

By the Committee on Banking and Insurance; and Senator Carlton

311-1552-01

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 safe-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 the
4 disposition of funds held by the Department of
5 Banking and Finance relating to unclaimed
6 property; amending s. 717.124, F.S.; revising
7 certain procedures for filing claims by owner's
8 representatives and receiving and making
9 payments to an owner or owner's representative;
10 amending s. 717.1241; revising resolution of
11 conflicting ownership claims between certain
12 persons; amending s. 717.1243, F.S.; revising
13 provisions for disposition of claims from small
14 estate accounts; creating s. 717.1315, F.S.;
15 providing for retention of certain records by
16 an owner's representative; providing
17 requirements; amending s. 717.132, F.S.;
18 providing for deposit of administrative fines
19 into the Unclaimed Property Trust Fund;
20 amending s. 717.135, F.S.; revising provisions
21 relating to unenforceability of certain
22 agreements to locate reported property;
23 requiring disclosure of certain information;
24 limiting certain recovery fees; specifying
25 agreement requirements; amending s. 717.138,
26 F.S.; authorizing the the Department of Banking
27 and Finance to adopt rules for certain
28 electronic filings; amending s. 732.107, F.S.;
29 revising provisions relating to escheat of
30 certain property to the state; revising
31 provisions relating to entitlement to,

1 procedures for payment or assignment of, or
2 distributions of certain proceeds; amending s.
3 215.965, F.S., to conform; amending s.
4 493.6101, F.S., to conform; amending s.
5 493.6102, F.S.; specifying nonapplication to
6 certain persons; repealing s. 717.137, F.S.,
7 relating to effect and application of certain
8 provisions; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Present subsections (8) through (18) of
13 section 717.101, Florida Statutes, are renumbered as
14 subsections (9) through (19), respectively, a new subsection
15 (8) is added to that section, and renumbered subsections (13)
16 and (15) are amended, to read:

17 717.101 Definitions.--As used in this chapter, unless
18 the context otherwise requires:

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

29 (13)(12) "Last known address" means a description of
30 the location of the apparent owner sufficient for the purpose
31 of the delivery of mail. For the purposes of identifying,

1 reporting, and remitting property to the department which is
2 presumed to be unclaimed, "last known address" includes any
3 partial description of the location of the apparent owner
4 sufficient to establish the apparent owner was a resident of
5 this state at the time of last contact with the apparent owner
6 or at the time the property became due and payable.

7 (15)(14) "Owner" means a depositor in the case of a
8 deposit, a beneficiary in case of a trust other than a deposit
9 in trust, ~~a creditor,~~ a claimant, or a payee in the case of
10 other intangible property, or a person having a legal or
11 equitable interest in property subject to this chapter or his
12 or her legal representative.

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

15 717.102 Property presumed unclaimed ~~abandoned~~; general
16 rule.--

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

24 Section 3. Section 717.103, Florida Statutes, is
25 amended to read:

26 717.103 General rules for taking custody of intangible
27 unclaimed property.--Unless otherwise provided in this chapter
28 or by other statute of this state, intangible property is
29 subject to the custody of the department as unclaimed property
30 if the conditions leading to a presumption that the property
31

1 is unclaimed ~~of abandonment~~ as described in ss. 717.102 and
2 717.105-717.116 are satisfied and:

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

5 (2) The records of the holder do not reflect the
6 identity of the person entitled to the property, and it is
7 established that the last known address of the person entitled
8 to the property is in this state;

9 (3) The records of the holder do not reflect the last
10 known address of the apparent owner, and it is established
11 that:

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

14 (b) The holder is a domiciliary or a government or
15 governmental subdivision or agency of this state and has not
16 previously paid the property to the state of the last known
17 address of the apparent owner or other person entitled to the
18 property;

19 (4) The last known address, as shown on the records of
20 the holder, of the apparent owner or other person entitled to
21 the property is in a state that does not provide by law for
22 the escheat or custodial taking of the property, or its
23 escheat or unclaimed property law is not applicable to the
24 property, and the holder is a domiciliary or a government or
25 governmental subdivision or agency of this state;

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

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

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

3 2. The last known address of the apparent owner or
4 other person entitled to the property is in a state that does
5 not provide by law for the escheat or custodial taking of the
6 property, or its escheat or unclaimed property law is not
7 applicable to the property; and

8 (b) The holder is a domiciliary of a state that does
9 not provide by law for the escheat or custodial taking of the
10 property, or its escheat or unclaimed property law is not
11 applicable to the property.

12 Section 4. Section 717.1035, Florida Statutes, is
13 amended to read:

14 717.1035 Property originated or issued by this state,
15 any political subdivision of this state, or any entity
16 incorporated, organized, created, or otherwise located in the
17 state.--

18 (1) All intangible property, including, but not
19 limited to, any interest, dividend, or other earnings thereon,
20 less any lawful charges, held by a business association,
21 federal, state, or local government or governmental
22 subdivision, agency, or entity, or any other person or entity,
23 regardless of where the holder may be found, if the owner has
24 not claimed or corresponded in writing concerning the property
25 within 3 years after the date prescribed for payment or
26 delivery, is presumed to be unclaimed property ~~abandoned~~ and
27 subject to the custody of this state as such ~~unclaimed~~
28 ~~property~~ if:

29 (a) The last known address of the owner is unknown;
30 and

31

1 (b) The person or entity originating or issuing the
2 intangible property is this state or any political subdivision
3 of this state, or the person or entity is incorporated,
4 organized, created, or otherwise located in this state.

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

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

14 Section 5. Subsections (1), (2), and (5) of section
15 717.104, Florida Statutes, are amended to read:

16 717.104 Traveler's checks and money orders.--

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

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

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

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

9 717.105 Checks, drafts, and similar instruments issued
10 or certified by banking and financial organizations.--

11 (1) Any sum payable on a check, draft, or similar
12 instrument, except those subject to ss. 717.104 and 717.115,
13 on which a banking or financial organization is directly
14 liable, including, but not limited to ~~by way of illustration~~
15 ~~and not limitation~~, a cashier's check or ~~and~~ a certified
16 check, which has been outstanding for more than 5 years after
17 it was payable or after its issuance if payable on demand, is
18 presumed unclaimed ~~abandoned~~ unless the owner, within 5 years,
19 has communicated in writing with the banking or financial
20 organization concerning it or otherwise indicated an interest
21 as evidenced by a memorandum or other record on file with
22 ~~prepared by an employee of~~ the banking or financial
23 organization.

24 Section 7. Subsections (1) and (5) of section 717.106,
25 Florida Statutes, are amended to read:

26 717.106 Bank deposits and funds in financial
27 organizations.--

28 (1) Any demand, savings, or matured time deposit with
29 a banking or financial organization, including deposits that
30 are automatically renewable, and any funds paid toward the
31 purchase of shares, a mutual investment certificate, or any

1 other interest in a banking or financial organization is
2 presumed unclaimed ~~abandoned~~ unless the owner has, within 5
3 years:
4 (a) ~~In the case of a deposit,~~ Increased or decreased
5 the amount of the deposit or presented the passbook or other
6 similar evidence of the deposit for the crediting of interest;
7 (b) Communicated in writing with the banking or
8 financial organization concerning the property;
9 (c) Otherwise indicated an interest in the property as
10 evidenced by a memorandum or other record on file with
11 ~~prepared by an employee of~~ the banking or financial
12 organization;
13 (d) Owned other property to which paragraph (a),
14 paragraph (b), or paragraph (c) is applicable 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 presumed unclaimed ~~abandoned~~ under this subsection at the
18 address to which communications regarding the other property
19 regularly are sent; ~~or~~
20 (e) Had another relationship with the banking or
21 financial organization concerning which the owner has:
22 1. Communicated in writing with the banking or
23 financial organization; or
24 2. Otherwise indicated an interest as evidenced by a
25 memorandum or other record on file with ~~prepared by an~~
26 ~~employee of~~ the banking or financial organization and if the
27 banking or financial organization communicates in writing with
28 the owner with regard to the property that would otherwise be
29 unclaimed ~~abandoned~~ under this subsection at the address to
30 which communications regarding the other relationship
31 regularly are sent; or.

1 (f) Received first class mail from the banking or
2 financial organization or a subsidiary of such banking or
3 financial organization, which was not returned as
4 undeliverable, in the ordinary course of business at the
5 address reflected in the banking or financial organization's
6 records.

7 (5) If the documents establishing a deposit described
8 in subsection (1) state the address of a beneficiary of the
9 deposit, and the account has a value of at least \$50, notice
10 shall be given to the beneficiary as provided for notice to
11 the apparent owner under s. 717.117(4)~~(5)~~. This subsection
12 shall apply to accounts opened on or after October 1, 1990.

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

15 717.107 Funds owing under life insurance policies.--

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

24 Section 9. Section 717.108, Florida Statutes, is
25 amended to read:

26 717.108 Deposits held by utilities.--Any deposit,
27 including any interest thereon, made by a subscriber with a
28 utility to secure payment or any sum paid in advance for
29 utility services to be furnished, less any lawful charges,
30 that remains unclaimed by the owner for more than 1 year after
31

1 termination of the services for which the deposit or advance
2 payment was made is presumed unclaimed ~~abandoned~~.

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

5 717.109 Refunds held by business associations.--Except
6 to the extent otherwise ordered by the court or administrative
7 agency, any sum that a business association has been ordered
8 to refund by a court or administrative agency which has not
9 been claimed ~~remained unclaimed~~ by the owner for more than 1
10 year after it became payable in accordance with the final
11 determination or order providing for the refund, regardless of
12 whether the final determination or order requires any person
13 entitled to a refund to make a claim for it, is presumed
14 unclaimed ~~abandoned~~.

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

17 717.1101 Stock and other intangible interests in
18 business associations.--

19 (1) Except as provided in subsections (2) and (5), any
20 stock or other intangible ownership interest in a business
21 association, the existence of which is evidenced by record
22 available to the association, is presumed unclaimed ~~abandoned~~
23 and, with respect to the interest, the association is the
24 holder, if a dividend, distribution, or other sum payable as a
25 result of the interest is not claimed ~~has~~ for 5 years ~~remained~~
26 ~~unclaimed~~ by the owner and the owner has not within 5 years:

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

30 (b) Otherwise communicated with the association
31 regarding the interest or a dividend, distribution, or other

1 sum payable as a result of the interest, as evidenced by a
2 memorandum or other record on file with the association or its
3 agent ~~prepared by an employee of the association or its agent.~~

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

20 (3) The running of such ~~the~~ 5-year period of
21 ~~abandonment~~ ceases immediately upon the occurrence of one or
22 more of the conditions referred to in subsection (1). If any
23 future dividend, distribution, or other sum payable to the
24 owner as a result of the interest is subsequently not claimed
25 by the owner, a new period in which the property is presumed
26 unclaimed ~~of abandonment~~ commences and relates back only to
27 the time a subsequent dividend, distribution, or other sum
28 became due and payable.

29 (4) At the same time any interest is presumed
30 unclaimed ~~abandoned~~ under this section, any dividend,
31 distribution, or other sum then held for or owing to the owner

1 as a result of the interest, ~~and not previously presumed~~
2 ~~abandoned~~, is presumed unclaimed ~~abandoned~~.

3 Section 12. Section 717.111, Florida Statutes, is
4 amended to read:

5 717.111 Property of business associations held in
6 course of dissolution.--All intangible property distributable
7 in the course of a voluntary or involuntary dissolution of a
8 business association which is not claimed ~~remains unclaimed~~ by
9 the owner for more than 6 months after the date specified for
10 final distribution is presumed unclaimed ~~abandoned~~.

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

14 717.112 Property held by agents and fiduciaries.--

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

24 (5) All intangible property, and any income or
25 increment thereon, issued by a government or governmental
26 subdivision or agency, public corporation, or public authority
27 and held in an agency capacity for the governmental
28 subdivision, agency, public corporation, or public authority
29 for the benefit of the owner of record, is presumed unclaimed
30 unless the owner has, within 1 year after such property has
31 become payable or distributable, increased or decreased the

1 principal, accepted payment of the principal or income,
2 communicated concerning the property, or otherwise indicated
3 an interest in the property as evidenced by a memorandum or
4 other record on file with the fiduciary.

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

7 717.113 Property held by courts and public
8 agencies.--All intangible property held for the owner by any
9 court, government or governmental subdivision or agency,
10 public corporation, or public authority that has not been
11 claimed ~~remained unclaimed~~ by the owner for more than 1 year
12 after it became payable or distributable is presumed unclaimed
13 ~~abandoned~~. Notwithstanding the provisions of this section,
14 funds deposited in the Minerals Trust Fund pursuant to s.
15 377.247 are presumed unclaimed ~~abandoned~~ only if the funds
16 have not been claimed ~~remained unclaimed~~ by the owner for more
17 than 5 years after ~~from~~ the date of first production from the
18 well.

19 Section 15. Section 717.115, Florida Statutes, is
20 amended to read:

21 717.115 Wages.--Unpaid wages, including wages
22 represented by unrepresented payroll checks, owing in the
23 ordinary course of the holder's business that have not been
24 claimed ~~remained unclaimed~~ by the owner for more than 1 year
25 after becoming payable are presumed unclaimed ~~abandoned~~.

26 Section 16. Section 717.116, Florida Statutes, is
27 amended to read:

28 717.116 Contents of safe-deposit box or other
29 safekeeping repository.--All tangible and intangible property
30 held in a safe-deposit box or any other safekeeping repository
31 in this state in the ordinary course of the holder's business,

1 and proceeds resulting from the sale of the property permitted
2 by law, that has not been claimed ~~remain unclaimed~~ by the
3 owner for more than 3 years after the lease or rental period
4 on the box or other repository has expired are presumed
5 unclaimed ~~abandoned~~.

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

8 717.117 Report of unclaimed ~~abandoned~~ property.--

9 (1) Every person holding funds or other property,
10 tangible or intangible, presumed unclaimed ~~abandoned~~ and
11 subject to custody as unclaimed property under this chapter
12 shall report to the department on such forms as the department
13 may prescribe by rule ~~with respect to the property as provided~~
14 ~~in this section~~. In lieu of forms, the holder may submit the
15 required information via electronic medium as the department
16 may prescribe by rule.

17 ~~(2) The report shall be verified. Verification of a~~
18 ~~private corporation or unincorporated association shall be~~
19 ~~made by an officer; of a partnership, by a partner; and of a~~
20 ~~public corporation, by its chief fiscal officer.~~The report
21 must include:

22 (a) Except for ~~with respect to~~ traveler's checks and
23 money orders, the name, ~~and~~ social security number or taxpayer
24 ~~federal employer~~ identification number, and date of birth, if
25 known, and last known address, if any, of each person
26 appearing from the records of the holder to be the owner of
27 any property which is presumed unclaimed and which has ~~of~~ a
28 value of \$50 or more ~~presumed abandoned under this chapter~~.

29 (b) For ~~in the case of~~ unclaimed funds which have a
30 value of \$50 or more held or owing under any life or endowment
31 insurance policy or annuity contract, the full name, taxpayer

1 ~~social security number, or federal employer~~ identification
2 number or social security number, date of birth,if known, and
3 last known address of the insured or annuitant and of the
4 beneficiary according to records of the insurance company
5 holding or owing the funds.

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

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

19 (e) The date the property became payable, demandable,
20 or returnable, and the date of the last transaction with the
21 apparent owner with respect to the property.

22 (f) Any person or business entity holding funds
23 presumed unclaimed and having ~~abandoned~~ of a total value of
24 \$10 or less may file a zero balance ~~negative or nothing-owed~~
25 report for that reporting period. The balance brought forward
26 to the new reporting period is zero.

27 (g) Such other information ~~as which~~ the department may
28 prescribe ~~prescribes~~ by rule as necessary for the
29 administration of this chapter.

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

4 (2)~~(3)~~ If the holder of ~~person holding~~ property
5 presumed unclaimed ~~abandoned~~ and subject to custody as
6 unclaimed property is a successor holder ~~to other persons who~~
7 ~~previously held the property for the apparent owner or if the~~
8 holder has changed the holder's ~~his or her~~ name while in
9 possession of holding the property, the holder ~~he or she~~ shall
10 file with the holder's ~~his or her~~ report all known names and
11 addresses of each prior ~~previous~~ holder of the property.
12 Compliance with this subsection means the holder exercises
13 reasonable and prudent efforts to determine the names of all
14 prior holders.

15 (3)~~(4)~~ The report must be filed before May 1 of each
16 year. Such report shall apply to the preceding calendar year.
17 If such report is not filed on or before the applicable filing
18 date, the holder shall pay to the department a penalty of \$10
19 per day for each day the report is delinquent, but such
20 penalty shall not exceed \$500. As necessary for proper
21 administration of this chapter, the department may waive any
22 penalty due with appropriate justification. On written
23 request by any person required to file a report, the
24 department may postpone the reporting date.

25 (4)~~(5)~~ Holders of inactive accounts shall use due
26 diligence to locate apparent owners.~~Not more than 120 days~~
27 ~~prior to filing the report required by this section, the~~
28 ~~holder in possession of property presumed abandoned and~~
29 ~~subject to custody as unclaimed property under this chapter~~
30 ~~shall send written notice to the apparent owner at his or her~~

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1 ~~last known address informing him or her that the holder is in~~
2 ~~possession of property subject to this chapter if:~~

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

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

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

23 ~~The holder has in its records an address for the apparent~~
24 ~~owner which the holder's records do not disclose to be~~
25 ~~inaccurate.~~

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

28 ~~(5)(6)~~ Any holder of intangible property may file with
29 the department a petition for determination that the property
30 is unclaimed ~~abandoned~~ requesting the department to accept
31 custody of the property. The petition shall state any special

1 circumstances that exist, contain the information required by
2 subsection (2), and show that a diligent search has been made
3 to locate the owner. If the department finds that the proof
4 of diligent search is satisfactory, it shall give notice as
5 provided in s. 717.118 and accept custody of the property.

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

11 (7)(8) This section shall not apply to the unclaimed
12 patronage refunds as provided for by contract or through bylaw
13 provisions of entities organized under chapter 425.

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

16 717.118 Notice and publication of lists of unclaimed
17 ~~abandoned~~ property.--

18 (1) It is specifically recognized that the state has
19 an obligation to make an effort to notify owners of unclaimed
20 ~~abandoned~~ property in a cost-effective manner. In order to
21 provide all the citizens of this state an effective and
22 efficient program for the recovery of unclaimed ~~abandoned~~
23 property, the department shall use cost-effective means to
24 make at least one active ~~a single~~ attempt to notify owners of
25 the existence of unclaimed ~~abandoned~~ property held by the
26 department. Such active attempt to locate apparent owners
27 shall include any attempt by the department to directly
28 contact the owner. Other ~~The~~ means of notification, such as
29 publication of the names of owners in the newspaper, on
30 television, on the Internet, or through other promotional
31 efforts and items in which the department does not directly

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

11 (2) The following notification requirements shall
12 apply:

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

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

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

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

1 Section 19. Section 717.119, Florida Statutes, is
2 amended to read:

3 717.119 Payment or delivery of unclaimed ~~abandoned~~
4 property.--

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

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

12 ~~(3)~~(2) If the owner establishes the right to receive
13 the unclaimed ~~abandoned~~ property to the satisfaction of the
14 holder before the property has been delivered to the
15 department or it appears that for some other reason the
16 presumption that the property is unclaimed ~~of abandonment~~ is
17 erroneous, the holder need not pay or deliver the property to
18 the department, ~~which will no longer be presumed abandoned,~~
19 ~~but~~ In lieu of delivery, the holder thereof shall file a
20 verified written explanation of the proof of claim or of the
21 error in the presumption that the property was unclaimed ~~of~~
22 ~~abandonment.~~

23 ~~(4)~~(3) All stock or other intangible ownership
24 interest reported under this chapter on the annual report
25 filing required in s. 717.117 shall be ~~sold and the proceeds~~
26 remitted to the department with the report. ~~Reasonable fees~~
27 ~~within the industry's standards may be deducted from the~~
28 ~~proceeds for the costs of selling the stock or other~~
29 ~~intangible ownership interest.~~ Upon delivery of the stock or
30 other intangible ownership interest net proceeds to the
31 department, the holder and any transfer agent, registrar, or

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

7 (5)(4) All intangible and tangible property held in a
8 safe-deposit box or any other safekeeping repository reported
9 under s. 717.117 shall not be delivered to the department
10 until 120 days after the report due date. Holders may remit
11 the value of cash and coins found in unclaimed safe-deposit
12 boxes to the department by cashier's check or by electronic
13 funds transfer, unless the cash or coins have a value above
14 face value. The department shall identify by rule those cash
15 and coin items having a numismatic value. Cash and coin items
16 identified as having a numismatic value shall be remitted to
17 the department in their original form.

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

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

26 (c) Upon ~~an~~ written request by any person required to
27 deliver safe-deposit box contents, the department may postpone
28 the delivery.

29 (6)(5) Any holder may request an extension in writing
30 of up to 60 days for the delivery of property if extenuating
31 circumstances exist for the late delivery of the property.

1 Any such extension, ~~and~~ the department may grant shall be such
2 ~~an extension~~ in writing.

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

5 717.1201 Custody by state; holder relieved from
6 liability; reimbursement of holder paying claim; reclaiming
7 for owner; defense of holder; payment of safe-deposit box or
8 repository charges.--

9 (6) For the purposes of this section, "good faith"
10 means that:

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

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

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

21 Section 21. Subsections (1), (2), and (3) of section
22 717.122, Florida Statutes, are amended to read:

23 717.122 Public sale of unclaimed ~~abandoned~~ property.--

24 (1) Except as provided in subsection (2), the
25 department after the receipt of unclaimed ~~abandoned~~ property
26 shall sell it to the highest bidder at public sale wherever ~~in~~
27 ~~whatever city in the state affords~~ in the judgment of the
28 department the most favorable market for the property involved
29 exists. The department may decline the highest bid and
30 reoffer the property for sale if in the judgment of the
31 department the bid is insufficient. The department shall have

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

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

21 (3) Unless the department deems it to be in the public
22 interest to do otherwise, all securities presumed unclaimed
23 ~~abandoned~~ and delivered to the department may be sold upon
24 receipt. Any person making a claim pursuant to this chapter
25 is entitled to receive either the securities delivered to the
26 department by the holder, if they still remain in the hands of
27 the department, or the proceeds received from sale, less any
28 amounts deducted pursuant to subsection (2)~~s. 717.123~~, but no
29 person has any claim under this chapter against the state, the
30 holder, any transfer agent, any registrar, or any other person
31 acting for or on behalf of a holder for any appreciation in

1 the value of the property occurring after delivery by the
2 holder to the state.

3 Section 22. Section 717.123, Florida Statutes, is
4 amended to read:

5 717.123 Deposit of funds.--

6 (1) All funds received under this chapter, including
7 the proceeds from the sale of unclaimed ~~abandoned~~ property
8 under s. 717.122, shall forthwith be deposited by the
9 department in the Unclaimed Property Trust ~~State School Fund~~.
10 ~~except that~~ The department shall retain, from funds received
11 under this chapter, in a separate account an amount not
12 exceeding ~~\$8~~\$3 million from which the department ~~it~~ shall
13 make prompt payment of claims allowed by the department and
14 shall pay the ~~it~~ costs incurred by the department in
15 administering and enforcing this chapter. All remaining funds
16 received by the department under this chapter shall be
17 deposited by the department into the ~~shall be reimbursed from~~
18 ~~the~~ State School Fund.

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

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

29 717.124 Filing of claim with department.--

30 (5)(a) If an owner authorizes ~~a claimant assigns his~~
31 ~~or her rights to receive payment to an attorney,~~

1 Florida-certified public accountant, or private investigative
2 agency which is duly licensed to do business in this state to
3 claim the unclaimed property on the owner's behalf pursuant to
4 ~~a written agreement with such claimant,~~ the department is
5 authorized to make distribution of the property or money in
6 accordance with such power of attorney assignment.

7 (b)1. Payments of approved claims for unclaimed cash
8 accounts shall be made to the owner after deducting any fees
9 authorized pursuant to a written power of attorney.

10 2. Payments of fees authorized pursuant to a written
11 power of attorney for approved cash claims shall be forwarded
12 to the designated attorney, Florida-certified public
13 accountant, or private investigative agency. Such payments may
14 be made by electronic funds transfer and may be made on such
15 periodic schedule as the department may define by rule,
16 provided the payment intervals do not exceed 31 days.

17 3. Payments of approved claims for unclaimed
18 securities and other intangible ownership interests made to an
19 attorney, Florida-certified public accountant, or private
20 investigative agency shall be promptly deposited into a trust
21 or escrow account which is regularly maintained by the
22 attorney, Florida-certified public accountant, or the private
23 investigative agency in a financial institution authorized to
24 accept such deposits and located in this state.

25 (c) Distribution of unclaimed property by the
26 attorney, Florida-certified public accountant, or private
27 investigative agency to the claimant shall be made within 10
28 days following final credit of the deposit into the trust or
29 escrow account at the financial institution, unless a party to
30 the agreement protests in writing such distribution before it
31 is made.

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

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

7 717.1241 Conflicting claims.--

8 (1) When ownership has been established but
9 conflicting claims have been received by ~~filed~~, the
10 department, ~~shall remit~~ the property shall be remitted to the:

11 (a) Person submitting the first claim received by the
12 department;

13 (b) Owner if an owner's claim and an owner's
14 representative's claim are received by the department on the
15 same day; or

16 (c) Owner's representative who has the earliest dated
17 contract with the owner if claims by two or more owner's
18 representatives are received by the department on the same
19 day as follows:

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

22 ~~1. To the owner, if the owner has appointed the~~
23 ~~owner's representative as the owner's attorney in fact but has~~
24 ~~not irrevocably assigned the unclaimed property in whole or in~~
25 ~~part to the owner's representative; or~~

26 ~~2. To the owner's representative pursuant to s.~~
27 ~~717.124 if the owner has irrevocably assigned the unclaimed~~
28 ~~property in whole or in part to the owner's representative.~~

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

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

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

7 Section 25. Section 717.1243, Florida Statutes, is
8 amended to read:

9 717.1243 Small estate accounts ~~Transfer of unclaimed~~
10 ~~property by operation of law.--When~~ A claim for unclaimed
11 ~~property is~~ made by a beneficiary, as defined in s. 731.201,
12 ~~an heir of a deceased an owner who died intestate need, it~~
13 ~~shall not be accompanied by necessary to accompany the claim~~
14 ~~with an order of a probate court if the claimant files with~~
15 ~~the department an affidavit, signed by all beneficiaries,~~
16 ~~stating that all the beneficiaries heirs have amicably agreed~~
17 ~~among themselves upon a division of the estate, that the~~
18 ~~assets of the estate of the owner, excluding the unclaimed~~
19 ~~property, are sufficient to pay all just claims, and that all~~
20 ~~funeral expenses, expenses of the last illness, and any other~~
21 ~~lawful claims have been paid no probate proceedings have been~~
22 ~~instituted upon the estate. If the owner died dies testate but~~
23 ~~the will is not probated, the claim shall be accompanied by a~~
24 ~~certified copy of the will and an affidavit stating that the~~
25 ~~assets of the estate of the owner, excluding the unclaimed~~
26 ~~property, are sufficient to pay all just claims and that no~~
27 ~~probate proceedings have been instituted upon the estate.~~

28 (2) Each person receiving property under this section
29 shall be personally liable for all lawful claims against the
30 estate of the owner, but only to the extent of the value of
31 the property received by such person under this section,

1 exclusive of the property exempt from claims of creditors
2 under the constitution and laws of this state.

3 (3) Any heir or devisee of the owner, who was lawfully
4 entitled to share in the property but did not receive his or
5 her share of the property, may enforce his or her rights in
6 appropriate proceedings against those who received the
7 property and shall be awarded taxable costs as in chancery
8 actions, including attorney's fees.

9 (4) This section only applies if all of the unclaimed
10 property held by the department on behalf of the owner has an
11 aggregate value of \$5,000~~\$1,000~~ or less and no probate
12 proceeding is pending.

13 Section 26. Subsections (1) and (2) of section
14 717.125, Florida Statutes, are amended to read:

15 717.125 Claim of another state to recover property;
16 procedure.--

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

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

29 (b) The last known address of the apparent owner or
30 other person entitled to the property, as reflected by the
31 records of the holder, is in the other state and under the

1 laws of that state the property has escheated to or become
2 subject to a claim of abandonment by that state;

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

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

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

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

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

27 717.129 Periods of limitation.--

28 (1) The expiration before or after July 1, 1987, of
29 any period of time specified by contract, statute, or court
30 order, during which a claim for money or property may be made
31 or during which an action or proceeding may be commenced or

1 enforced to obtain payment of a claim for money or to recover
2 property, does not prevent the money or property from being
3 presumed unclaimed ~~abandoned~~ or affect any duty to file a
4 report or to pay or deliver unclaimed ~~abandoned~~ property to
5 the department as required by this chapter.

6 Section 28. Section 717.1315, Florida Statutes, is
7 created to read:

8 717.1315 Retention of records by owner's
9 representative.--

10 (1) Every owner's representative shall keep and use in
11 his or her business such books, accounts, and records of the
12 business conducted under this chapter to enable the department
13 to determine whether such owner's representative is complying
14 with this chapter and the rules adopted by the department
15 under this chapter. Every owner's representative shall
16 preserve such books, accounts, and records, including every
17 agreement between the owner and such owner's representative,
18 for at least 3 years after the date of the initial agreement.

19 (2) An owner's representative, operating at two or
20 more places of business in this state, may maintain the books,
21 accounts, and records of all such offices at any one of such
22 offices, or at any other office maintained by such owner's
23 representative, upon the filing of a written notice with the
24 department designating in the written notice the office at
25 which such records are maintained. However, the owner's
26 representative shall make all books, accounts, and records
27 available at a convenient location in this state upon request
28 of the department.

29 Section 29. Subsection (3) of section 717.132, Florida
30 Statutes, is amended to read:

31

1 717.132 Enforcement; cease and desist orders;
2 administrative fines.--

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

12 Section 30. Section 717.135, Florida Statutes, is
13 amended to read:

14 717.135 Agreement to locate reported property.--

15 (1) All agreements between an owner's representative
16 and an owner for to pay compensation to recover or assist in
17 the recovery of property reported to the department under s.
18 717.117 shall either:

19 (a) Limit the fees for services for each owner
20 contract to 15 percent for all contracts with dollar values of
21 \$250 and above or to \$25 for all contracts with dollar values
22 below \$250. Fees for cash accounts shall be based on the value
23 of the property at the time the agreement for recovery is
24 signed by the apparent owner. Fees for accounts containing
25 securities or other intangible ownership interests, which
26 securities or interests are not converted to cash, shall be
27 based on the purchase price of the security as quoted on a
28 national exchange or other market on which the ownership
29 interest is regularly traded at the time the securities or
30 other ownership interest is remitted to the owner or the
31 owner's representative. Fees for tangible property or

1 safe-deposit box accounts shall be based on the value of the
2 tangible property or contents of the safe-deposit box at the
3 time the ownership interest is transferred or remitted to the
4 owner or the owner's representative; or

5 (b) Disclose that the property is held by the
6 Department of Banking and Finance pursuant to chapter 717, the
7 person or name of the entity that held the property prior to
8 the property becoming unclaimed, the date of the holder's last
9 contact with the owner, if known, and the approximate value of
10 the property, and identify which of the following categories
11 of unclaimed property the owner's representative is seeking to
12 recover:

13 1. Cash accounts.

14 2. Stale dated checks.

15 3. Life insurance or annuity contract assets.

16 4. Utility deposits.

17 5. Securities or other interests in business

18 associations.

19 6. Wages.

20 7. Accounts receivable.

21 8. Contents of safe-deposit boxes

22
23 ~~be unenforceable if made within 90 days after attempted~~
24 ~~notification by the department or within 12 months after such~~
25 ~~property is reported, whichever occurs first.~~ However, this
26 section shall not apply to contracts made in connection with
27 guardianship proceedings or the probate of an estate.

28 (2)(a) Agreements for recovery of cash accounts shall
29 state the dollar value of the unclaimed property account to be
30 paid to the owner and shall also state the dollar value of
31 compensation to be paid to the owner's representative.

1 (b) Agreements for recovery of accounts containing
2 securities, safe-deposit box accounts, other intangible or
3 tangible ownership interests, or other types of accounts,
4 except cash accounts, shall state the approximate value of the
5 unclaimed property and the percentage value of compensation to
6 be paid to the owner's representative.

7 (c) All agreements shall include the name, address,
8 and professional license number of the owner's representative,
9 and, if available, the taxpayer identification number or
10 social security number and telephone number of the owner. All
11 such agreements to pay compensation shall be signed by the
12 owner of the property and shall be filed by the owner's
13 representative with the claim form.~~All agreements and/or~~
14 ~~powers of attorney entered into pursuant to subsection (1)~~
15 ~~shall contain the following statement directly above the~~
16 ~~signature in no less than 6-point bold type: "THIS AGREEMENT~~
17 ~~TO PAY COMPENSATION TO RECOVER ABANDONED PROPERTY REPORTED TO~~
18 ~~THE STATE OF FLORIDA IS UNENFORCEABLE IF MADE WITHIN 90 DAYS~~
19 ~~AFTER THE ATTEMPTED NOTIFICATION OR WITHIN 12 MONTHS AFTER~~
20 ~~SUCH PROPERTY IS REPORTED, WHICHEVER OCCURS FIRST."~~ Any
21 ~~agreement which does not contain this statement shall be~~
22 ~~unenforceable.~~

23 Section 31. Section 717.138, Florida Statutes, is
24 amended to read:

25 717.138 Rulemaking authority.--The Department of
26 Banking and Finance shall administer and provide for the
27 enforcement of this chapter. The department has authority to
28 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
29 the provisions of this chapter. The department may adopt rules
30 to allow for electronic filing of fees, forms, and reports
31 required by this chapter.

1 Section 32. Section 732.107, Florida Statutes, is
2 amended to read:

3 732.107 Escheat.--

4 (1) When a person dies, leaving an estate ~~dies~~ without
5 being survived by any person entitled to a part of it, such
6 part ~~the property~~ shall escheat to the state.

7 ~~(2)(a) In this event, or when doubt exists about the~~
8 ~~existence of any person entitled to the estate, the personal~~
9 ~~representative shall institute a proceeding for the~~
10 ~~determination of beneficiaries, as provided in this code,~~
11 ~~within 1 year after letters have been issued to him or her,~~
12 ~~and notice shall be served on the Department of Legal Affairs.~~
13 ~~If the personal representative fails to institute the~~
14 ~~proceeding within the time fixed, it may be instituted by the~~
15 ~~Department of Legal Affairs.~~

16 ~~(b) On or before January 15 of each year, each court~~
17 ~~shall furnish to the department a list of all estates being~~
18 ~~administered in which no person appears to be entitled to the~~
19 ~~property and the personal representative has not instituted a~~
20 ~~proceeding for the determination of beneficiaries.~~

21 ~~(3) If the court determines that there is no person~~
22 ~~entitled to the estate and that the estate escheats, the~~
23 Property that escheats shall be sold as provided in the
24 Florida Probate Rules and the proceeds paid to the Treasurer
25 of the state and deposited ~~by him or her~~ in the State School
26 Fund ~~within a reasonable time to be fixed by the court.~~

27 ~~(3)(4)~~ At any time within 10 years after the payment
28 to the Treasurer ~~granting of letters~~, a person claiming to be
29 entitled to the proceeds ~~estate of the decedent~~ may petition
30 ~~to reopen the administration~~ to and assert entitlement ~~his or~~
31 ~~her rights to the proceeds~~ escheated property. ~~If the claimant~~

1 ~~is entitled to any of the estate of the decedent, the court~~
2 ~~shall fix the amount to which he or she is entitled, and it~~
3 ~~shall be repaid to him or her with interest at the legal rate~~
4 ~~by the officials charged with the disbursement of state school~~
5 ~~funds. If no claim is timely asserted within the time fixed,~~
6 ~~the state's rights title of the state to the property and the~~
7 ~~proceeds shall become absolute.~~

8 ~~(4)(5)~~ The Department of Legal Affairs shall represent
9 the state in all proceedings concerning escheated estates.

10 ~~(5)(6)(a)~~ If a person entitled to the proceeds funds
11 assigns ~~the his or her~~ rights to receive payment to an
12 attorney, Florida-certified public accountant, or private
13 investigative agency which is duly licensed to do business in
14 this state pursuant to a written agreement with such person,
15 the Department of Banking and Finance is authorized to make
16 distribution in accordance with such assignment.

17 (b) Payments made to an attorney, Florida-certified
18 public accountant, or private investigative agency shall be
19 promptly deposited into a trust or escrow account which is
20 regularly maintained by the attorney, Florida-certified public
21 accountant, or private investigative agency in a financial
22 institution authorized to accept such deposits and located in
23 this state.

24 (c) Distribution by the attorney, Florida-certified
25 public accountant, or private investigative agency to the
26 person entitled to the proceeds funds shall be made within 10
27 days following final credit of the deposit into the trust or
28 escrow account at the financial institution, unless a party to
29 the agreement protests ~~the in writing such~~ distribution in
30 writing before it is made.

31

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

4 ~~(7) Except as herein provided, escheated estates shall~~
5 ~~be administered as other estates.~~

6 Section 33. Section 215.965, Florida Statutes, is
7 amended to read:

8 215.965 Disbursement of state moneys.--Except as
9 provided in s. 17.076, s. 253.025(14), s. 259.041(18), s.
10 717.124(5), s. 732.107(5)~~(6)~~, or s. 733.816(5), all moneys in
11 the State Treasury shall be disbursed by state warrant, drawn
12 by the Comptroller upon the State Treasury and payable to the
13 ultimate beneficiary. This authorization shall include
14 electronic disbursement.

15 Section 34. Paragraph (d) of subsection (17) of
16 section 493.6101, Florida Statutes, is amended to read:

17 493.6101 Definitions.--

18 (17) "Private investigation" means the investigation
19 by a person or persons for the purpose of obtaining
20 information with reference to any of the following matters:

21 (d) The whereabouts of missing persons, owners of
22 unclaimed ~~abandoned~~ property or escheated property, or heirs
23 to estates.

24 Section 35. Subsection (15) is added to section
25 493.6102, Florida Statutes, to read:

26 493.6102 Inapplicability of parts I through IV of this
27 chapter.--This chapter shall not apply to:

28 (15) Any licensed Florida-certified public accountant
29 who is acting within the scope of the practice of public
30 accounting as defined in chapter 473.

31

1 Section 36. Section 717.137, Florida Statutes, is
2 repealed.

3 Section 37. This act shall take effect October 1,
4 2001.

5
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 SB 1398

9 The exemption from the provisions of chapter 493, F.S.,
10 relating to private investigative agencies, for a
11 Florida-certified public accountant is revised to exempt the
12 certified public accountant from the regulatory provisions, if
13 the public accountant was acting within the scope of the
14 practice of public accounting, rather than engaged in the
15 recovery of unclaimed property and the location of apparent
16 owners of such property.
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