

By the Committee on Banking and Insurance; and Senator Horne

311-1101A-00

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. 732.107,
24 F.S.; repealing an interest rate requirement
25 relating to payments of amounts of escheated
26 property; repealing s. 717.137, F.S., relating
27 to effect and application of certain
28 provisions; amending s. 493.6102, F.S.;
29 exempting certified public accountants engaged
30 in the recovery of unclaimed property and the
31 location of apparent owners from the provisions

1 of ch. 493, F.S., relating to private
2 investigation; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

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

11 717.101 Definitions.--As used in this chapter, unless
12 the context otherwise requires:

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

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

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

3 717.102 Property presumed unclaimed ~~abandoned~~; general
4 rule.--

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

12 Section 3. Section 717.103, Florida Statutes, is
13 amended to read:

14 717.103 General rules for taking custody of intangible
15 unclaimed property.--Unless otherwise provided in this chapter
16 or by other statute of this state, intangible property is
17 subject to the custody of the department as unclaimed property
18 if the conditions leading to a presumption that the property
19 is unclaimed ~~of abandonment~~ as described in ss. 717.102 and
20 717.105-717.116 are satisfied and:

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

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

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

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

1 (b) The holder is a domiciliary or a government or
2 governmental subdivision or agency of this state and has not
3 previously paid the property to the state of the last known
4 address of the apparent owner or other person entitled to the
5 property;

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

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

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

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

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

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

30 Section 4. Section 717.1035, Florida Statutes, is
31 amended to read:

1 717.1035 Property originated or issued by this state,
2 any political subdivision of this state, or any entity
3 incorporated, organized, created, or otherwise located in the
4 state.--

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

16 (a) The last known address of the owner is unknown;
17 and

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

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

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

31

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

3 717.104 Traveler's checks and money orders.--

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

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

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

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

27 717.105 Checks, drafts, and similar instruments issued
28 or certified by banking and financial organizations.--

29 (1) Any sum payable on a check, draft, or similar
30 instrument, except those subject to ss. 717.104 and 717.115,
31 on which a banking or financial organization is directly

1 liable, including, but not limited to ~~by way of illustration~~
2 ~~and not limitation~~, a cashier's check or ~~and~~ a certified
3 check, which has been outstanding for more than 5 years after
4 it was payable or after its issuance if payable on demand, is
5 presumed unclaimed ~~abandoned~~ unless the owner, within 5 years,
6 has communicated in writing with the banking or financial
7 organization concerning it or otherwise indicated an interest
8 as evidenced by a memorandum or other record on file with
9 ~~prepared by an employee of~~ the banking or financial
10 organization.

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

13 717.106 Bank deposits and funds in financial
14 organizations.--

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

22 (a) ~~In the case of a deposit,~~ Increased or decreased
23 the amount of the deposit or presented the passbook or other
24 similar evidence of the deposit for the crediting of interest;

25 (b) Communicated in writing with the banking or
26 financial organization concerning the property;

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

31

1 (d) Owned other property to which paragraph (a),
2 paragraph (b), or paragraph (c) is applicable and if the
3 banking or financial organization communicates in writing with
4 the owner with regard to the property that would otherwise be
5 presumed unclaimed ~~abandoned~~ under this subsection at the
6 address to which communications regarding the other property
7 regularly are sent; or

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

10 1. Communicated in writing with the banking or
11 financial organization; or

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

20 (f) Received first class mail, which was not returned
21 as undeliverable, in the normal course of business at the
22 address reflected in the banking or financial organization's
23 records.

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

26 717.107 Funds owing under life insurance policies.--

27 (1) Funds held or owing under any life or endowment
28 insurance policy or annuity contract which has matured or
29 terminated are presumed unclaimed ~~abandoned~~ if unclaimed for
30 more than 5 years after the funds became due and payable as
31 established from the records of the insurance company holding

1 or owing the funds, but property described in paragraph (3)(b)
2 is presumed unclaimed ~~abandoned~~ if such property is not
3 claimed ~~unclaimed~~ for more than 2 years.

4 Section 9. Section 717.108, Florida Statutes, is
5 amended to read:

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

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

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

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

27 717.1101 Stock and other intangible interests in
28 business associations.--

29 (1) Except as provided in subsections (2) and (5), any
30 stock or other intangible ownership interest in a business
31 association, the existence of which is evidenced by record

1 available to the association, is presumed unclaimed ~~abandoned~~
2 and, with respect to the interest, the association is the
3 holder, if a dividend, distribution, or other sum payable as a
4 result of the interest is not claimed ~~has~~ for 5 years ~~remained~~
5 ~~unclaimed~~ by the owner and the owner has not within 5 years:

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

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

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

30 (3) The running of such ~~the~~ 5-year period ~~of~~
31 ~~abandonment~~ ceases immediately upon the occurrence of one or

1 more of the conditions referred to in subsection (1). If any
2 future dividend, distribution, or other sum payable to the
3 owner as a result of the interest is subsequently not claimed
4 by the owner, a new period in which the property is presumed
5 unclaimed ~~of abandonment~~ commences and relates back only to
6 the time a subsequent dividend, distribution, or other sum
7 became due and payable.

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

13 Section 12. Section 717.111, Florida Statutes, is
14 amended to read:

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

21 Section 13. Subsection (1) of section 717.112, Florida
22 Statutes, is amended, and subsection (5) is added to that
23 section, to read:

24 717.112 Property held by agents and fiduciaries.--

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

1 memorandum or other record on file with ~~prepared by the~~
2 ~~fiduciary or an employee of the fiduciary.~~

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

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

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

29 Section 15. Section 717.115, Florida Statutes, is
30 amended to read:

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1 717.115 Wages.--Unpaid wages, including wages
2 represented by unpresented payroll checks, owing in the
3 ordinary course of the holder's business that have not been
4 claimed ~~remained unclaimed~~ by the owner for more than 1 year
5 after becoming payable are presumed unclaimed ~~abandoned~~.

6 Section 16. Section 717.116, Florida Statutes, is
7 amended to read:

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

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

19 717.117 Report of unclaimed ~~abandoned~~ property.--

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

28 ~~(2) The report shall be verified. Verification of a~~
29 ~~private corporation or unincorporated association shall be~~
30 ~~made by an officer; of a partnership, by a partner; and of a~~
31

1 ~~public corporation, by its chief fiscal officer.~~The report
2 must include:

3 (a) Except for ~~with respect to~~ traveler's checks and
4 money orders, the name and taxpayer ~~social security number or~~
5 ~~federal employer~~ identification number, if known, and last
6 known address, if any, of each person appearing from the
7 records of the holder to be the owner of any property that is
8 presumed unclaimed and that has ~~of~~ a value of \$50 or more
9 ~~presumed abandoned under this chapter.~~

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

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

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

30
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1 (e) The date the property became payable, demandable,
2 or returnable, and the date of the last transaction with the
3 apparent owner with respect to the property.

4 (f) Any person or business entity holding funds
5 presumed unclaimed and having ~~abandoned~~ of a total value of
6 \$10 or less may file a zero balance ~~negative or nothing-owed~~
7 report for that reporting period. The balance brought forward
8 to the new reporting period is zero.

9 (g) Such other information ~~as which~~ the department may
10 prescribe ~~prescribes~~ by rule as necessary for the
11 administration of this chapter.

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

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

26 ~~(3)(4)~~ The report must be filed before May 1 of each
27 year. Such report shall apply to the preceding calendar year.
28 If such report is not filed on or before the applicable filing
29 date, the holder shall pay to the department a penalty of \$10
30 per day for each day the report is delinquent, but such
31 penalty shall not exceed \$500. As necessary for proper

1 administration of this chapter, the department may waive any
2 penalty due with appropriate justification. On written
3 request by any person required to file a report, the
4 department may postpone the reporting date.

5 ~~(4)(5)~~ Holders of inactive accounts shall use due
6 diligence to locate apparent owners.~~Not more than 120 days~~
7 ~~prior to filing the report required by this section, the~~
8 ~~holder in possession of property presumed abandoned and~~
9 ~~subject to custody as unclaimed property under this chapter~~
10 ~~shall send written notice to the apparent owner at his or her~~
11 ~~last known address informing him or her that the holder is in~~
12 ~~possession of property subject to this chapter if:~~

13 (a) When an owner's account becomes inactive, the
14 holder shall conduct at least one search for the apparent
15 owner using due diligence. For purposes of this section, an
16 account is inactive if 2 years have transpired after the last
17 owner-initiated account activity, the expiration date on the
18 instrument or contract, or first-class mail has been returned
19 as undeliverable.

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

25 2. Within 30 days after receiving updated address
26 information, the holder shall provide notice by telephone or
27 first-class mail to the current address notifying the apparent
28 owner that the holder is in possession of property which is
29 presumed unclaimed and may be remitted to the department. The
30 notice shall also provide the apparent owner with the address
31 or the telephone number of an office where the apparent owner

1 may claim the property or reestablish the inactive account.
2 ~~The holder has in its records an address for the apparent~~
3 ~~owner which the holder's records do not disclose to be~~
4 ~~inaccurate.~~

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

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

16 (6)~~(7)~~ Upon ~~On~~ written request by any entity required
17 to file a report, stating such entity's ~~their~~ justification
18 for such action, the department may place that entity in an
19 inactive status as an unclaimed ~~abandoned~~ property "holder."

20 (7)~~(8)~~ This section shall not apply to the unclaimed
21 patronage refunds as provided for by contract or through bylaw
22 provisions of entities organized under chapter 425.

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

25 717.118 Notice and publication of lists of unclaimed
26 ~~abandoned~~ property.--

27 (1) It is specifically recognized that the state has
28 an obligation to make an effort to notify owners of unclaimed
29 ~~abandoned~~ property in a cost-effective manner. In order to
30 provide all the citizens of this state an effective and
31 efficient program for the recovery of unclaimed ~~abandoned~~

1 property, the department shall use cost-effective means to
2 make at least one active ~~a single~~ attempt to notify owners of
3 the existence of unclaimed ~~abandoned~~ property held by the
4 department. Such active attempt to locate apparent owners
5 shall include any attempt by the department to directly
6 contact the owner. Other ~~The~~ means of notification, such as
7 publication of the names of owners in the newspaper, on
8 television, on the Internet, or through other promotional
9 efforts and items in which the department does not directly
10 attempt to contact the owner are expressly declared to be
11 passive attempts. Nothing in this subsection precludes other
12 agencies or entities of state government from notifying owners
13 of the existence of unclaimed property or attempting to locate
14 apparent owners of unclaimed property.~~may include post,~~
15 ~~print, visual, telecommunications, or electronic media.~~
16 ~~Publication of the names of owners on the Internet is not an~~
17 ~~attempt to notify owners under this subsection. The department~~
18 ~~shall implement such notification within 13 months following~~
19 ~~the receipt of the report required by s. 717.117.~~

20 (2) The following notification requirements shall
21 apply:

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

1 (b) Notification provided directly to individual
2 apparent owners shall consist of a description of the property
3 and information regarding recovery of unclaimed ~~abandoned~~
4 property from the department.

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

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

10 Section 19. Section 717.119, Florida Statutes, is
11 amended to read:

12 717.119 Payment or delivery of unclaimed ~~abandoned~~
13 property.--

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

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

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

1 ~~(4)(3)~~ All stock or other intangible ownership
2 interest reported under this chapter on the annual report
3 filing required in s. 717.117 shall be ~~sold and the proceeds~~
4 remitted to the department with the report. ~~Reasonable fees~~
5 ~~within the industry's standards may be deducted from the~~
6 ~~proceeds for the costs of selling the stock or other~~
7 ~~intangible ownership interest.~~ Upon delivery of the stock or
8 other intangible ownership interest net proceeds to the
9 department, the holder and any transfer agent, registrar, or
10 other person acting for or on behalf of a holder is relieved
11 of all liability of every kind in accordance with the
12 provisions of s. 717.1201 to every person for any losses or
13 damages resulting to the person by the ~~sale and~~ delivery to
14 the department of the stock or other intangible ownership
15 interest net proceeds.

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

27 (a) If such property is not paid or delivered to the
28 department filed on or before the applicable payment or
29 delivery filing date, the holder shall pay to the department a
30 penalty of \$10 for each safe-deposit box received late, but
31

1 such penalty shall not exceed \$1,000. ~~As necessary for proper~~
2 ~~administration of this chapter,~~

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

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

8 (6)~~(5)~~ Any holder may request an extension in writing
9 of up to 60 days for the delivery of property if extenuating
10 circumstances exist for the late delivery of the property.
11 Any such extension, ~~and~~ the department may grant shall be such
12 ~~an extension~~ in writing.

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

15 717.1201 Custody by state; holder relieved from
16 liability; reimbursement of holder paying claim; reclaiming
17 for owner; defense of holder; payment of safe-deposit box or
18 repository charges.--

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

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

23 (b) The person delivering the property was not a
24 fiduciary then in breach of trust in respect to the property
25 and had a reasonable basis for believing, based on the facts
26 then known to that person, that the property was unclaimed
27 ~~abandoned~~ for the purposes of this chapter.

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

31

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

3 717.122 Public sale of abandoned property.--

4 (1) Except as provided in subsection (2), the
5 department after the receipt of unclaimed ~~abandoned~~ property
6 shall sell it to the highest bidder at public sale wherever in
7 ~~whatever city in the state affords~~ in the judgment of the
8 department the most favorable market for the property involved
9 exists. The department may decline the highest bid and
10 reoffer the property for sale if in the judgment of the
11 department the bid is insufficient. The department shall have
12 the discretion to withhold from sale any unclaimed ~~abandoned~~
13 property that the department deems to be of benefit to the
14 people of the state. If in the judgment of the department the
15 probable cost of sale exceeds the value of the property, it
16 need not be offered for sale and may be disposed of as the
17 department determines appropriate. Any sale held under this
18 section must be preceded by a single publication of notice, at
19 least 3 weeks in advance of sale, in a newspaper of general
20 circulation in the county in which the property is to be sold.

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

1 (3) Unless the department deems it to be in the public
2 interest to do otherwise, all securities presumed unclaimed
3 ~~abandoned~~ and delivered to the department may be sold upon
4 receipt. Any person making a claim pursuant to this chapter
5 is entitled to receive either the securities delivered to the
6 department by the holder, if they still remain in the hands of
7 the department, or the proceeds received from sale, less any
8 amounts deducted pursuant to subsection (2)~~s. 717.123~~, but no
9 person has any claim under this chapter against the state, the
10 holder, any transfer agent, any registrar, or any other person
11 acting for or on behalf of a holder for any appreciation in
12 the value of the property occurring after delivery by the
13 holder to the state.

14 Section 22. Section 717.123, Florida Statutes, is
15 amended to read:

16 717.123 Deposit of funds.--

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

30 (2) The department shall record the name and last
31 known address of each person appearing from the holder's

1 reports to be entitled to the unclaimed ~~abandoned~~ property in
2 the total amounts of \$5 or greater; the name and the last
3 known address of each insured person or annuitant; and with
4 respect to each policy or contract listed in the report of an
5 insurance corporation, its number, the name of the
6 corporation, and the amount due.

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

9 717.124 Filing of claim with department.--

10 (5)(a) If a claimant authorizes a ~~assigns his or her~~
11 ~~rights to receive payment to an attorney or private~~
12 ~~investigative agency which is duly licensed to do business in~~
13 ~~this state or a Florida-certified public accountant to claim~~
14 ~~the unclaimed property on the claimant's behalf pursuant to a~~
15 ~~written agreement with such claimant~~, the department is
16 authorized to make distribution of the property or money in
17 accordance with such power of attorney ~~assignment~~.

18 (b)1. Payments of approved claims for unclaimed cash
19 accounts may be made to the owner after deducting any fees
20 authorized pursuant to a written power of attorney.

21 2. Payments of fees authorized pursuant to a written
22 power of attorney for approved cash claims shall be forwarded
23 to the designated attorney, Florida-certified public
24 accountant, or private investigative agency. Such payments to
25 private investigative agencies, Florida-certified public
26 accountants may be made by electronic funds transfer and may
27 be made on such periodic schedule as the department may define
28 by rule, provided the payment intervals do not exceed 31 days.

29 3. Payments of approved claims for unclaimed
30 securities and other intangible ownership interests made to an
31 attorney, Florida-certified public accountant or private

1 | investigative agency shall be promptly deposited into a trust
2 | or escrow account which is regularly maintained by the
3 | attorney, Florida-certified public accountant or the private
4 | investigative agency in a financial institution authorized to
5 | accept such deposits and located in this state.

6 | (c) Distribution of unclaimed property by the
7 | attorney, Florida-certified public accountant or private
8 | investigative agency to the claimant shall be made within 10
9 | days following final credit of the deposit into the trust or
10 | escrow account at the financial institution, unless a party to
11 | the agreement protests in writing such distribution before it
12 | is made.

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

16 | Section 24. Subsection (1) of section 717.1241,
17 | Florida Statutes, is amended to read:

18 | 717.1241 Conflicting claims.--

19 | (1) When ownership has been established but
20 | conflicting claims have been received by the department, the
21 | property:

22 | (a) Shall be remitted to the person submitting the
23 | first claim received by the department;

24 | (b) Shall be remitted to the owner if an owner's claim
25 | and an owner's representative's claim are received by the
26 | department on the same day;

27 | (c) Shall be remitted to the owner's representative
28 | who has the earliest dated contract with the owner if claims
29 | by two or more owner's representatives are received by the
30 | department on the same day.~~filed, the department shall remit~~
31 | ~~the property as follows:~~

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

3 ~~1. To the owner, if the owner has appointed the~~
4 ~~owner's representative as the owner's attorney in fact but has~~
5 ~~not irrevocably assigned the unclaimed property in whole or in~~
6 ~~part to the owner's representative; or~~

7 ~~2. To the owner's representative pursuant to s.~~
8 ~~717.124 if the owner has irrevocably assigned the unclaimed~~
9 ~~property in whole or in part to the owner's representative.~~

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

14 ~~(c) To the owner's representative who first executed a~~
15 ~~contract with the owner within 12 months after the property~~
16 ~~has been reported to the department, unless paragraph (a) or~~
17 ~~paragraph (b) applies.~~

18 Section 25. Section 717.1243, Florida Statutes, is
19 amended to read:

20 717.1243 Small estate accounts ~~Transfer of unclaimed~~
21 ~~property by operation of law.--When~~ A claim for unclaimed
22 ~~property is~~ made by an heir of an owner who died intestate
23 ~~need, it shall not be~~ accompanied by necessary to accompany
24 ~~the claim with~~ an order of a probate court if the claimant
25 files with the department an affidavit stating that all the
26 heirs have amicably agreed among themselves upon a division of
27 the estate, ~~that the assets of the estate of the owner,~~
28 ~~excluding the unclaimed property, are sufficient to pay all~~
29 ~~just claims, and that~~ all funeral expenses, expenses of the
30 last illness, and any other just claims have been paid ~~no~~
31 ~~probate proceedings have been instituted upon the estate. If~~

1 the owner died ~~dies~~ testate ~~but the will is not probated~~, the
2 claim shall be accompanied by a ~~certified~~ copy of the will and
3 an affidavit stating that all funeral expenses, expenses of
4 the last illness, and any other just debts of the estate have
5 been paid ~~the assets of the estate of the owner, excluding the~~
6 ~~unclaimed property, are sufficient to pay all just claims and~~
7 ~~that no probate proceedings have been instituted upon the~~
8 ~~estate~~. This section only applies if all of the unclaimed
9 property held by the department on behalf of the owner has an
10 aggregate value of \$5,000~~\$1,000~~ or less.

11 Section 26. Subsections (1) and (2) of section
12 717.125, Florida Statutes, are amended to read:

13 717.125 Claim of another state to recover property;
14 procedure.--

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

18 (a) The property was subjected to custody by this
19 state because the records of the holder did not reflect the
20 last known address of the apparent owner when the property was
21 presumed unclaimed ~~abandoned~~ under this chapter, and the other
22 state establishes that the last known address of the apparent
23 owner or other person entitled to the property was in that
24 state and under the laws of that state the property escheated
25 to or was subject to a claim of abandonment or being unclaimed
26 by that state;

27 (b) The last known address of the apparent owner or
28 other person entitled to the property, as reflected by the
29 records of the holder, is in the other state and under the
30 laws of that state the property has escheated to or become
31 subject to a claim of abandonment by that state;

1 (c) The records of the holder were erroneous in that
2 they did not accurately reflect the actual owner of the
3 property and the last known address of the actual owner is in
4 the other state and under laws of that state the property
5 escheated to or was subject to a claim of abandonment by that
6 state;

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

11 (e) The property is the sum payable on a traveler's
12 check, money order, or other similar instrument that was
13 subjected to custody by this state under s. 717.104, and the
14 instrument was purchased in the other state, and under the
15 laws of that state the property escheated to or became subject
16 to a claim of abandonment by that state.

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

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

25 717.129 Periods of limitation.--

26 (1) The expiration before or after July 1, 1987, of
27 any period of time specified by contract, statute, or court
28 order, during which a claim for money or property may be made
29 or during which an action or proceeding may be commenced or
30 enforced to obtain payment of a claim for money or to recover
31 property, does not prevent the money or property from being

1 presumed unclaimed ~~abandoned~~ or affect any duty to file a
2 report or to pay or deliver unclaimed ~~abandoned~~ property to
3 the department as required by this chapter.

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

6 717.132 Enforcement; cease and desist orders;
7 administrative fines.--

8 (3) In addition to any other powers conferred upon it
9 to enforce and administer the provisions of this chapter, the
10 department may impose and collect an administrative fine
11 against any person found to have violated any provision of
12 this chapter, any rule or order promulgated under this
13 chapter, or any written agreement entered into with the
14 department in an amount not to exceed \$2,000 for each
15 violation. All fines collected under this subsection shall be
16 deposited as received in the Unclaimed Property Trust Fund.

17 Section 29. Section 717.135, Florida Statutes, is
18 amended to read:

19 717.135 Agreement to locate reported property.--

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

23 (a) Disclose that the property is held by a
24 governmental entity pursuant to chapter 717, and shall
25 disclose the type of entity that held the property prior to
26 the property becoming unclaimed, the date of the holder's last
27 contact with the owner if known, the approximate value of the
28 property and shall identify which of the following categories
29 of unclaimed property the owner's representative is seeking to
30 recover:

31 1. Cash accounts;

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

11 Section 30. Subsection (4) of section 732.107, Florida
12 Statutes, is amended to read:

13 732.107 Escheat.--

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

25 Section 31. Section 717.137, Florida Statutes, is
26 repealed.

27 Section 32. Subsection (15) is added to section
28 493.6102, Florida Statutes, to read:

29 493.6102 Inapplicability of parts I through IV of this
30 chapter.--This chapter shall not apply to:

31

1 (15) Any person licensed who is a certified public
2 accountant pursuant to chapter 473 and is engaged in
3 recovering unclaimed property and locating apparent owners of
4 such property pursuant to chapter 717.

5 Section 33. This act shall take effect October 1,
6 2000.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 832

4 The committee substitute make the following changes:

- 5 1. The bill revises disclosure requirements and requires
6 all agreements between an apparent owner and an owner's
7 representative to either disclose certain information to
8 the apparent owner or limit the fees for such recovery
9 services provided to the apparent owner. If an owner's
10 representative opts for meeting the disclosure
11 requirement, such agreements must state that the
12 property is being held by a governmental entity, instead
13 of explicitly stating that the Department of Banking and
14 Finance is holding the property.

15 In lieu of providing the above disclosure to an apparent
16 owner, an owner's representative may opt for disclosing
17 the fees for recovery of such abandoned property. Fees
18 for property valued in the range of \$50,000-\$99,999 are
19 increased from 8 to 10 percent and fees for all
20 properties valued at \$100,000 or more, are increased
21 from 5 to 7 percent.

- 22 2. The bill would allow the department to make more than
23 one attempt to notify apparent owners of unclaimed
24 property by changing the notification requirement from a
25 single attempt to at least one attempt.
- 26 3. Certain holders are required to make at least one search
27 for the owner within 180 days after an account becomes
28 inactive. An account is "inactive" if 2 years have
29 transpired after the last owner-initiated account
30 activity, the expiration date on the instrument or
31 contract, or first-class mail has been returned as
undeliverable.
- 32 4. The bill revises the department's responsibilities in
the event of a dispute or conflicting claims by
authorizing the department 1) to remit to the owner's
representative or claimant who first filed a claim with
the department (in the case of a dispute between the
owner and the representative), 2) to remit to the owner,
in the event an owner's claim and owner's representative
claim are received by the department on the same day, or
3) to remit to the owner's representative who first
signed a contract with the property owner, in the event
two or more owner's representatives claims are received
by the department on the same day.
- 33 5. Certified public accountants licensed pursuant to
chapter 473, F.S., and engaged in the recovery of
unclaimed property and the location of apparent owners
of such property, pursuant to chapter 717, F.S., are
exempt from the private investigative agency provisions
of chapter 493, F.S. Conforming changes are made to
chapter 717, F.S., to authorize the department to pay
recovery fees to certified public accountants.

- 1 6. The bill removes the section that revised the
2 department's rulemaking authority and which provided
3 that no provision imposing liability would apply to an
act or omission in conformity with a rule in existence
at the time of the act or omission.
- 4 7. The bill also reestablishes the condition that a civil
5 or administrative court order may affect the presumption
6 that a court-ordered sum owed by a business organization
is unclaimed, if it has been left unclaimed for more
than 1 year.
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