

By Senator Clary

4-906A-04

See HB 1039

1                                   A bill to be entitled  
2           An act relating to unclaimed property; amending  
3           s. 717.101, F.S.; providing definitions;  
4           amending ss. 717.106, 717.107, 717.109, and  
5           717.116, F.S.; revising criteria for presuming  
6           as unclaimed certain bank deposits and funds in  
7           financial organizations, funds owing under life  
8           insurance policies, funds held by business  
9           associations, and property held in a  
10          safe-deposit box or other safekeeping  
11          repository, respectively; amending s. 717.117,  
12          F.S.; revising reporting requirements for  
13          unclaimed property; presuming certain accounts  
14          as unclaimed under certain circumstances;  
15          amending s. 717.118, F.S.; providing  
16          requirements for notification of apparent  
17          owners of unclaimed property; amending s.  
18          717.119, F.S.; revising requirements for  
19          delivery of certain unclaimed property;  
20          providing penalties for late deliveries;  
21          amending s. 717.1201, F.S.; revising certain  
22          holder payment and repayment requirements;  
23          amending s. 717.122, F.S.; revising certain  
24          public sale requirements; authorizing the  
25          Department of Financial Services to deduct  
26          certain auction fees, costs, and expenses;  
27          prohibiting actions or proceedings against the  
28          department for certain decisions relating to  
29          auctions of unclaimed property; specifying that  
30          certain sales of unclaimed property are not  
31          subject to the sales tax; amending s. 717.123,

1 F.S.; increasing a maximum amount of funds the  
2 department may retain from certain funds  
3 received; amending s. 717.124, F.S.; providing  
4 additional requirements for filing unclaimed  
5 property claims; providing for the return or  
6 withdrawal of certain claims under certain  
7 circumstances; specifying a time period for  
8 department determination of claims; authorizing  
9 the department to deny claims under certain  
10 circumstances; specifying an exclusive remedy  
11 for subsequent claimants; revising requirements  
12 for a power of attorney; requiring direct  
13 delivery of safe-deposit boxes under certain  
14 circumstances; revising payment of fees and  
15 costs requirements; creating s. 717.12403,  
16 F.S.; providing presumptions for certain  
17 unclaimed demand, savings, or checking accounts  
18 in financial institutions with more than one  
19 beneficiary; creating s. 717.12404, F.S.;  
20 providing requirements for claims for property  
21 reported in the name of a dissolved  
22 corporation; creating s. 717.12405, F.S.;  
23 providing requirements; for claims by estates;  
24 amending s. 717.1241, F.S.; revising  
25 requirements for remittance of property subject  
26 to conflicting claims; amending s. 717.1242,  
27 F.S.; clarifying legislative intent relating to  
28 filing certain claims; creating s. 717.1244,  
29 F.S.; providing criteria for department  
30 determinations of claims; amending s. 717.126,  
31 F.S.; providing a criterion for proof of

1 entitlement; specifying venue in certain  
2 unclaimed property actions; creating s.  
3 717.1261, F.S.; requiring a death certificate  
4 in claiming entitlement to certain unclaimed  
5 property; creating s. 717.1262, F.S.; requiring  
6 certain court documents in claiming entitlement  
7 to certain unclaimed property; amending s.  
8 717.1301, F.S.; revising certain fee and  
9 expense requirements for investigations or  
10 examinations; providing for interest on such  
11 amounts under certain circumstances; amending  
12 s. 717.1311, F.S.; deleting a requirement to  
13 pay certain amounts for failing to maintain  
14 certain records; amending s. 717.1315, F.S.;  
15 clarifying a record retention requirement for  
16 owner representatives; amending s. 717.132,  
17 F.S.; specifying criteria for certain  
18 corrective actions; creating s. 717.1322, F.S.;  
19 specifying grounds for certain disciplinary  
20 actions; providing for certain disciplinary  
21 actions; amending s. 717.133, F.S.; deleting  
22 authorization for the department to enter into  
23 certain contracts for certain purposes;  
24 creating s. 717.1331, F.S.; providing for  
25 department actions against certain lienholders  
26 under certain circumstances; creating s.  
27 717.1332, F.S.; authorizing the department to  
28 enter into certain audit or examination  
29 contracts; exempting contingency fee contracts  
30 from certain competitive solicitation  
31 requirements; creating s. 717.1333, F.S.;

1 providing for admitting certain documents into  
2 evidence in certain actions; amending s.  
3 717.134, F.S.; authorizing the department to  
4 impose and collect penalties for failing to  
5 report certain information; authorizing the  
6 department waive such penalties under certain  
7 circumstances; creating s. 717.1341, F.S.;  
8 prohibiting receipt of unentitled unclaimed  
9 property; providing for liability for such  
10 property under certain circumstances;  
11 authorizing the department to maintain certain  
12 civil or administrative actions; providing for  
13 fines, costs, and attorney fees; prohibiting  
14 filing claims for unentitled unclaimed  
15 property; providing criminal penalties;  
16 amending s. 717.135, F.S.; revising  
17 requirements for agreements to recover certain  
18 property; providing an agreement form; creating  
19 s. 717.1351, F.S.; providing requirements for  
20 acquisition of unclaimed property by certain  
21 persons; providing certain contract  
22 requirements; providing a contract form;  
23 creating s. 717.1400, F.S.; providing requiring  
24 certain licensed persons to register with the  
25 department for certain purposes; providing  
26 registration requirements; providing for denial  
27 of registration under certain circumstances;  
28 providing registration limitations; amending s.  
29 212.02, F.S.; revising a definition to conform;  
30 amending ss. 322.142 and 395.3025, F.S. ;  
31 providing for disclosure of certain

1 confidential information to the department  
2 under certain circumstances; providing an  
3 effective date.

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

6  
7 Section 1. Subsection (15) of section 717.101, Florida  
8 Statutes, is renumbered as subsection (16) and amended,  
9 subsections (5) through (18) are renumbered as subsections (6)  
10 through (19), respectively, present subsection (19) is  
11 renumbered as subsection (21), and new subsections (5) and  
12 (20) are added to that section, to read:

13 717.101 Definitions.--As used in this chapter, unless  
14 the context otherwise requires:

15 (5) "Claimant" means the person on whose behalf a  
16 claim is filed.

17 (16)(15) "Owner" means a depositor in the case of a  
18 deposit, a beneficiary in case of a trust or other than a  
19 deposit in trust, a claimant, or a payee in the case of other  
20 intangible property, or a person having a legal or equitable  
21 interest in property subject to this chapter or his or her  
22 legal representative.

23 (20) "Ultimate equitable owner" means a natural person  
24 who, directly or indirectly, owns or controls an ownership  
25 interest in a corporation, a foreign corporation, an alien  
26 business organization, or any other form of business  
27 organization, regardless of whether such natural person owns  
28 or controls such ownership interest through one or more  
29 natural persons or one or more proxies, powers of attorney,  
30 nominees, corporations, associations, partnerships, trusts,

31

1 joint stock companies, or other entities or devices, or any  
2 combination thereof.

3 Section 2. Subsection (1) of section 717.106, Florida  
4 Statutes, are amended to read:

5 717.106 Bank deposits and funds in financial  
6 organizations.--

7 (1) Any demand, savings, or matured time deposit with  
8 a banking or financial organization, including deposits that  
9 are automatically renewable, and any funds paid toward the  
10 purchase of shares, a mutual investment certificate, or any  
11 other interest in a banking or financial organization is  
12 presumed unclaimed unless the owner has, within 5 years:

13 (a) Increased or decreased the amount of the deposit  
14 or presented the passbook or other similar evidence of the  
15 deposit for the crediting of interest;

16 (b) Communicated in writing or by telephone with the  
17 banking or financial organization concerning the property;

18 (c) Otherwise indicated an interest in the property as  
19 evidenced by a memorandum or other record on file with the  
20 banking or financial organization;

21 (d) Owned other property to which paragraph (a),  
22 paragraph (b), or paragraph (c) is applicable and if the  
23 banking or financial organization communicates in writing with  
24 the owner with regard to the property that would otherwise be  
25 presumed unclaimed under this subsection at the address to  
26 which communications regarding the other property regularly  
27 are sent; or

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

30 1. Communicated in writing with the banking or  
31 financial organization; or

1           2. Otherwise indicated an interest as evidenced by a  
2 memorandum or other record on file with the banking or  
3 financial organization and if the banking or financial  
4 organization communicates in writing with the owner with  
5 regard to the property that would otherwise be unclaimed under  
6 this subsection at the address to which communications  
7 regarding the other relationship regularly are sent ~~or~~  
8           ~~(f) Received first-class mail from the banking or~~  
9 ~~financial organization or a subsidiary of such banking or~~  
10 ~~financial organization, which was not returned as~~  
11 ~~undeliverable, in the ordinary course of business at the~~  
12 ~~address reflected in the banking or financial organization's~~  
13 ~~records.~~

14           Section 3. Subsection (1) of section 717.107, Florida  
15 Statutes, is amended to read:

16           717.107 Funds owing under life insurance policies.--

17           (1) Funds held or owing under any life or endowment  
18 insurance policy or annuity contract which has matured or  
19 terminated are presumed unclaimed if unclaimed for more than 5  
20 years after the funds became due and payable as established  
21 from the records of the insurance company holding or owing the  
22 funds, but property described in paragraph (3)(b) is presumed  
23 unclaimed if such property is not claimed for more than 2  
24 years. The amount presumed unclaimed shall include any amount  
25 due and payable under s. 627.4615.

26           Section 4. Section 717.109, Florida Statutes, is  
27 amended to read:

28           717.109 Refunds held by business associations.--Except  
29 as to the extent otherwise provided ordered by law the court  
30 or administrative agency, any sum that a business association  
31 has been ordered to refund by a court or administrative agency

1 which has been unclaimed by the owner for more than 1 year  
2 after it became payable in accordance with the final  
3 determination or order providing for the refund, regardless of  
4 whether the final determination or order requires any person  
5 entitled to a refund to make a claim for it, is presumed  
6 unclaimed.

7 Section 5. Section 717.116, Florida Statutes, is  
8 amended to read:

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

18 Section 6. Subsections (1), (3), and (4) of section  
19 717.117, Florida Statutes, are amended to read:

20 717.117 Report of unclaimed property.--

21 (1) Every person holding funds or other property,  
22 tangible or intangible, presumed unclaimed and subject to  
23 custody as unclaimed property under this chapter shall report  
24 to the department on such forms as the department may  
25 prescribe by rule. In lieu of forms, any the holder of  
26 unclaimed property belonging to 25 or more apparent owners  
27 must ~~may~~ submit the required information via electronic medium  
28 as the department may prescribe by rule. The report must  
29 include:

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



1 number, and date of birth, if known, and last known address,  
2 if any, of each person appearing from the records of the  
3 holder to be the owner of any property which is presumed  
4 unclaimed and which has a value of \$50 or more.

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

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

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

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

27 (f) Any person or business association or public  
28 corporation ~~entity~~ holding funds presumed unclaimed and having  
29 a total value of \$10 or less may file a zero balance report  
30 for that reporting period. The balance brought forward to the  
31 new reporting period is zero.

1           (g) Such other information as the department may  
2 prescribe by rule as necessary for the administration of this  
3 chapter.

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

7           (3) The report must be filed before May 1 of each  
8 year. Such report shall apply to the preceding calendar year.  
9 ~~if such report is not filed on or before the applicable filing~~  
10 ~~date, the holder shall pay to~~ The department may impose and  
11 collect a penalty of \$10 per day up to a maximum of for each  
12 day the report is delinquent, but such penalty shall not  
13 exceed \$500 for the failure to timely report or the failure to  
14 include in a report information required by this chapter. The  
15 penalty shall be remitted to the department within 30 days  
16 after the date of the notification to the holder that the  
17 penalty is due and owing. As necessary for proper  
18 administration of this chapter, the department may waive any  
19 penalty due with appropriate justification. On written request  
20 by any person required to file a report and upon a showing of  
21 good cause, the department may postpone the reporting date.  
22 The department must provide information contained in a report  
23 filed with the department to any person requesting a copy of  
24 the report or information contained in a report, to the extent  
25 the information requested is not confidential, within 90 days  
26 after the report has been processed and added to the unclaimed  
27 property data base subsequent to a determination that the  
28 report is accurate and that the reported property is the same  
29 as the remitted property.

30           (4) Holders of inactive accounts having a value of \$50  
31 or more shall use due diligence to locate apparent owners.

1           (a) When an owner's account becomes inactive, the  
2 holder shall conduct at least one search for the apparent  
3 owner using due diligence. For purposes of this section,  
4 ~~except for banks, credit unions, and state or federal savings~~  
5 ~~associations,~~an account is inactive if 2 years have  
6 transpired after the last owner-initiated account activity, if  
7 2 years have transpired after the expiration date on the  
8 instrument or contract, or if 2 years have transpired since  
9 first-class mail has been returned as undeliverable. ~~With~~  
10 ~~respect to banks, credit unions, and state or federal savings~~  
11 ~~associations, an account is inactive if 2 years have~~  
12 ~~transpired after the last owner-initiated account activity and~~  
13 ~~first-class mail has been returned as undeliverable or 2 years~~  
14 ~~after the expiration date on the instrument or contract and~~  
15 ~~first-class mail has been returned as undeliverable.~~

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

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

29           **(d)** The account shall be presumed unclaimed if the  
30 holder is not able to contact the apparent owner by telephone,  
31 the first-class mail notice is returned to the holder as

1 undeliverable, or the apparent owner does not contact the  
2 holder in response to the first-class mail notice.

3 ~~(b) The claim of the apparent owner is not barred by~~  
4 ~~the statute of limitations.~~

5 Section 7. Section 717.118, Florida Statutes, is  
6 amended to read:

7 717.118 Notification of apparent owners ~~Notice and~~  
8 ~~publication of lists~~ of unclaimed property.--

9 (1) It is specifically recognized that the state has  
10 an obligation to make an effort to notify owners of unclaimed  
11 property in a cost-effective manner. In order to provide all  
12 the citizens of this state an effective and efficient program  
13 for the recovery of unclaimed property, the department shall  
14 use cost-effective means to make at least one active attempt  
15 to notify owners of unclaimed property accounts valued at more  
16 than \$100 with a reported address or taxpayer identification  
17 number ~~the existence of unclaimed property held by the~~  
18 ~~department~~. Such active attempt to notify ~~locate~~ apparent  
19 owners shall include any attempt by the department to directly  
20 contact the owner. Other means of notification, such as  
21 publication of the names of owners in the newspaper, on  
22 television, on the Internet, or through other promotional  
23 efforts and items in which the department does not directly  
24 attempt to contact the owner are expressly declared to be  
25 passive attempts. Nothing in this subsection precludes other  
26 agencies or entities of state government from notifying owners  
27 of the existence of unclaimed property or attempting to notify  
28 ~~locate~~ apparent owners of unclaimed property.

29 (2) ~~The following notification requirements shall~~  
30 ~~apply.~~

31

1           ~~(a) Notifications that are published or televised may~~  
2 ~~consist of the names of apparent owners of unclaimed property,~~  
3 ~~and information regarding recovery of unclaimed property from~~  
4 ~~the department. Such notification may be televised or~~  
5 ~~published in the county in which the last known address of the~~  
6 ~~apparent owner is located or, if the address is unknown, in~~  
7 ~~the county in which the holder has its principal place of~~  
8 ~~business. Published notifications may be in accordance with s.~~  
9 ~~50.011.~~

10           ~~(b)~~ Notification provided directly to individual  
11 apparent owners shall consist of a description of the property  
12 and information regarding recovery of unclaimed property from  
13 the department.

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

16           ~~(3)~~(4) This section is not applicable to sums payable  
17 on traveler's checks, money orders, and other written  
18 instruments presumed unclaimed under s. 717.104.

19           Section 8. Subsection (5) of section 717.119, Florida  
20 Statutes, is amended to read:

21           717.119 Payment or delivery of unclaimed property.--

22           (5) All intangible and tangible property held in a  
23 safe-deposit box or any other safekeeping repository reported  
24 under s. 717.117 shall not be delivered to the department  
25 until 120 days after the report due date. The delivery of the  
26 property, through the United States mail or any other carrier,  
27 shall be insured by the holder at an amount equal to the  
28 estimated value of the property. Each package shall be clearly  
29 marked on the outside "Deliver Unopened." A holder's  
30 safe-deposit box contents shall be delivered to the department  
31 in a single shipment.

1 (a) Holders may remit the value of cash and coins  
2 found in unclaimed safe-deposit boxes to the department by  
3 cashier's check or by electronic funds transfer, unless the  
4 cash or coins have a value above face value. The department  
5 shall identify by rule those cash and coin items having a  
6 numismatic value. Cash and coin items identified as having a  
7 numismatic value shall be remitted to the department in their  
8 original form.

9 (b) Any firearm or ammunition found in an unclaimed  
10 safe-deposit box or any other safekeeping repository shall be  
11 delivered by the holder to a law enforcement agency for  
12 disposal. However, the department is authorized to make a  
13 reasonable attempt to ascertain the historical value to  
14 collectors of any firearm that has been delivered to the  
15 department. Any firearm appearing to have historical value to  
16 collectors may be sold by the department pursuant to s.  
17 717.122 to a person having a federal firearms license. Any  
18 firearm which is not sold pursuant to s. 717.122 shall be  
19 delivered by the department to a law enforcement agency in  
20 this state for disposal. The department shall not be  
21 administratively, civilly, or criminally liable for any  
22 firearm delivered by the department to a law enforcement  
23 agency in this state for disposal.

24 (c) If such property is not paid or delivered to the  
25 department on or before the applicable payment or delivery  
26 date, the holder shall pay to the department a penalty ~~of \$10~~  
27 for each safe-deposit box shipment received late, but such  
28 penalty shall not exceed \$1,000. The penalty shall be \$100 for  
29 a safe-deposit box shipment container that is late 30 days or  
30 less. Thereafter, the penalty shall be \$500 for a safe-deposit  
31 box shipment container that is late for each additional

1 successive 30-day period. The penalty assessed against a  
2 holder for a late safe-deposit box shipment container shall  
3 not exceed \$4,000 annually. The penalty shall be remitted to  
4 the department within 30 days after the date of the  
5 notification to the holder that the penalty is due and owing.

6 (d) The department may waive any penalty due with  
7 appropriate justification, as provided by rule.

8 ~~(e) Upon written request by any person required to~~  
9 ~~deliver safe-deposit box contents, the department may postpone~~  
10 ~~the delivery.~~

11 Section 9. Subsection (2) of section 717.1201, Florida  
12 Statutes, is amended to read:

13 717.1201 Custody by state; holder relieved from  
14 liability; reimbursement of holder paying claim; reclaiming  
15 for owner; defense of holder; payment of safe-deposit box or  
16 repository charges.--

17 (2) Any holder who has paid money to the department  
18 pursuant to this chapter may make payment to any person  
19 appearing to ~~the holder~~ to be entitled to payment and, upon  
20 filing ~~proof of payment and~~ proof that the payee is ~~was~~  
21 entitled thereto, the department shall forthwith repay  
22 ~~reimburse~~ the holder ~~for the payment~~ without deduction of any  
23 fee or other charges. If repayment ~~reimbursement~~ is sought for  
24 a payment made on a negotiable instrument, including a  
25 traveler's check or money order, the holder must be repaid  
26 ~~reimbursed~~ under this subsection upon filing proof that the  
27 instrument was duly presented and that the payee is ~~payment~~  
28 ~~was made to a person who appeared to the holder to be~~ entitled  
29 to payment. The holder shall be repaid ~~reimbursed~~ for payment  
30 made under this subsection even if the payment was made to a  
31 person whose claim was barred under s. 717.129(1).

1           Section 10. Subsections (1) and (3) of section  
2 717.122, Florida Statutes, are amended, and subsection (5) is  
3 added to that section, to read:

4           717.122 Public sale of unclaimed property.--

5           (1) Except as provided in subsection (2), the  
6 department after the receipt of unclaimed property shall sell  
7 it to the highest bidder at public sale on the Internet or at  
8 a specified physical location wherever in the judgment of the  
9 department the most favorable market for the property involved  
10 exists. The department may decline the highest bid and reoffer  
11 the property for sale if in the judgment of the department the  
12 bid is insufficient. The department shall have the discretion  
13 to withhold from sale any unclaimed property that the  
14 department deems to be of benefit to the people of the state.  
15 If in the judgment of the department the probable cost of sale  
16 exceeds the value of the property, it need not be offered for  
17 sale and may be disposed of as the department determines  
18 appropriate. Any sale at a specified physical location held  
19 under this section must be preceded by a single publication of  
20 notice, at least 3 weeks in advance of sale, in a newspaper of  
21 general circulation in the county in which the property is to  
22 be sold. The department shall proportionately deduct auction  
23 fees, preparation costs, and expenses from the amount posted  
24 to the owner's account when safe-deposit box contents are  
25 sold. No action or proceeding may be maintained against the  
26 department for or on account of any decision to decline the  
27 highest bid or withhold any unclaimed property from sale.

28           (3) Unless the department deems it to be in the public  
29 interest to do otherwise, all securities presumed unclaimed  
30 and delivered to the department may be sold upon receipt. Any  
31 person making a claim pursuant to this chapter is entitled to



1 receive either the securities delivered to the department by  
2 the holder, if they still remain in the hands of the  
3 department, or the proceeds received from sale, ~~less any~~  
4 ~~amounts deducted pursuant to subsection (2),~~ but no person has  
5 any claim under this chapter against the state, the holder,  
6 any transfer agent, any registrar, or any other person acting  
7 for or on behalf of a holder for any appreciation in the value  
8 of the property occurring after delivery by the holder to the  
9 state.

10 (5) The sale of unclaimed tangible personal property  
11 is not subject to tax under chapter 212 when such property is  
12 sold by or on behalf of the department pursuant to this  
13 section.

14 Section 11. Subsection (1) of section 717.123, Florida  
15 Statutes, is 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 property under s.  
19 717.122, shall forthwith be deposited by the department in the  
20 Unclaimed Property Trust Fund. The department shall retain,  
21 from funds received under this chapter, an amount not  
22 exceeding ~~\$15~~<sup>\$8</sup> million from which the department shall make  
23 prompt payment of claims allowed by the department and shall  
24 pay the costs incurred by the department in administering and  
25 enforcing this chapter. All remaining funds received by the  
26 department under this chapter shall be deposited by the  
27 department into the State School Fund.

28 Section 12. Section 717.124, Florida Statutes, is  
29 amended to read:

30 717.124 Unclaimed property claims ~~Filing of claim with~~  
31 ~~department.~~--

1           (1) Any person, excluding another state, claiming an  
2 interest in any property paid or delivered to the department  
3 under this chapter may file with the department a claim on a  
4 form prescribed by the department and verified by the claimant  
5 or the claimant's representative. The claimant's  
6 representative must be an attorney licensed to practice law in  
7 this state, a licensed Florida-certified public accountant, or  
8 a private investigator licensed under chapter 493. The  
9 claimant s representative must be registered with the  
10 department under this chapter. The claimant, or the claimant's  
11 representative, shall provide the department with a legible  
12 copy of a valid driver's license of the claimant at the time  
13 the original claim form is filed. If the claimant has not been  
14 issued a valid driver's license at the time the original claim  
15 form is filed, the department shall be provided with a legible  
16 copy of a photographic identification of the claimant issued  
17 by the United States or a foreign nation, a state or territory  
18 of the United States or foreign nation, or a political  
19 subdivision or agency thereof. Any claim filed without the  
20 required identification with the original claim form and the  
21 original power of attorney, if applicable, is void.

22           (a) Within 90 days after receipt of a claim, the  
23 department may return any claim that provides for the receipt  
24 of fees and costs greater than that permitted under this  
25 chapter or that contains any apparent errors or omissions. The  
26 department may also request that the claimant or the  
27 claimant's representative provide additional information. The  
28 department shall retain a copy or electronic image of the  
29 claim.

30           (b) A claimant or the claimant's representative shall  
31 be deemed to have withdrawn a claim if no response to the

1 department's request for additional information is received by  
2 the department within 60 days after the notification of any  
3 apparent errors or omissions.

4 (c) Within 90 days after receipt of the claim, or the  
5 response of the claimant or the claimant's representative to  
6 the department's request for additional information, whichever  
7 is later, the department shall determine each claim ~~within 90~~  
8 days after it is filed. Such determination shall contain a  
9 notice of rights provided by ss. 120.569 and 120.57. The  
10 90-day period shall be extended by 60 days if the department  
11 has good cause to need additional time or if the unclaimed  
12 property:

13 1. Is owned by a person who has been a debtor in  
14 bankruptcy;

15 2. Was reported with an address outside of the United  
16 States;

17 3. Is being claimed by a person outside of the United  
18 States; or

19 4. Contains documents filed in support of the claim  
20 that are not in the English language and have not been  
21 accompanied by an English language translation.

22 (d) The department shall deny any claim under which  
23 the claimant's representative has refused to authorize the  
24 department to reduce the fees and costs to the maximum  
25 permitted under this chapter.

26 (2) A claim for a cashier's check or a stock  
27 certificate without the original instrument may require an  
28 indemnity bond equal to the value of the claim to be provided  
29 prior to issue of the stock or payment of the claim by the  
30 department.

31

1           (3) The department may require an affidavit swearing  
2 to the authenticity of the claim, lack of documentation, and  
3 an agreement to allow the department to provide the name and  
4 address of the claimant to subsequent claimants coming forward  
5 with substantiated proof to claim the account. This shall  
6 apply to claims equal to or less than \$250. The exclusive  
7 remedy of a subsequent claimant to the property shall be  
8 against the person who received the property from the  
9 department.

10           (4)(a) Except as otherwise provided in this chapter,  
11 if a claim is determined in favor of the claimant, the  
12 department shall deliver or pay over to the claimant the  
13 property or the amount the department actually received or the  
14 proceeds if it has been sold by the department, together with  
15 any additional amount required by s. 717.121.

16           **~~(b)(5)(a)~~** If an owner authorizes an attorney licensed  
17 to practice law in this state, Florida-certified public  
18 accountant, or private investigator licensed under chapter  
19 493, and registered with the department under this chapter,  
20 ~~investigative agency which is duly licensed to do business in~~  
21 ~~this state~~ to claim the unclaimed property on the owner's  
22 behalf, the department is authorized to make distribution of  
23 the property or money in accordance with such power of  
24 attorney. The original power of attorney must be executed by  
25 the owner and must be filed with the department.

26           **~~(c)(b)~~**1. Payments of approved claims for unclaimed  
27 cash accounts shall be made to the owner after deducting any  
28 fees and costs authorized pursuant to a written power of  
29 attorney. The contents of a safe-deposit box shall be  
30 delivered directly to the claimant notwithstanding any  
31 agreement to the contrary.

1           2. Payments of fees and costs authorized pursuant to a  
2 written power of attorney for approved ~~cash~~ claims shall be  
3 made or issued ~~forwarded~~ to the law firm employer of the  
4 designated attorney licensed to practice law in this state,  
5 the public accountancy firm employer of the licensed  
6 Florida-certified public accountant, or the designated  
7 employing private investigative agency licensed by this state.  
8 Such payments shall ~~may~~ be made by electronic funds transfer  
9 and may be made on such periodic schedule as the department  
10 may define by rule, provided the payment intervals do not  
11 exceed 31 days.

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

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

27           (5)(6) The department shall not be administratively,  
28 civilly, or criminally liable for any property or funds  
29 distributed pursuant to this section, provided such  
30 distribution is made in good faith.

31

1           (6) This section does not supersede the licensing  
2 requirements of chapter 493.

3           Section 13. Section 717.12403, Florida Statutes, is  
4 created to read:

5           717.12403 Unclaimed demand, savings, or checking  
6 account in a financial institution held in the name of more  
7 than one person.--

8           (1)(a) If an unclaimed demand, savings, or checking  
9 account in a financial institution is reported as an "and"  
10 account in the name of two or more persons who are not  
11 beneficiaries, it is presumed that each person must claim the  
12 account in order for the claim to be approved by the  
13 department. This presumption may be rebutted by showing that  
14 entitlement to the account has been transferred to another  
15 person or by clear and convincing evidence demonstrating that  
16 the account should have been reported by the financial  
17 institution as an "or" account.

18           (b) If an unclaimed demand, savings, or checking  
19 account in a financial institution is reported as an "and"  
20 account and one of the persons on the account is deceased, it  
21 is presumed that the account is a survivorship account. This  
22 presumption may be rebutted by showing that entitlement to the  
23 account has been transferred to another person or by clear and  
24 convincing evidence demonstrating that the account is not a  
25 survivorship account.

26           (2) If an unclaimed demand, savings, or checking  
27 account in a financial institution is reported as an "or"  
28 account in the name of two or more persons who are not  
29 beneficiaries, it is presumed that either person listed on the  
30 account may claim the entire amount held in the account. This  
31 presumption may be rebutted by showing that entitlement to the

1 account has been transferred to another person or by clear and  
2 convincing evidence demonstrating that the account should have  
3 been reported by the financial institution as an "and"  
4 account.

5 (3) If an unclaimed demand, savings, or checking  
6 account in a financial institution is reported in the name of  
7 two or more persons who are not beneficiaries without  
8 identifying whether the account is an "and" account or an "or"  
9 account, it is presumed that the account is an "or" account.  
10 This presumption may be rebutted by showing that entitlement  
11 to the account has been transferred to another person or by  
12 clear and convincing evidence demonstrating that the account  
13 should have been reported by the financial institution as an  
14 "and" account.

15 (4) The department shall be deemed to have made a  
16 distribution in good faith if the department remits funds  
17 consistent with this section.

18 Section 14. Section 717.12404, Florida Statutes, is  
19 created to read:

20 717.12404 Claims for property reported in the name of  
21 a dissolved corporation.--

22 (1) Claims for property reported in the name of a  
23 dissolved corporation, the last annual report of which is not  
24 available from the Department of State through the Internet,  
25 shall be accompanied by a microfiche copy of the records on  
26 file with the Department of State or, if the dissolved  
27 corporation has not made a corporate filing with the  
28 Department of State, a duly authenticated copy of the last  
29 corporate filing identifying the officers and directors from  
30 the appropriate authorized official of the state of  
31 incorporation shall be filed with the claim.

1           (2) Claims for property reported in the name of a  
2 dissolved corporation must be made by a majority of the then  
3 living officers and directors identified on the last corporate  
4 filing with the Department of State or, if the dissolved  
5 corporation has not made a corporate filing with the  
6 Department of State, with the appropriate authorized official  
7 of the state of incorporation. Prima facie evidence that an  
8 officer or director of the dissolved corporation is deceased  
9 must include a copy of the death certificate of the decedent  
10 that has been certified as being authentic by the issuing  
11 governmental agency.

12           Section 15. Section 717.12405, Florida Statutes, is  
13 created to read:

14           717.12405 Claims by estates.--An estate or any person  
15 representing an estate or acting on behalf of an estate may  
16 claim unclaimed property only after the heir or legatee of the  
17 decedent entitled to the property has been located. Any  
18 estate, or any person representing an estate or acting on  
19 behalf of an estate, that receives unclaimed property before  
20 the heir or legatee of the decedent entitled to the property  
21 has been located, is personally liable for the unclaimed  
22 property and must immediately return the full amount of the  
23 unclaimed property or the value thereof to the department in  
24 accordance with s. 717.1341. This section applies to unclaimed  
25 property claimed prior to, on, or subsequent to the effective  
26 date of this section.

27           Section 16. Subsection (1) of section 717.1241,  
28 Florida Statutes, is amended, and subsection (3) is added to  
29 said section, to read:

30           717.1241 Conflicting claims.--  
31



1           (1) ~~When ownership has been established but~~  
2 conflicting claims have been received by the department, the  
3 property shall be remitted as follows, notwithstanding the  
4 withdrawal of a claim to the:

5           (a) As between an owner and an owner's representative:

6           1. To the person submitting the first claim that is  
7 complete or made complete ~~received by the department; or~~

8           2. If an owner's claim and an owner's representative's  
9 claim are received by the department on the same day and both  
10 claims are complete, to the owner;

11           (b) As between two or more owner's representatives, to  
12 the owner's representative who has submitted the first claim  
13 that is complete or made complete ~~Owner if an owner's claim~~  
14 ~~and an owner's representative's claim are received by the~~  
15 ~~department on the same day; or~~

16           (c) As between two or more owner's representatives  
17 whose claims were complete on the same day, to the owner s  
18 representative who has agreed to receive the lowest fee. If  
19 two or more owner s representatives whose claims were complete  
20 on the same day are charging the same lowest fee, the fees  
21 shall be divided equally between the owner's representatives  
22 ~~Owner's representative who has the earliest dated contract~~  
23 ~~with the owner if claims by two or more owner's~~  
24 ~~representatives are received by the department on the same~~  
25 ~~day.~~

26           (3) A claim is complete when entitlement to the  
27 unclaimed property has been established.

28           Section 17. Subsection (1) of section 717.1242,  
29 Florida Statutes, is amended to read:

30           717.1242 Restatement of jurisdiction of the circuit  
31 court sitting in probate and the department.--

1           (1) It is and has been the intent of the Legislature  
2 that, pursuant to s. 26.012(2)(b), circuit courts have  
3 jurisdiction of proceedings relating to the settlement of the  
4 estates of decedents and other jurisdiction usually pertaining  
5 to courts of probate. It is and has been the intent of the  
6 Legislature that, pursuant to s. 717.124, the department  
7 determines the merits of claims for property paid or delivered  
8 to the department under this chapter. Consistent with this  
9 legislative intent, any estate or beneficiary, as defined in  
10 s. 731.201,~~heir~~ of an estate seeking to obtain property paid  
11 or delivered to the department under this chapter must file a  
12 claim with the department as provided in s. 717.124.

13           Section 18. Section 717.1244, Florida Statutes, is  
14 created to read:

15           717.1244 Determinations of unclaimed property  
16 claims.--In rendering a determination regarding the merits of  
17 an unclaimed property claim, the department shall rely on the  
18 applicable statutory, regulatory, common, and case law. Agency  
19 statements applying the statutory, regulatory, common, and  
20 case law to unclaimed property claims are not agency  
21 statements subject to s. 120.56(4).

22           Section 19. Section 717.126, Florida Statutes, is  
23 amended to read:

24           717.126 Administrative hearing; burden of proof; proof  
25 of entitlement; venue.--

26           (1) Any person aggrieved by a decision of the  
27 department may petition for a hearing as provided in ss.  
28 120.569 and 120.57. In any proceeding for determination of a  
29 claim to property paid or delivered to the department under  
30 this chapter, the burden shall be upon the claimant to  
31 establish entitlement to the property by a preponderance of

1 evidence. Having the same name as that reported to the  
2 department is not sufficient to prove entitlement to unclaimed  
3 property.

4 (2) Unless otherwise agreed by the parties, venue  
5 shall be in Tallahassee, Leon County, Florida. However, upon  
6 the request of a party, the presiding officer may, in the  
7 presiding officer's discretion, conduct the hearing at an  
8 alternative remote video location.

9 Section 20. Section 717.1261, Florida Statutes, is  
10 created to read:

11 717.1261 Death certificates.--Any person who claims  
12 entitlement to unclaimed property by means of the death of one  
13 or more persons shall file a copy of the death certificate of  
14 the decedent or decedents that has been certified as being  
15 authentic by the issuing governmental agency.

16 Section 21. Section 717.1262, Florida Statutes, is  
17 created to read:

18 717.1262 Court documents.--Any person who claims  
19 entitlement to unclaimed property by reason of a court  
20 document shall file a certified copy of the court document  
21 with the department.

22 Section 22. Subsections (1) and (6) of section  
23 717.1301, Florida Statutes, are amended to read:

24 717.1301 Investigations; examinations; subpoenas.--

25 (1) The department may make investigations and  
26 examinations within or outside this state of claims, reports,  
27 and other records ~~within or outside this state~~ as it deems  
28 necessary to administer and enforce the provisions of this  
29 chapter. In such investigations and examinations the  
30 department may administer oaths, examine witnesses, issue  
31 subpoenas, and otherwise gather evidence. The department may

1 request any person who has not filed a report under s. 717.117  
2 to file a verified report stating whether or not the person is  
3 holding any unclaimed property reportable or deliverable under  
4 this chapter.

5 (6) If an investigation or an examination of the  
6 records of any person results in the disclosure of property  
7 reportable and deliverable under this chapter, the department  
8 may assess the cost of investigation or the examination  
9 against the holder at the rate of \$100 per 8-hour day for each  
10 per investigator or examiner. Such fee shall be calculated on  
11 an hourly basis and shall be rounded to the nearest hour. The  
12 person shall also pay the travel expense and per diem  
13 subsistence allowance provided for state employees in s.  
14 112.061. The person shall not be required to pay a per diem  
15 fee and expenses of an examination or investigation which  
16 shall consume more than 30 worker-days in any one year unless  
17 such examination or investigation is due to fraudulent  
18 practices of the person, in which case such person shall be  
19 required to pay the entire cost regardless of time consumed.  
20 The fee shall be remitted to the department within 30 days  
21 after the date of the notification that the fee is due and  
22 owing. Any person who fails to pay the fee within 30 days  
23 after the date of the notification that the fee is due and  
24 owing shall pay to the department interest at the rate of 12  
25 percent per annum on such fee from the date of the  
26 notification.

27 Section 23. Subsection (3) of section 717.1311,  
28 Florida Statutes, is amended to read:

29 717.1311 Retention of records.--

30 ~~(3) If a holder fails to maintain the records required~~  
31 ~~by this section and the records of the holder which are~~

1 ~~available for the periods subject to this chapter are~~  
2 ~~insufficient to permit the preparation of a report, the holder~~  
3 ~~shall be required to report and pay such amounts as may~~  
4 ~~reasonably be estimated from any available records.~~

5 Section 24. Subsection (2) of section 717.1315,  
6 Florida Statutes, is amended to read:

7 717.1315 Retention of records by owner's  
8 representative.--

9 (2) An owner's representative, operating at two or  
10 more places of business in this state, may maintain the books,  
11 accounts, and records of all such offices at any one of such  
12 offices, or at any other office maintained by such owner's  
13 representative, upon the filing of a written notice with the  
14 department designating in the written notice the office at  
15 which such records are maintained.

16 (3) ~~An However, the~~ owner's representative shall make  
17 all books, accounts, and records available at a convenient  
18 location in this state upon request of the department.

19 Section 25. Subsection (2) of section 717.132, Florida  
20 Statutes, is amended to read:

21 717.132 Enforcement; cease and desist orders;  
22 administrative fines.--

23 (2) In addition to any other powers conferred upon it  
24 to enforce and administer the provisions of this chapter, the  
25 department may issue and serve upon a person an order to cease  
26 and desist and to take corrective action whenever the  
27 department finds that such person is violating, has violated,  
28 or is about to violate any provision of this chapter, any rule  
29 or order promulgated under this chapter, or any written  
30 agreement entered into with the department. For purposes of  
31 this subsection, the term "corrective action" includes

1 refunding excessive charges, requiring a person to return  
2 unclaimed property, requiring a holder to remit unclaimed  
3 property, and requiring a holder to correct a report that  
4 contains errors or omissions.Any such order shall contain a  
5 notice of rights provided by ss. 120.569 and 120.57.

6 Section 26. Section 717.1322, Florida Statutes, is  
7 created to read:

8 717.1322 Grounds for disciplinary action.--

9 (1) The following acts are violations of this chapter  
10 and constitute grounds for the disciplinary actions specified  
11 in subsection (2):

12 (a) Failure to comply with any provision of this  
13 chapter, any rule or order adopted pursuant to this chapter,  
14 or any written agreement entered into with the department.

15 (b) Fraud, misrepresentation, deceit, or gross  
16 negligence in any matter within the jurisdiction of the  
17 department.

18 (c) Fraudulent misrepresentation, circumvention, or  
19 concealment of any matter required to be stated or furnished  
20 to an owner or apparent owner pursuant to this chapter,  
21 regardless of reliance by or damage to the owner or apparent  
22 owner.

23 (d) Imposition of illegal or excessive charges in any  
24 unclaimed property transaction.

25 (e) False, deceptive, or misleading solicitation or  
26 advertising.

27 (f) Failure to maintain, preserve, and keep available  
28 for examination, all books, accounts, or other documents  
29 required by this chapter, by any rule or order adopted  
30 pursuant to this chapter, or by any agreement entered into  
31 with the department.

1           (g) Refusal to permit inspection of books and records  
2 in an investigation or examination by the department or  
3 refusal to comply with a subpoena issued by the department.

4           (h) Criminal conduct in the course of a person's  
5 business.

6           (i) Failure to timely pay any fee, charge, or fine  
7 imposed or assessed pursuant to this chapter or any rule  
8 adopted under this chapter.

9           (j) For compensation or gain or in the expectation of  
10 compensation or gain, filing a claim for unclaimed property  
11 owned by another unless such person is a registered attorney  
12 licensed to practice law in this state, registered  
13 Florida-certified public accountant, or a registered private  
14 investigator licensed under chapter 493. This subsection shall  
15 not apply to a person who has been granted a durable power of  
16 attorney to convey and receive all of the real and personal  
17 property of the owner, is the court-appointed guardian of the  
18 owner, has been employed as an attorney or qualified  
19 representative to contest the department's denial of a claim,  
20 or has been employed as an attorney to probate the estate of  
21 the owner or an heir or legatee of the owner.

22           (k) Commission of fraud, misrepresentation,  
23 concealment, dishonest dealing by trick, scheme, or device,  
24 culpable negligence, or breach of trust in any business  
25 transaction in any state, nation, or territory; or aiding,  
26 assisting, or conspiring with any other person engaged in any  
27 such misconduct and in furtherance thereof.

28           (l) Failing to maintain the required net worth or  
29 surety bond.

30           (m) Failing to authorize the release of records in the  
31 possession of a third party after being requested to do so by

1 the department regarding a pending examination or  
2 investigation.

3 (n) Receiving or soliciting consideration to be paid  
4 in advance of the approval of a claim under this chapter.

5 (2) Upon a finding by the department that any person  
6 has committed any of the acts set forth in subsection (1), the  
7 department may enter an order:

8 (a) Denying a registration pursuant to this chapter  
9 based on an act that occurred before, on or after the  
10 effective date of this section;

11 (b) Revoking or suspending a registration previously  
12 granted pursuant to this chapter;

13 (c) Placing a registrant or an applicant for a  
14 registration on probation for a period of time and subject to  
15 such conditions as the department may specify;

16 (d) Placing permanent restrictions or conditions upon  
17 issuance or maintenance of a registration pursuant to this  
18 chapter;

19 (e) Issuing a reprimand;

20 (f) Imposing an administrative fine not to exceed  
21 \$2,000 for each such act; or

22 (g) Prohibiting any person from being an agent,  
23 employee, or ultimate equitable owner of a registrant.

24 (3) In addition to the acts specified in subsection  
25 (1), the following shall be grounds for revocation,  
26 suspension, or restriction of a registration previously  
27 granted:

28 (a) A material misstatement of fact in an application  
29 for a registration;

30 (b) Having a license, registration, or the equivalent,  
31 to practice any profession or occupation denied, suspended,



1 revoked, or otherwise acted against by a licensing authority  
2 in any jurisdiction for fraud, dishonest dealing, or any act  
3 of moral turpitude;

4 (c) Pleading nolo contendere to, or having been  
5 convicted or found guilty of, a crime involving fraud,  
6 dishonest dealing, or any act of moral turpitude, regardless  
7 of whether adjudication is withheld; or

8 (d) Being insolvent or having a demonstrated lack of  
9 honesty or financial responsibility.

10 (4) A person is subject to the disciplinary actions  
11 specified in subsection (2) for violations of subsection (1)  
12 by an agent or employee of such person.

13 (5) A person who has designated an agent or employee  
14 to act on his or her behalf is subject to the disciplinary  
15 actions specified in subsection (2) for violations of  
16 subsection (1) by a designated agent or designated employee.

17 Section 27. Subsection (5) of section 717.133, Florida  
18 Statutes, is amended to read:

19 717.133 Interstate agreements and cooperation; joint  
20 and reciprocal actions with other states.--

21 ~~(5) As necessary for proper administration of this~~  
22 ~~chapter, the department may enter into contracts for the~~  
23 ~~location or collection of property subject to payment or~~  
24 ~~delivery to the department under this chapter.~~

25 Section 28. Section 717.1331, Florida Statutes, is  
26 created to read:

27 717.1331 Actions against holders.--The department may  
28 initiate, or cause to be initiated, an action against a holder  
29 to recover unclaimed property. If the department prevails in a  
30 civil or administrative action to recover unclaimed property  
31 initiated by or on behalf of the department, the holder shall

1 be ordered to pay the department reasonable costs and  
2 attorney's fees.

3 Section 29. Section 717.1332, Florida Statutes, is  
4 created to read:

5 717.1332 Services for auditing or examining holders of  
6 unclaimed property.--The department may enter into contracts  
7 to audit or examine holders of unclaimed property. Contingency  
8 fee contracts under this section are not subject to the  
9 competitive solicitation requirements of s. 287.057 provided  
10 the department enters into contingency fee contracts for the  
11 same fee with two or more providers.

12 Section 30. Section 717.1333, Florida Statutes, is  
13 created to read:

14 717.1333 Evidence; audit reports; examiner's  
15 worksheets, investigative reports, other related documents,  
16 and estimations.--

17 (1) In any proceeding under s. 120.569 or s. 120.57 in  
18 which an auditor, examiner, or investigator acting under  
19 authority of this chapter is available for cross-examination,  
20 any official written report, worksheet, or other related  
21 paper, or copy thereof, compiled, prepared, drafted, or  
22 otherwise made or received by the auditor, examiner, or  
23 investigator, after being duly authenticated by the auditor,  
24 examiner, or investigator, may be admitted as competent  
25 evidence upon the oath of the auditor, examiner, or  
26 investigator that the report, worksheet, or related paper was  
27 prepared or received as a result of an audit, examination, or  
28 investigation of the books and records of the person audited,  
29 examined, or investigated, or the agent thereof.

30 (2) If the records of the holder that are available  
31 for the periods subject to this chapter are insufficient to

1 permit the preparation of a report of the unclaimed property  
2 due and owing by a holder, the amount due may be reasonably  
3 estimated.

4 Section 31. Subsections (5) is added to section  
5 717.134, Florida Statutes, to read:

6 717.134 Penalties and interest.--

7 (5) The department may impose and collect a penalty of  
8 \$500 per day up to a maximum of \$5,000 and 25 percent of the  
9 value of property willfully not reported with all of the  
10 information required by this chapter. Upon a holder's showing  
11 of good cause, the department may waive the penalty or any  
12 portion thereof. If the holder acted in good faith and without  
13 negligence, the department shall waive the penalty provided  
14 herein.

15 Section 32. Section 717.1341, Florida Statutes, is  
16 created to read:

17 717.1341 Invalid claims, recovery of property,  
18 interest and penalties.--

19 (1)(a) No person shall receive unclaimed property that  
20 the person is not entitled to receive. Any person who  
21 receives, or assists another person to receive, unclaimed  
22 property that the person is not entitled to receive is  
23 strictly, jointly, personally, and severally liable for the  
24 unclaimed property and shall immediately return the property,  
25 or the reasonable value of the property if the property has  
26 been damaged or disposed of, to the department plus interest  
27 at a rate of 12 percent per annum of the value of the  
28 property. Assisting another person to receive unclaimed  
29 property includes executing a claim form on the person's  
30 behalf.

31

1           (b)1. In the case of stocks or bonds which have been  
2 sold, the proceeds from the sale shall be returned to the  
3 department plus any dividends or interest received thereon  
4 plus an amount equal to the brokerage fee plus interest at a  
5 rate of 12 percent per annum on the proceeds from the sale of  
6 the stocks or bonds, the dividends or interest received, and  
7 the brokerage fee.

8           2. In the case of stocks or bonds which have not been  
9 sold, the stocks or bonds and any dividends or interest  
10 received thereon shall be returned to the department, together  
11 with interest on the dividends or interest received, at a rate  
12 of 12 percent per annum of the value of the property.

13           (2) The department may maintain a civil or  
14 administrative action:

15           (a) To recover unclaimed property that was paid or  
16 remitted to a person who was not entitled to the unclaimed  
17 property;

18           (b) Against a person who assists another person in  
19 receiving, or attempting to receive, unclaimed property that  
20 the person is not entitled to receive; or

21           (c) Against a person who attempts to receive unclaimed  
22 property that the person is not entitled to receive.

23           (3) If the department prevails in any proceeding under  
24 subsection (2), a fine not to exceed three times the value of  
25 the property received or sought to be received may be imposed  
26 on any person who knowingly, or with reckless disregard or  
27 deliberate ignorance of the truth, violated this section. If  
28 the department prevails in a civil or administrative  
29 proceeding under subsection (2), the person who violated  
30 subsection (1) shall be ordered to pay the department  
31 reasonable costs and attorney's fees.

1           (4) No person shall knowingly file, knowingly conspire  
2 to file, or knowingly assist in filing, a claim for unclaimed  
3 property the person is not entitled to receive. Any person who  
4 violates this subsection regarding unclaimed property of an  
5 aggregate value:

6           (a) Greater than \$50,000, is guilty of a felony of the  
7 first degree, punishable as provided in s. 775.082, s.  
8 775.083, or s. 775.084;

9           (b) Greater than \$10,000 up to \$50,000, is guilty of a  
10 felony of the second degree, punishable as provided in s.  
11 775.082, s. 775.083, or s. 775.084;

12           (c) Greater than \$250 up to \$10,000, is guilty of a  
13 felony of the third degree, punishable as provided in s.  
14 775.082, s. 775.083, or s. 775.084;

15           (d) Greater than \$50 up to \$250, is guilty of a  
16 misdemeanor of the first degree, punishable as provided in s.  
17 775.082 or s. 775.083; or

18           (e) Up to \$50, is guilty of a misdemeanor of the  
19 second degree, punishable as provided in s. 775.082 or s.  
20 775.083.

21           Section 33. Section 717.135, Florida Statutes, is  
22 amended to read:

23           717.135 Agreement to recover ~~locate~~ reported property  
24 in the custody of the department.--

25           (1) All agreements between a claimant's ~~an owner's~~  
26 representative and a claimant ~~an owner~~ for compensation to  
27 recover or assist in the recovery of property reported to the  
28 department under s. 717.117 shall be in 11-point type or  
29 greater and either:

30           (a) Limit the fees and costs for services ~~for each~~  
31 ~~owner contract to \$25 for all contracts relating to unclaimed~~

1 ~~property with a dollar value below \$250. For all contracts~~  
2 ~~relating to unclaimed property with a dollar value of \$250 and~~  
3 ~~above, fees shall be limited to 20 ~~15~~ percent per unclaimed ~~on~~  
4 ~~property~~ account held by the department ~~for 24 months or less~~  
5 ~~and 25 percent on property held by the department for more~~  
6 ~~than 24 months. Fees and costs for cash accounts shall be~~  
7 based on the value of the property at the time the agreement  
8 for recovery is signed by the claimant ~~apparent owner~~. Fees  
9 and costs for accounts containing securities or other  
10 intangible ownership interests, which securities or interests  
11 are not converted to cash, shall be based on the purchase  
12 price of the security as quoted on a national exchange or  
13 other market on which the property ownership interest is  
14 regularly traded at the time the securities or other ownership  
15 interest is remitted to the claimant ~~owner~~ or the claimant's  
16 ~~owner's~~ representative. Fees and costs for tangible property  
17 or safe-deposit box accounts shall be based on the value of  
18 the tangible property or contents of the safe-deposit box at  
19 the time the ownership interest is transferred or remitted to  
20 the claimant ~~owner or the owner's representative~~; or~~

21 (b) Disclose, on such form as the department shall  
22 prescribe by rule, that the property is held by the Bureau of  
23 Unclaimed Property of the Department of Financial Services  
24 pursuant to this chapter, the person or name of the entity  
25 that held the property prior to the property becoming  
26 unclaimed, the date of the holder's last contact with the  
27 owner, if known, and the approximate value of the property,  
28 and identify which of the following categories of unclaimed  
29 property the owner's representative is seeking to recover, as  
30 reported by the holder:

31 1. Cash accounts.

- 1           2. Stale dated checks.
- 2           3. Life insurance or annuity contract assets.
- 3           4. Utility deposits.
- 4           5. Securities or other interests in business
- 5 associations.
- 6           6. Wages.
- 7           7. Accounts receivable.
- 8           8. Contents of safe-deposit boxes.

9  
10 Such disclosure shall be on a page signed and dated by the  
11 person asserting entitlement to the unclaimed property  
12 ~~However, this section shall not apply to contracts made in~~  
13 ~~connection with guardianship proceedings or the probate of an~~  
14 ~~estate.~~

15           (2)(a) Agreements for recovery of cash accounts shall  
16 state the value of the unclaimed property, the unclaimed  
17 property account number, and the percentage dollar value of  
18 the unclaimed property account to be paid to the claimant  
19 ~~owner~~ and shall also state the percentage dollar value of  
20 compensation to be paid to the claimant's owner's  
21 representative.

22           (b) Agreements for recovery of accounts containing  
23 securities, safe-deposit box accounts, other intangible or  
24 tangible ownership interests, or other types of accounts,  
25 except cash accounts, shall state the unclaimed property  
26 account number, the number of shares of stock, if applicable,  
27 the approximate value of the unclaimed property, and the  
28 percentage value of compensation to be paid to the claimant's  
29 ~~owner's~~ representative.

30           (c) All disclosures and agreements shall include the  
31 name, address, and professional license number of the





1 THIS AGREEMENT is between:  
2 \_\_\_\_\_  
3 (hereinafter, CLAIMANT)  
4 and \_\_\_\_\_  
5 (hereinafter, CLAIMANT'S REPRESENTATIVE)  
6 who agree to the following:  
7 (1) As consideration for the research efforts in  
8 locating and identifying assets due to the CLAIMANT and for  
9 assistance in procuring payment of the assets to the CLAIMANT,  
10 the CLAIMANT authorizes the government to pay to the  
11 CLAIMANT'S REPRESENTATIVE a fee of \_\_\_\_\_ percent of all  
12 assets recovered. NO FEES ARE TO BE PAID IN ADVANCE.  
13 (2) I have read this agreement and in consideration  
14 thereof, do hereby grant the CLAIMANT'S REPRESENTATIVE a  
15 limited power of attorney to demand, collect, recover and  
16 receive the above compensation from the government in  
17 accordance with this agreement.  
18 (3) IT IS HEREBY ACKNOWLEDGED BY ALL PARTIES TO THIS  
19 AGREEMENT THAT UNLESS THESE ASSETS ARE RECOVERED, NO FEES, NO  
20 COSTS OR CHARGES ARE DUE TO THE CLAIMANT'S REPRESENTATIVE, ITS  
21 AGENTS OR ATTORNEYS, AND THIS AGREEMENT WILL BECOME NULL AND  
22 VOID.  
23 Original Signature of CLAIMANT: \_\_\_\_\_  
24 DATE: \_\_\_\_\_  
25 CLAIMANT'S Social Security Number or FEID number: \_\_\_\_\_  
26 Make the CLAIMANT'S check payable to: \_\_\_\_\_  
27 Mail check to this address: \_\_\_\_\_  
28 \_\_\_\_\_  
29 The CLAIMANT'S telephone number is: \_\_\_\_\_  
30 Original Signature of CLAIMANT'S REPRESENTATIVE: \_\_\_\_\_  
31 FEID Number of CLAIMANT'S REPRESENTATIVE: \_\_\_\_\_

1 DATE:\_\_\_\_\_  
2 Address of CLAIMANT'S REPRESENTATIVE:\_\_\_\_\_  
3 \_\_\_\_\_  
4 Telephone number of CLAIMANT'S REPRESENTATIVE:\_\_\_\_\_  
5 Professional license number of CLAIMANT'S REPRESENTATIVE:  
6 \_\_\_\_\_

7 (3) As used in this section, "claimant" means the  
8 person on whose behalf a claim is filed.

9 (4) This section does not supersede the licensing  
10 requirements of chapter 493.

11 Section 34. Section 717.1351, Florida Statutes, is  
12 created to read:

13 717.1351 Acquisition of unclaimed property.--

14 (1) A person desiring to acquire ownership or  
15 entitlement of property reported to the department under s.  
16 717.117 must be an attorney licensed to practice law in this  
17 state, a licensed Florida-certified public accountant, a  
18 private investigator licensed under chapter 493, or an  
19 employer of a licensed private investigator which employer  
20 possesses a Class "A" license under chapter 493 and must be  
21 registered with the department under this chapter.

22 (2) All contracts to acquire ownership or entitlement  
23 of unclaimed property from the person or persons entitled to  
24 the unclaimed property must be in 10-point type or greater and  
25 must:

26 (a) Have a purchase price that discounts the value of  
27 the unclaimed property at the time the agreement is executed  
28 by the seller at no greater than 20 percent per account held  
29 by the department; or

30 (b) Disclose, on such form as the department shall  
31 prescribe by rule, that the property is held by the Bureau of

1 Unclaimed Property of the Department of Financial Services  
2 pursuant to this chapter, the person or name of the entity  
3 that held the property prior to the property becoming  
4 unclaimed, the date of the holder's last contact with the  
5 owner, if known, and the approximate value of the property,  
6 and identify which of the following categories of unclaimed  
7 property buyer is seeking to purchase as reported by the  
8 holder:  
9       1. Cash accounts.  
10       2. Stale dated checks.  
11       3. Life insurance or annuity contract assets.  
12       4. Utility deposits.  
13       5. Securities or other interests in business  
14 associations.  
15       6. Wages.  
16       7. Accounts receivable.  
17       8. Contents of safe-deposit boxes.  
18       Such disclosure shall be on a page signed and dated by  
19 the seller of the unclaimed property.  
20       (3) The originals of all such disclosures and  
21 agreements to transfer ownership or entitlement to unclaimed  
22 property shall be signed and dated by the seller and shall be  
23 filed with the claim form.  
24       (4) Any contract to acquire ownership or entitlement  
25 of unclaimed property from the person or persons entitled to  
26 the unclaimed property must provide for the purchase price to  
27 be remitted to the seller or sellers within 10 days after the  
28 execution of the contract by the seller or sellers. The  
29 contract must specify the unclaimed property account number,  
30 the value of the unclaimed property account, and the number of  
31

1 shares of stock, if applicable. Proof of payment by canceled  
2 check must be filed with the department with the claim.  
3 (5) All agreements to purchase unclaimed property from  
4 an owner, who is a natural person, a trust, or a dissolved  
5 corporation must use the following form on 8 and 1/2 inch by  
6 11 inch paper with all of the text on one side of the paper  
7 and with the other side of the paper left blank. The agreement  
8 must be accurately completed and executed. No other writing or  
9 information shall be printed on the agreement. The title of  
10 the agreement shall be in bold 14-point type and underlined.  
11 The rest of the agreement shall be in 10-point type or  
12 greater. All unclaimed property accounts to be purchased must  
13 be identified on the agreement. The agreement must state:  
14 PURCHASE AGREEMENT  
15 \$\_\_\_\_\_ = APPROXIMATE DOLLAR VALUE OF THE UNCLAIMED  
16 PROPERTY  
17 PROPERTY ACCOUNT NUMBER(S):\_\_\_\_\_  
18 NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF  
19 APPLICABLE):\_\_\_\_\_  
20 \_\_\_\_\_ PERCENT OF UNCLAIMED PROPERTY TO BE PAID TO THE  
21 BUYER  
22 \$\_\_\_\_\_ = NET AMOUNT TO BE PAID TO OWNER  
23 \$\_\_\_\_\_ = AMOUNT TO BE PAID TO BUYER  
24 THIS AGREEMENT is between:  
25 \_\_\_\_\_  
26 (hereinafter, OWNER)  
27 and \_\_\_\_\_  
28 (hereinafter, BUYER)  
29 who agree that the OWNER transfers to the BUYER for a purchase  
30 price of \$\_\_\_\_\_ all rights to the above identified unclaimed  
31 property accounts.

1 Original Signature of OWNER:\_\_\_\_\_ DATE:\_\_\_\_\_  
2 OWNER'S Social Security Number or FEID number:\_\_\_\_\_  
3 Within 10 days after the execution of this Purchase Agreement  
4 by the Owner, Buyer shall remit the OWNER'S check payable to:  
5 \_\_\_\_\_  
6 Mail check to this address:\_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 The OWNER'S telephone number is:\_\_\_\_\_  
10 Original Signature of BUYER:\_\_\_\_\_  
11 FEID Number of BUYER:\_\_\_\_\_ DATE:\_\_\_\_\_  
12 Address of BUYER:\_\_\_\_\_  
13 \_\_\_\_\_  
14 Telephone number of BUYER: \_\_\_\_\_  
15 Professional license number of BUYER:\_\_\_\_\_  
16 (6) This section does not supersede the licensing  
17 requirements of chapter 493.  
18 Section 35. Section 717.1400, Florida Statutes, is  
19 created to read:  
20 717.1400 Registration.--  
21 (1) A private investigator holding a Class " C"  
22 individual license under chapter 493 must register with the  
23 department on such form as the department shall prescribe by  
24 rule, and verified by the applicant. To register with the  
25 department, a private investigator must provide:  
26 (a) A legible copy of the applicant's Class "A"  
27 business license under chapter 493 or that of the applicant's  
28 employer which holds a Class "A" business license under  
29 chapter 493.  
30 (b) A legible copy of the applicant's Class "C"  
31 individual license issued under chapter 493.

1           (c) The applicant's business address and telephone  
2 number.

3           (d) The names of agents or employees, if any, who are  
4 designated to act on behalf of the private investigator  
5 together with a legible copy of their photo-identification  
6 issued by an agency of the United States, or a state, or a  
7 political subdivision thereof.

8           (e) Sufficient information to enable the department to  
9 disburse funds by electronic funds transfer.

10           (f) The private investigator's applicable tax  
11 identification number if the applicant desires to have the  
12 applicant's fees sent directly to the private investigator, or  
13 the private investigator's employer which holds a Class "A"  
14 business license under chapter 493.

15           (g) One of the following:

16           1. Audited financial statements, which documents  
17 disclose that the applicant or the employer of the applicant,  
18 which employer holds a Class "A" business license under  
19 chapter 493, has a bona fide and verifiable net worth,  
20 pursuant to generally accepted accounting principles, of at  
21 least \$100,000, which must be continuously maintained as a  
22 condition of registration. Assets considered as part of the  
23 net worth must be owned solely by the applicant or the  
24 applicant's employer which holds a Class "A" business license  
25 under chapter 493 and must not be title 11 U.S.C. s. 522  
26 exempt property; or

27           2. A surety bond purchased by the employer which holds  
28 a Class "A" business license under chapter 493, on such form  
29 as the department shall prescribe by rule, in the amount of  
30 \$100,000, payable to the state and conditioned upon compliance  
31 with chapter 717, which inures to the department and which

1 must be continuously maintained thereafter in full force as a  
2 condition of registration.

3  
4 The audited financial statement or bond must be provided to  
5 the department on an annual basis at a time to be determined  
6 by the department by rule. Any registration made under this  
7 section is void if the person fails to maintain the required  
8 net worth of \$100,000 or the surety bond in the amount of  
9 \$100,000.

10 (2) A Florida-certified public accountant must  
11 register with the department on such form as the department  
12 shall prescribe by rule, and must be verified by the  
13 applicant. To register with the department a Florida-certified  
14 public accountant must provide:

15 (a) The applicant's Florida Board of Accountancy  
16 number.

17 (b) A legible copy of the applicant's current driver's  
18 license showing the full name and current address of such  
19 person. If a current driver's license is not available,  
20 another form of identification showing full name and current  
21 address of such person or persons shall be filed with the  
22 department.

23 (c) The applicant's business address and telephone  
24 number.

25 (d) The names of agents or employees, if any, who are  
26 designated to act on behalf of the Florida-certified public  
27 accountant together with a legible copy of their  
28 photo-identification issued by an agency of the United States,  
29 or a state, or a political subdivision thereof.

30 (e) Sufficient information to enable the department to  
31 disburse funds by electronic funds transfer.

1           (f) The Florida-certified public accountant's  
2 applicable tax identification number if the applicant desires  
3 to have the applicant's fees sent directly to such accountant,  
4 or such accountant's public accounting firm employer.

5           (g) One of the following:

6           1. Audited financial statements, which documents  
7 disclose that the applicant or the public accounting firm  
8 employer of the applicant has a bona fide and verifiable net  
9 worth, pursuant to generally accepted accounting principles,  
10 of at least \$100,000, which must be continuously maintained as  
11 a condition of registration. Assets considered as part of the  
12 net worth must be owned solely by the applicant or the  
13 applicant's public accounting firm employer and must not be  
14 title 11 U.S.C. s. 522 exempt property; or

15           2. A surety bond purchased by the applicant's public  
16 accounting firm employer, on such form as the department shall  
17 prescribe by rule, in the amount of \$100,000, payable to the  
18 state and conditioned upon compliance with chapter 717, which  
19 inures to the department and which must be continuously  
20 maintained thereafter in full force as a condition of  
21 registration.

22  
23 The audited financial statement or bond must be provided to  
24 the department on an annual basis at a time to be determined  
25 by the department by rule. Any registration made under this  
26 section is void if the person fails to maintain the required  
27 net worth of \$100,000 or the surety bond in the amount of  
28 \$100,000.

29           (3) An attorney licensed to practice in this state  
30 must register with the department on such form as the  
31 department shall prescribe by rule, and must be verified by



1 the applicant. To register with the department, such attorney  
2 must provide:

3 (a) The applicant's Florida Bar number.

4 (b) A legible copy of the applicant's current driver's  
5 license showing the full name and current address of such  
6 person. If a current driver's license is not available,  
7 another form of identification showing full name and current  
8 address of such person or persons shall be filed with the  
9 department.

10 (c) The applicant's business address and telephone  
11 number.

12 (d) The names of agents or employees, if any, who are  
13 designated to act on behalf of the attorney, together with a  
14 legible copy of their photo-identification issued by an agency  
15 of the United States, or a state, or a political subdivision  
16 thereof.

17 (e) Sufficient information to enable the department to  
18 disburse funds by electronic funds transfer.

19 (f) The attorney's applicable tax identification  
20 number if the applicant desires to have the applicant's fees  
21 sent directly to such lawyer, or to such lawyer's law firm  
22 employer.

23 (g) One of the following:

24 1. Audited financial statements, which documents  
25 disclose that the applicant or the law firm employer of the  
26 applicant has a bona fide and verifiable net worth, pursuant  
27 to generally accepted accounting principles, of at least  
28 \$100,000, which must be continuously maintained as a condition  
29 of registration. Assets considered as part of the net worth  
30 must be owned solely by the applicant or the applicant's law  
31

1 firm employer and must not be title 11 U.S.C. s. 522 exempt  
2 property; or

3 2. A surety bond purchased by the applicant's law firm  
4 employer, on such form as the department shall prescribe by  
5 rule, in the amount of \$100,000, payable to the state and  
6 conditioned upon compliance with chapter 717, which inures to  
7 the department and which must be continuously maintained  
8 thereafter in full force as a condition of registration.

9  
10 The audited financial statement or bond must be provided to  
11 the department on an annual basis at a time to be determined  
12 by the department by rule. Any registration made under this  
13 section is void if the person fails to maintain the required  
14 net worth of \$100,000 or the surety bond in the amount of  
15 \$100,000.

16 (4) Information and documents already on file with the  
17 department prior to the effective date of this provision need  
18 not be resubmitted in order to complete the registration.

19 (5) If a material change in the status of a  
20 registration occurs, a registrant must within 15 days provide  
21 the department with the updated documentation and information  
22 in writing. Material changes include, but are not limited to,  
23 a designated agent or employee ceasing to act on behalf of the  
24 designating person, a surrender, suspension, or revocation of  
25 a license, or a license renewal.

26 (a) If a designated agent or employee ceases to act on  
27 behalf of the person who has designated the agent or employee  
28 to act on such person's behalf, the designating person must  
29 within 15 days inform the Bureau of Unclaimed Property in  
30 writing of the termination of agency or employment.

31

1           (b) If a registrant surrenders the registrant's  
2 license or the license is suspended or revoked, the registrant  
3 must within 15 days inform the bureau in writing of the  
4 surrender, suspension, or revocation.

5           (c) If a private investigator's Class "C" individual  
6 license under chapter 493, or if a private investigator's  
7 employer's Class "A" business license under chapter 493, is  
8 renewed, the private investigator must provide a copy of the  
9 renewed license to the department within 30 days after the  
10 receipt of the renewed license by the private investigator or  
11 the private investigator's employer.

12           (6) It is a ground for denial of registration if the  
13 applicant has committed any violation specified in ss.  
14 717.001-717.1401 or has pending against her or him any  
15 criminal prosecution or administrative enforcement action, in  
16 any jurisdiction, which alleges fraud, dishonest dealing, or  
17 any other act of moral turpitude.

18           (7) Any registration made under this section by any  
19 person based upon the presentation by such person of  
20 inaccurate or false information material to such registration  
21 is void. The registration shall be reinstated once the  
22 department has been provided the correct information in  
23 writing.

24           (8) Any registration made under this section is void  
25 if the person fails to timely report a material change in the  
26 status of a registration to the department. The registration  
27 shall be reinstated after the department has been notified in  
28 writing of the material change.

29           (9) Any registration made under this section is void  
30 if the person has had a license, registration, or the  
31 equivalent, to practice any profession or occupation denied,

1 suspended, revoked, or otherwise acted against by a licensing  
2 authority in any jurisdiction for theft, fraud,  
3 misrepresentation, dishonest dealing, or any act of moral  
4 turpitude, unless the effect of the suspension or revocation  
5 has been stayed.

6 (10) Any registration made under this section is void  
7 if the person has plead nolo contendere to, or has been  
8 convicted or found guilty of, a crime involving theft, fraud,  
9 misrepresentation, dishonest dealing, or any act of moral  
10 turpitude, regardless of whether adjudication is withheld.

11 (11) No registrant or applicant for registration may  
12 have a name that might lead another person to conclude that  
13 the registrant is affiliated or associated with the United  
14 States or any agency thereof, or a state or an agency or  
15 political subdivision of a state. The department shall deny an  
16 application for registration or revoke a registration if the  
17 applicant or registrant has a name that might lead another  
18 person to conclude that the applicant or registrant is  
19 affiliated or associated with the United States or an agency  
20 thereof, or a state or an agency or political subdivision of a  
21 state. Names that might lead another person to conclude that  
22 the applicant or registrant is affiliated or associated with  
23 the United States or an agency thereof, or a state or an  
24 agency or political subdivision of a state, include, but are  
25 not limited to, the use of the words United States, Florida,  
26 state, bureau, division, department, or government.

27 (12)(a) The department shall deny an application of  
28 any person who assisted another person to receive unclaimed  
29 property that the person was not entitled to receive in the  
30 aggregate amount of greater than \$50,000 during a 5-year  
31 period or if the applicant has an agent, employee, or ultimate

1 equitable owner who assisted another person to receive  
2 unclaimed property that the person was not entitled to receive  
3 in the aggregate amount of greater than \$50,000 during a  
4 5-year period. Assisting another person to receive unclaimed  
5 property includes executing a claim form on the person's  
6 behalf.

7 (b) This subsection does not apply if the applicant  
8 has remitted to the department all funds paid by the  
9 department when the applicant, or an agent, employee, or  
10 ultimate equitable owner thereof, assisted another person to  
11 receive unclaimed property that the person was not entitled to  
12 receive.

13 (13) Any person having a registration file with the  
14 department as of the effective date of this act may continue  
15 to file claims prior to either the issuance of a registration  
16 by the department or proposed agency action to deny the  
17 application.

18 Section 36. Subsection (2) of section 212.02, Florida  
19 Statutes, is amended to read:

20 212.02 Definitions.--The following terms and phrases  
21 when used in this chapter have the meanings ascribed to them  
22 in this section, except where the context clearly indicates a  
23 different meaning:

24 (2) "Business" means any activity engaged in by any  
25 person, or caused to be engaged in by him or her, with the  
26 object of private or public gain, benefit, or advantage,  
27 either direct or indirect. Except for the sales of any  
28 aircraft, boat, mobile home, or motor vehicle, the term  
29 "business" shall not be construed in this chapter to include  
30 occasional or isolated sales or transactions involving  
31 tangible personal property or services by a person who does

1 not hold himself or herself out as engaged in business or  
2 sales of unclaimed tangible personal property under s.  
3 717.122, but includes other charges for the sale or rental of  
4 tangible personal property, sales of services taxable under  
5 this chapter, sales of or charges of admission, communication  
6 services, all rentals and leases of living quarters, other  
7 than low-rent housing operated under chapter 421, sleeping or  
8 housekeeping accommodations in hotels, apartment houses,  
9 roominghouses, tourist or trailer camps, and all rentals of or  
10 licenses in real property, other than low-rent housing  
11 operated under chapter 421, all leases or rentals of or  
12 licenses in parking lots or garages for motor vehicles,  
13 docking or storage spaces for boats in boat docks or marinas  
14 as defined in this chapter and made subject to a tax imposed  
15 by this chapter. The term "business" shall not be construed in  
16 this chapter to include the leasing, subleasing, or licensing  
17 of real property by one corporation to another if all of the  
18 stock of both such corporations is owned, directly or through  
19 one or more wholly owned subsidiaries, by a common parent  
20 corporation; the property was in use prior to July 1, 1989,  
21 title to the property was transferred after July 1, 1988, and  
22 before July 1, 1989, between members of an affiliated group,  
23 as defined in s. 1504(a) of the Internal Revenue Code of 1986,  
24 which group included both such corporations and there is no  
25 substantial change in the use of the property following the  
26 transfer of title; the leasing, subleasing, or licensing of  
27 the property was required by an unrelated lender as a  
28 condition of providing financing to one or more members of the  
29 affiliated group; and the corporation to which the property is  
30 leased, subleased, or licensed had sales subject to the tax  
31 imposed by this chapter of not less than \$667 million during

1 the most recent 12-month period ended June 30. Any tax on such  
2 sales, charges, rentals, admissions, or other transactions  
3 made subject to the tax imposed by this chapter shall be  
4 collected by the state, county, municipality, any political  
5 subdivision, agency, bureau, or department, or other state or  
6 local governmental instrumentality in the same manner as other  
7 dealers, unless specifically exempted by this chapter.

8 Section 37. Subsection (4) of section 322.142, Florida  
9 Statutes, is amended to read:

10 322.142 Color photographic or digital imaged  
11 licenses.--

12 (4) The department may maintain a film negative or  
13 print file. The department shall maintain a record of the  
14 digital image and signature of the licensees, together with  
15 other data required by the department for identification and  
16 retrieval. Reproductions from the file or digital record shall  
17 be made and issued only for departmental administrative  
18 purposes, for the issuance of duplicate licenses, in response  
19 to law enforcement agency requests, ~~or~~ to the Department of  
20 Revenue pursuant to an interagency agreement to facilitate  
21 service of process in Title IV-D cases, or to the Department  
22 of Financial Services pursuant to an interagency agreement to  
23 facilitate the location of owners of unclaimed property, the  
24 validation of unclaimed property claims, and the  
25 identification of fraudulent or false claims, and are exempt  
26 from the provisions of s. 119.07(1).

27 Section 38. Paragraph (1) is added to subsection (4)  
28 of section 395.3025, Florida Statutes, and subsection (10) of  
29 that section is amended, to read:

30 395.3025 Patient and personnel records; copies;  
31 examination.--

1           (4) Patient records are confidential and must not be  
2 disclosed without the consent of the person to whom they  
3 pertain, but appropriate disclosure may be made without such  
4 consent to:

5           (1) The Department of Financial Services, or an agent,  
6 employee, or independent contractor of the department who is  
7 auditing for unclaimed property pursuant to chapter 717.

8           (10) The home addresses, telephone numbers, social  
9 security numbers, and photographs of employees of any licensed  
10 facility who provide direct patient care or security services;  
11 the home addresses, telephone numbers, social security  
12 numbers, photographs, and places of employment of the spouses  
13 and children of such persons; and the names and locations of  
14 schools and day care facilities attended by the children of  
15 such persons are confidential and exempt from s. 119.07(1) and  
16 s. 24(a), Art. I of the State Constitution. However, any state  
17 or federal agency that is authorized to have access to such  
18 information by any provision of law shall be granted such  
19 access in the furtherance of its statutory duties,  
20 notwithstanding the provisions of this subsection. The  
21 Department of Financial Services, or an agent, employee, or  
22 independent contractor of the department who is auditing for  
23 unclaimed property pursuant to chapter 717, shall be granted  
24 access to the name, address, and social security number of any  
25 employee owed unclaimed property.This subsection is subject  
26 to the Open Government Sunset Review Act of 1995 in accordance  
27 with s. 119.15, and shall stand repealed on October 2, 2004,  
28 unless reviewed and saved from repeal through reenactment by  
29 the Legislature.

30           Section 39. This act shall take effect October 1,  
31 2004.