property~~
8 ~~or money in accordance with such power of attorney assignment.~~
9 (b)1. Payments of approved claims for unclaimed cash
10 accounts may be made to the owner after deducting any fees
11 authorized pursuant to a written power of attorney.
12 2. Payments of fees authorized pursuant to a written
13 power of attorney for approved cash claims shall be forwarded
14 to the designated attorney or private investigative agency.
15 Such payments to private investigative agencies may be made by
16 electronic funds transfer and may be made on such periodic
17 schedule as the department may define by rule, provided the
18 payment intervals do not exceed 31 days.
19 3. Payments of approved claims for unclaimed
20 securities and other intangible ownership interests made to an
21 attorney or private investigative agency shall be promptly
22 deposited into a trust or escrow account which is regularly
23 maintained by the attorney or the private investigative agency
24 in a financial institution authorized to accept such deposits
25 and located in this state.
26 (c) Distribution of unclaimed property by the attorney
27 or private investigative agency to the claimant shall be made
28 within 10 days following final credit of the deposit into the
29 trust or escrow account at the financial institution, unless a
30 party to the agreement protests in writing such distribution
31 before it is made.

1 (d) The department shall not be civilly or criminally
2 liable for any property or funds distributed pursuant to this
3 subsection, provided such distribution is made in good faith.

4 Section 24. Subsection (1) of section 717.1241,
5 Florida Statutes, is amended to read:

6 717.1241 Conflicting claims.--

7 (1) When ownership has been established but
8 conflicting claims between an owner and an owner's
9 representative, or between two or more owner's
10 representatives, have been filed, the department shall remit
11 the property to the owner's representative or claimant who
12 first filed a claim with the department if the conflict is
13 between an owner and owner's representative, otherwise to the
14 owner's representative who first signed a contract with the
15 owner of the property.~~as follows:~~

16 ~~(a) If both the owner and the owner's representative~~
17 ~~file claims for the same property:~~

18 ~~1. To the owner, if the owner has appointed the~~
19 ~~owner's representative as the owner's attorney in fact but has~~
20 ~~not irrevocably assigned the unclaimed property in whole or in~~
21 ~~part to the owner's representative; or~~

22 ~~2. To the owner's representative pursuant to s.~~
23 ~~717.124 if the owner has irrevocably assigned the unclaimed~~
24 ~~property in whole or in part to the owner's representative.~~

25 ~~(b) To the owner's representative who first executed a~~
26 ~~contract with the owner more than 12 months after the property~~
27 ~~has been reported to the department, unless paragraph (a)~~
28 ~~applies;~~

29 ~~(c) To the owner's representative who first executed a~~
30 ~~contract with the owner within 12 months after the property~~
31

1 ~~has been reported to the department, unless paragraph (a) or~~
2 ~~paragraph (b) applies.~~

3 Section 25. Section 717.1243, Florida Statutes, is
4 amended to read:

5 717.1243 Small estate accounts ~~Transfer of unclaimed~~
6 ~~property by operation of law.--When~~ A claim for unclaimed
7 ~~property is~~ made by an heir of an owner who died intestate
8 ~~need, it shall not be accompanied by necessary to accompany~~
9 ~~the claim with~~ an order of a probate court if the claimant
10 files with the department an affidavit stating that all the
11 heirs have amicably agreed among themselves upon a division of
12 the estate, ~~that the assets of the estate of the owner,~~
13 ~~excluding the unclaimed property, are sufficient to pay all~~
14 ~~just claims, and that~~ all funeral expenses, expenses of the
15 last illness, and any other just claims have been paid ~~no~~
16 ~~probate proceedings have been instituted upon the estate. If~~
17 the owner died ~~dies~~ testate ~~but the will is not probated,~~ the
18 claim shall be accompanied by a ~~certified~~ copy of the will and
19 an affidavit stating that all funeral expenses, expenses of
20 the last illness, and any other just debts of the estate have
21 been paid ~~the assets of the estate of the owner, excluding the~~
22 ~~unclaimed property, are sufficient to pay all just claims and~~
23 ~~that no probate proceedings have been instituted upon the~~
24 ~~estate. This section only applies if all of the unclaimed~~
25 ~~property held by the department on behalf of the owner has an~~
26 ~~aggregate value of~~ \$5,000 ~~\$1,000~~ or less.

27 Section 26. Subsections (1) and (2) of section
28 717.125, Florida Statutes, are amended to read:

29 717.125 Claim of another state to recover property;
30 procedure.--

31

1 (1) At any time after property has been paid or
2 delivered to the department under this chapter, another state
3 may recover the property if:

4 (a) The property was subjected to custody by this
5 state because the records of the holder did not reflect the
6 last known address of the apparent owner when the property was
7 presumed unclaimed ~~abandoned~~ under this chapter, and the other
8 state establishes that the last known address of the apparent
9 owner or other person entitled to the property was in that
10 state and under the laws of that state the property escheated
11 to or was subject to a claim of abandonment or being unclaimed
12 by that state;

13 (b) The last known address of the apparent owner or
14 other person entitled to the property, as reflected by the
15 records of the holder, is in the other state and under the
16 laws of that state the property has escheated to or become
17 subject to a claim of abandonment by that state;

18 (c) The records of the holder were erroneous in that
19 they did not accurately reflect the actual owner of the
20 property and the last known address of the actual owner is in
21 the other state and under laws of that state the property
22 escheated to or was subject to a claim of abandonment by that
23 state;

24 (d) The property was subject to custody by this state
25 under s. 717.103(6) and under the laws of the state of
26 domicile of the holder the property has escheated to or become
27 subject to a claim of abandonment by that state; or

28 (e) The property is the sum payable on a traveler's
29 check, money order, or other similar instrument that was
30 subjected to custody by this state under s. 717.104, and the
31 instrument was purchased in the other state, and under the

1 laws of that state the property escheated to or became subject
2 to a claim of abandonment by that state.

3 (2) The claim of another state to recover escheated or
4 unclaimed ~~abandoned~~ property under this section must be
5 presented in a form prescribed by the department, and the
6 department shall determine the claim within 90 days after it
7 is presented. Such determination shall contain a notice of
8 rights provided by ss. 120.569 and 120.57.

9 Section 27. Subsection (1) of section 717.129, Florida
10 Statutes, is amended to read:

11 717.129 Periods of limitation.--

12 (1) The expiration before or after July 1, 1987, of
13 any period of time specified by contract, statute, or court
14 order, during which a claim for money or property may be made
15 or during which an action or proceeding may be commenced or
16 enforced to obtain payment of a claim for money or to recover
17 property, does not prevent the money or property from being
18 presumed unclaimed ~~abandoned~~ or affect any duty to file a
19 report or to pay or deliver unclaimed ~~abandoned~~ property to
20 the department as required by this chapter.

21 Section 28. Subsection (3) of section 717.132, Florida
22 Statutes, is amended to read:

23 717.132 Enforcement; cease and desist orders;
24 administrative fines.--

25 (3) In addition to any other powers conferred upon it
26 to enforce and administer the provisions of this chapter, the
27 department may impose and collect an administrative fine
28 against any person found to have violated any provision of
29 this chapter, any rule or order promulgated under this
30 chapter, or any written agreement entered into with the
31 department in an amount not to exceed \$2,000 for each

1 violation. All fines collected under this subsection shall be
2 deposited as received in the Unclaimed Property Trust Fund.

3 Section 29. Section 717.135, Florida Statutes, is
4 amended to read:

5 717.135 Agreement to locate reported property.--

6 (1) All agreements between an owner's representative
7 and an owner for to pay compensation to recover or assist in
8 the recovery of property reported under s. 717.117 shall:

9 (a) Disclose that the property is held by the
10 Department of Banking and Finance pursuant to chapter 717,
11 disclose the name of the entity that held the property prior
12 to the property becoming unclaimed, the date of the holder's
13 last contact with the owner according to the department's
14 records, and the approximate value of the property and
15 identify which of the following categories of unclaimed
16 property the owner's representative is seeking to recover:

17 1. Cash accounts.

18 2. Stale dated checks.

19 3. Life insurance or annuity contract assets.

20 4. Utility deposits.

21 5. Securities or other interests in business

22 associations.

23 6. Wages.

24 7. Accounts receivable.

25 8. Contents of safety-deposit boxes.

26 (b) Limit the fees for recovery services to the
27 following percentages for each value range:

| | <u>Claim Range</u> | <u>Percentage Fee</u> |
|--------------------------------------|--------------------------|-----------------------|
| 29 <u>For all dollar values of</u> | <u>100,000 and above</u> | <u>5%</u> |
| 30 <u>For all dollar values from</u> | <u>50,000 to 99,999</u> | <u>8%</u> |
| 31 <u>For all dollar values from</u> | <u>5,000 to 49,999</u> | <u>12%</u> |

1 For all dollar values from 500 to 4,999 20%
2
3 A dollar amount includes any portion of a dollar above such
4 amount. Fees for account claims under \$500 are not subject to
5 such percentage limitations. Fees for tangible property
6 accounts shall be limited to such percentages based on the
7 value of the property at the time the agreement for recovery
8 is signed by the apparent owner. Fees for accounts containing
9 securities or other intangible ownership interests which are
10 not converted to cash shall be limited to such percentages
11 based on the purchase price of the security as quoted on a
12 national exchange or other market on which the ownership
13 interest is regularly traded at the time the securities or
14 other ownership interest is remitted to the owner's
15 ~~representative. be unenforceable if made within 90 days after~~
16 ~~attempted notification by the department or within 12 months~~
17 ~~after such property is reported, whichever occurs first.~~
18 However, this section shall not apply to contracts made in
19 connection with guardianship proceedings, ~~or~~ the probate of an
20 estate, or corporations.
21 (2) Agreements for recovery of cash accounts shall
22 state the dollar value of the unclaimed property account to be
23 paid to the owner and shall also state the dollar value of
24 compensation to be paid to the owner's representative. All
25 other agreements shall state the approximate value of the
26 security, other intangible ownership interest, or tangible
27 property to be recovered and the percentage fee to be paid to
28 the owner's representative. All agreements shall include the
29 name, social security number, address, and telephone number of
30 the owner and the license number of the owner's
31 representative. All such agreements to pay compensation shall

1 be signed by the owner of the property and shall be filed by
2 the owner's representative with the claim form.~~All agreements~~
3 ~~and/or powers of attorney entered into pursuant to subsection~~
4 ~~(1) shall contain the following statement directly above the~~
5 ~~signature in no less than 6-point bold type: "THIS AGREEMENT~~
6 ~~TO PAY COMPENSATION TO RECOVER ABANDONED PROPERTY REPORTED TO~~
7 ~~THE STATE OF FLORIDA IS UNENFORCEABLE IF MADE WITHIN 90 DAYS~~
8 ~~AFTER THE ATTEMPTED NOTIFICATION OR WITHIN 12 MONTHS AFTER~~
9 ~~SUCH PROPERTY IS REPORTED, WHICHEVER OCCURS FIRST."~~ Any
10 ~~agreement which does not contain this statement shall be~~
11 ~~unenforceable.~~

12 Section 30. Section 717.138, Florida Statutes, is
13 amended to read:

14 717.138 Rulemaking authority.--

15 (1) The Department of Banking and Finance shall
16 administer and provide for the enforcement of this chapter.
17 The department may adopt, amend, or repeal any rules necessary
18 or convenient to carry out the duties, obligations, and powers
19 conferred on the department and perform any other acts
20 necessary or convenient to properly administer, enforce, or
21 interpret this chapter, including, without limitation,
22 adopting rules and forms governing reports and claims. The
23 department also has the exclusive power to define by rule any
24 term, whether or not used in this chapter, insofar as the
25 definition is not inconsistent with the provisions of this
26 chapter.

27 (2) No provision of this chapter imposing liability
28 shall apply to an act or omission in conformity with a rule of
29 the department in existence at the time of the act or
30 omission, even though such rule may thereafter be amended,
31 repealed, or determined by judicial or other authority to be

1 invalid for any reason.~~The department has authority to adopt~~
2 ~~rules pursuant to ss. 120.536(1) and 120.54 to implement the~~
3 ~~provisions of this chapter.~~

4 Section 31. Subsection (4) of section 732.107, Florida
5 Statutes, is amended to read:

6 732.107 Escheat.--

7 (4) At any time within 10 years after receipt of the
8 property by the state ~~the granting of letters~~, a person
9 claiming to be entitled to the estate of the decedent may
10 petition to reopen the administration and assert his or her
11 rights to escheated property. If the claimant is entitled to
12 any of the estate of the decedent, the court shall fix the
13 amount to which he or she is entitled, and it shall be repaid
14 to him or her ~~with interest at the legal rate~~ by the officials
15 charged with the disbursement of state school funds. If no
16 claim is asserted within the time fixed, the title of the
17 state to the property and the proceeds shall become absolute.

18 Section 32. Section 717.137, Florida Statutes, is
19 repealed.

20 Section 33. This act shall take effect October 1,
21 2000.

22
23 *****

24 LEGISLATIVE SUMMARY

25 Revises and clarifies provisions of ch. 717, F.S.,
26 relating to disposition of unclaimed property, to comport
27 with other states and model codes. Deletes references to
28 unclaimed property as being abandoned. (See bill for
29 details.)
30
31