

CHAMBER ACTION

1 The Economic Development, Trade & Banking Committee recommends
2 the following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to disposition of unclaimed property;
8 amending s. 717.106, F.S.; specifying communication by
9 documented telephone contact to avoid a presumption of
10 certain property being unclaimed; amending s. 717.117,
11 F.S.; revising requirements for notifying owners of
12 inactive accounts; amending s. 717.118, F.S.; increasing a
13 threshold amount for a requirement for an active attempt
14 to notify owners of unclaimed property; amending s.
15 717.119, F.S.; revising provisions for disposal of
16 proceeds of sales of unclaimed firearms or ammunition;
17 amending s. 717.122, F.S.; providing for sale of unclaimed
18 stock or certain equity interest under certain
19 circumstances; amending s. 717.124, F.S.; revising
20 requirements for making unclaimed property claims;
21 amending s. 717.12404, F.S.; revising requirements for
22 making claims on behalf of a business entity or trust;

HB 1527

2005
CS

23 | creating s. 717.12406, F.S.; providing definitions;
24 | amending s. 717.1241, F.S.; revising requirements and
25 | procedures for resolving conflicting claims; amending s.
26 | 717.1242, F.S.; requiring the ordering of estate or heirs
27 | to pay the Department of Financial Services certain costs
28 | and fees; amending s. 717.1243, F.S.; revising
29 | requirements and procedures for claims by beneficiaries of
30 | deceased owners of unclaimed property; creating s.
31 | 717.1245, F.S.; requiring petitioners for writs of
32 | garnishment to pay the department certain costs and fees
33 | in certain actions; amending s. 717.1311, F.S.; deleting a
34 | provision requiring certain record holders to pay certain
35 | estimated amounts relating to insufficient records;
36 | amending s. 717.1315, F.S.; revising requirements and
37 | procedures for retention of records by an owner's
38 | representative; amending s. 717.132, F.S.; providing for
39 | imposition of fines by a court instead of the department;
40 | amending s. 717.1322, F.S.; providing for civil
41 | enforcement by the department of certain violations;
42 | revising the department's authority to issue certain
43 | registration revocation orders; creating s. 717.1323,
44 | F.S.; providing requirements for requesting or printing
45 | claim forms; specifying prohibited activities; amending s.
46 | 717.1331, F.S.; authorizing the department to enforce
47 | subpoenas; amending s. 717.1333, F.S.; authorizing the
48 | estimation of certain amounts due from insufficient
49 | records; amending s. 717.135, F.S.; revising requirements

HB 1527

2005
CS

50 for powers of attorney to recover property; specifying
 51 forms; specifying certain activities as not prohibited;
 52 prohibiting certain modifications to a power of attorney;
 53 amending s. 717.1351, F.S.; revising requirements for
 54 contracts to acquire ownership of or entitlement to
 55 property; specifying forms; specifying certain activities
 56 as not prohibited; prohibiting certain modifications to an
 57 agreement; creating s. 717.1381, F.S.; specifying certain
 58 powers of attorney and agreements to be void as contrary
 59 to public policy; prohibiting entering into such
 60 agreements; providing application; amending s. 717.1400,
 61 F.S.; revising registration requirements; providing an
 62 effective date.

63
 64 Be It Enacted by the Legislature of the State of Florida:

65
 66 Section 1. Paragraph (b) of subsection (1) of section
 67 717.106, Florida Statutes, is amended to read:

68 717.106 Bank deposits and funds in financial
 69 organizations.--

70 (1) Any demand, savings, or matured time deposit with a
 71 banking or financial organization, including deposits that are
 72 automatically renewable, and any funds paid toward the purchase
 73 of shares, a mutual investment certificate, or any other
 74 interest in a banking or financial organization is presumed
 75 unclaimed unless the owner has, within 5 years:

HB 1527

2005
CS

76 (b) Communicated in writing or by documented telephone
77 contact with the banking or financial organization concerning
78 the property;

79 Section 2. Subsections (3) and (4) of section 717.117,
80 Florida Statutes, are amended to read:

81 717.117 Report of unclaimed property.--

82 (3) The report must be filed before May 1 of each year.
83 The ~~Such~~ report shall apply to the preceding calendar year. The
84 department may impose and collect a penalty of \$10 per day up to
85 a maximum of \$500 for the failure to timely report or the
86 failure to include in a report information required by this
87 chapter. The penalty shall be remitted to the department within
88 30 days after the date of the notification to the holder that
89 the penalty is due and owing. As necessary for proper
90 administration of this chapter, the department may waive any
91 penalty due with appropriate justification. On written request
92 by any person required to file a report and upon a showing of
93 good cause, the department may postpone the reporting date. The
94 department must provide information contained in a report filed
95 with the department to any person requesting a copy of the
96 report or information contained in a report, to the extent the
97 information requested is not confidential, within 45 ~~90~~ days
98 after the report has been processed and added to the unclaimed
99 property database subsequent to a determination that the report
100 is accurate and that the reported property is the same as the
101 remitted property.

HB 1527

2005
CS

102 (4) Holders of inactive accounts having a value of \$50 or
 103 more shall use due diligence to locate apparent owners. Not more
 104 than 120 days and not less than 60 days prior to filing the
 105 report required by this section, the holder in possession of
 106 property presumed unclaimed and subject to custody as unclaimed
 107 property under this chapter shall send written notice to the
 108 apparent owner at the apparent owner's last known address
 109 informing the apparent owner that the holder is in possession of
 110 property subject to this chapter if the holder has in its
 111 records an address for the apparent owner which the holder's
 112 records do not disclose to be inaccurate.

113 ~~(a) When an owner's account becomes inactive, the holder~~
 114 ~~shall conduct at least one search for the apparent owner using~~
 115 ~~due diligence. For purposes of this section, an account is~~
 116 ~~inactive if 2 years have transpired after the last owner-~~
 117 ~~initiated account activity, if 2 years have transpired after the~~
 118 ~~expiration date on the instrument or contract, or if 2 years~~
 119 ~~have transpired since first-class mail has been returned as~~
 120 ~~undeliverable.~~

121 ~~(b) Within 180 days after an account becomes inactive, the~~
 122 ~~holder shall conduct a search to locate the apparent owner of~~
 123 ~~the property. The holder may satisfy such requirement by~~
 124 ~~conducting one annual search for the owners of all accounts~~
 125 ~~which have become inactive during the prior year.~~

126 ~~(c) Within 30 days after receiving updated address~~
 127 ~~information, the holder shall provide notice by telephone or~~
 128 ~~first-class mail to the current address notifying the apparent~~

HB 1527

2005
CS

129 ~~owner that the holder is in possession of property which is~~
 130 ~~presumed unclaimed and may be remitted to the department. The~~
 131 ~~notice shall also provide the apparent owner with the address or~~
 132 ~~the telephone number of an office where the apparent owner may~~
 133 ~~claim the property or reestablish the inactive account.~~

134 ~~(d) The account shall be presumed unclaimed if the holder~~
 135 ~~is not able to contact the apparent owner by telephone, the~~
 136 ~~first-class mail notice is returned to the holder as~~
 137 ~~undeliverable, or the apparent owner does not contact the holder~~
 138 ~~in response to the first-class mail notice.~~

139 Section 3. Subsection (1) of section 717.118, Florida
 140 Statutes, is amended to read:

141 717.118 Notification of apparent owners of unclaimed
 142 property.--

143 (1) It is specifically recognized that the state has an
 144 obligation to make an effort to notify owners of unclaimed
 145 property in a cost-effective manner. In order to provide all the
 146 citizens of this state an effective and efficient program for
 147 the recovery of unclaimed property, the department shall use
 148 cost-effective means to make at least one active attempt to
 149 notify owners of unclaimed property accounts valued at more than
 150 \$250 ~~\$100~~ with a reported address or taxpayer identification
 151 number. Such active attempt to notify apparent owners shall
 152 include any attempt by the department to directly contact the
 153 owner. Other means of notification, such as publication of the
 154 names of owners in the newspaper, on television, on the
 155 Internet, or through other promotional efforts and items in

HB 1527

2005
CS

156 | which the department does not directly attempt to contact the
 157 | owner are expressly declared to be passive attempts. Nothing in
 158 | this subsection precludes other agencies or entities of state
 159 | government from notifying owners of the existence of unclaimed
 160 | property or attempting to notify apparent owners of unclaimed
 161 | property.

162 | Section 4. Paragraph (b) of subsection (5) of section
 163 | 717.119, Florida Statutes, is amended to read:

164 | 717.119 Payment or delivery of unclaimed property.--

165 | (5) All intangible and tangible property held in a safe-
 166 | deposit box or any other safekeeping repository reported under
 167 | s. 717.117 shall not be delivered to the department until 120
 168 | days after the report due date. The delivery of the property,
 169 | through the United States mail or any other carrier, shall be
 170 | insured by the holder at an amount equal to the estimated value
 171 | of the property. Each package shall be clearly marked on the
 172 | outside "Deliver Unopened." A holder's safe-deposit box contents
 173 | shall be delivered to the department in a single shipment. In
 174 | lieu of a single shipment, holders may provide the department
 175 | with a single detailed shipping schedule that includes package
 176 | tracking information for all packages being sent pursuant to
 177 | this section.

178 | (b) Any firearm or ammunition found in an unclaimed safe-
 179 | deposit box or any other safekeeping repository shall be
 180 | delivered by the holder to a law enforcement agency for disposal
 181 | pursuant to s. 705.103(2)(b) with the balance of the proceeds
 182 | deposited into the State School Fund if the firearm is sold.

HB 1527

2005
CS

183 | However, the department is authorized to make a reasonable
 184 | attempt to ascertain the historical value to collectors of any
 185 | firearm that has been delivered to the department. Any firearm
 186 | appearing to have historical value to collectors may be sold by
 187 | the department pursuant to s. 717.122 to a person having a
 188 | federal firearms license. Any firearm which is not sold pursuant
 189 | to s. 717.122 shall be delivered by the department to a law
 190 | enforcement agency in this state for disposal pursuant to s.
 191 | 705.103(2)(b) with the balance of the proceeds deposited into
 192 | the State School Fund if the firearm is sold. The department
 193 | shall not be administratively, civilly, or criminally liable for
 194 | any firearm delivered by the department to a law enforcement
 195 | agency in this state for disposal.

196 | Section 5. Section 717.122, Florida Statutes, is amended
 197 | to read:

198 | 717.122 Public sale of unclaimed property.--

199 | (1) Except as provided in paragraph ~~subsection~~ (2)(a), the
 200 | department after the receipt of unclaimed property shall sell it
 201 | to the highest bidder at public sale on the Internet or at a
 202 | specified physical location wherever in the judgment of the
 203 | department the most favorable market for the property involved
 204 | exists. The department may decline the highest bid and reoffer
 205 | the property for sale if in the judgment of the department the
 206 | bid is insufficient. The department shall have the discretion to
 207 | withhold from sale any unclaimed property that the department
 208 | deems to be of benefit to the people of the state. If in the
 209 | judgment of the department the probable cost of sale exceeds the

HB 1527

2005
CS

210 value of the property, it need not be offered for sale and may
 211 be disposed of as the department determines appropriate. Any
 212 sale at a specified physical location held under this section
 213 must be preceded by a single publication of notice, at least 3
 214 weeks in advance of sale, in a newspaper of general circulation
 215 in the county in which the property is to be sold. The
 216 department shall proportionately deduct auction fees,
 217 preparation costs, and expenses from the amount posted to the
 218 owner's account when safe-deposit box contents are sold. No
 219 action or proceeding may be maintained against the department
 220 for or on account of any decision to decline the highest bid or
 221 withhold any unclaimed property from sale.

222 (2)(a) Securities listed on an established stock exchange
 223 must be sold at prices prevailing at the time of sale on the
 224 exchange. Other securities may be sold over the counter at
 225 prices prevailing at the time of sale or by any other method the
 226 department deems advisable. The department may authorize the
 227 agent or broker acting on behalf of the department to deduct
 228 fees from the proceeds of these sales at a rate agreed upon in
 229 advance by the agent or broker and the department. The
 230 department shall reimburse owners accounts for these brokerage
 231 fees from the State School Fund unless the securities are sold
 232 at the owner's request.

233 (b)~~(3)~~ Unless the department deems it to be in the public
 234 interest to do otherwise, all securities presumed unclaimed and
 235 delivered to the department may be sold upon receipt. Any person
 236 making a claim pursuant to this chapter is entitled to receive

HB 1527

2005
CS

237 either the securities delivered to the department by the holder,
 238 if they still remain in the hands of the department, or the
 239 proceeds received from sale, but no person has any claim under
 240 this chapter against the state, the holder, any transfer agent,
 241 any registrar, or any other person acting for or on behalf of a
 242 holder for any appreciation in the value of the property
 243 occurring after delivery by the holder to the state.

244 (c) Certificates for unclaimed stock or other equity
 245 interest of business associations that cannot be canceled and
 246 registered in the department's name or that cannot be readily
 247 liquidated and converted into the currency of the United States
 248 may be sold for the value of the certificate, if any, in
 249 accordance with subsection (1) or may be destroyed in accordance
 250 with s. 717.128.

251 ~~(3)(4)~~ The purchaser of property at any sale conducted by
 252 the department pursuant to this chapter is entitled to ownership
 253 of the property purchased free from all claims of the owner or
 254 previous holder thereof and of all persons claiming through or
 255 under them. The department shall execute all documents necessary
 256 to complete the transfer of ownership.

257 ~~(4)(5)~~ The sale of unclaimed tangible personal property is
 258 not subject to tax under chapter 212 when such property is sold
 259 by or on behalf of the department pursuant to this section.

260 Section 6. Subsections (1) and (4) of section 717.124,
 261 Florida Statutes, are amended to read:

262 717.124 Unclaimed property claims.--

HB 1527

2005
CS

263 (1) Any person, excluding another state, claiming an
 264 interest in any property paid or delivered to the department
 265 under this chapter may file with the department a claim on a
 266 form prescribed by the department and verified by the claimant
 267 or the claimant's representative. The claimant's representative
 268 must be an attorney licensed to practice law in this state, a
 269 licensed Florida-certified public accountant, or a private
 270 investigator licensed under chapter 493. The claimant's
 271 representative must be registered with the department under this
 272 chapter. The claimant, or the claimant's representative, shall
 273 provide the department with a legible copy of a valid driver's
 274 license of the claimant at the time the original claim form is
 275 filed. If the claimant has not been issued a valid driver's
 276 license at the time the original claim form is filed, the
 277 department shall be provided with a legible copy of a
 278 photographic identification of the claimant issued by the United
 279 States ~~or a foreign nation~~, a state or territory of the United
 280 States, ~~or~~ a foreign nation, or a political subdivision or
 281 agency thereof or other evidence deemed acceptable by the
 282 department by rule. In lieu of photographic identification, a
 283 notarized sworn statement by the claimant may be provided which
 284 affirms the claimant's identity and states the claimant's full
 285 name and address. The claimant must produce to the notary
 286 photographic identification of the claimant issued by the United
 287 States, a state or territory of the United States, a foreign
 288 nation, or a political subdivision or agency thereof or other
 289 evidence deemed acceptable by the department by rule. The notary

HB 1527

2005
CS

290 shall indicate the notary's full address on the notarized sworn
 291 statement. Any claim filed without the required identification
 292 or the sworn statement with the original claim form and the
 293 original power of attorney or purchase agreement, if applicable,
 294 is void.

295 (a) Within 90 days after receipt of a claim, the
 296 department may return any claim that provides for the receipt of
 297 fees and costs greater than that permitted under this chapter or
 298 that contains any apparent errors or omissions. The department
 299 may also request that the claimant or the claimant's
 300 representative provide additional information. The department
 301 shall retain a copy or electronic image of the claim.

302 (b) A claimant or the claimant's representative shall be
 303 deemed to have withdrawn a claim if no response to the
 304 department's request for additional information is received by
 305 the department within 60 days after the notification of any
 306 apparent errors or omissions.

307 (c) Within 90 days after receipt of the claim, or the
 308 response of the claimant or the claimant's representative to the
 309 department's request for additional information, whichever is
 310 later, the department shall determine each claim. Such
 311 determination shall contain a notice of rights provided by ss.
 312 120.569 and 120.57. The 90-day period shall be extended by 60
 313 days if the department has good cause to need additional time or
 314 if the unclaimed property:

315 1. Is owned by a person who has been a debtor in
 316 bankruptcy;

HB 1527

2005
CS

317 2. Was reported with an address outside of the United
318 States;

319 3. Is being claimed by a person outside of the United
320 States; or

321 4. Contains documents filed in support of the claim that
322 are not in the English language and have not been accompanied by
323 an English language translation.

324 (d) The department shall deny any claim under which the
325 claimant's representative has refused to authorize the
326 department to reduce the fees and costs to the maximum permitted
327 under this chapter.

328 (4)(a) Except as otherwise provided in this chapter, if a
329 claim is determined in favor of the claimant, the department
330 shall deliver or pay over to the claimant the property or the
331 amount the department actually received or the proceeds if it
332 has been sold by the department, together with any additional
333 amount required by s. 717.121.

334 (b) If an owner authorizes an attorney licensed to
335 practice law in this state, Florida-certified public accountant,
336 or private investigator licensed under chapter 493, and
337 registered with the department under this chapter, to claim the
338 unclaimed property on the owner's behalf, the department is
339 authorized to make distribution of the property or money in
340 accordance with such power of attorney. The original power of
341 attorney must be executed by the owner and must be filed with
342 the department.

HB 1527

2005
CS

343 (c)1. Payments of approved claims for unclaimed cash
 344 accounts shall be made to the owner after deducting any fees and
 345 costs authorized pursuant to a written power of attorney. The
 346 contents of a safe-deposit box shall be delivered directly to
 347 the claimant notwithstanding any power of attorney or agreement
 348 to the contrary.

349 2. Payments of fees and costs authorized pursuant to a
 350 written power of attorney for approved claims shall be made or
 351 issued to the law firm ~~employer~~ of the designated attorney
 352 licensed to practice law in this state, the public accountancy
 353 firm ~~employer~~ of the licensed Florida-certified public
 354 accountant, or the designated employing private investigative
 355 agency licensed by this state. Such payments shall be made by
 356 electronic funds transfer and may be made on such periodic
 357 schedule as the department may define by rule, provided the
 358 payment intervals do not exceed 31 days. Payment made to an
 359 attorney licensed in this state, a Florida-certified public
 360 accountant, or a private investigator licensed under chapter
 361 493, operating individually or as a sole practitioner, shall be
 362 to the attorney, certified public accountant, or private
 363 investigator.

364 Section 7. Section 717.12404, Florida Statutes, is amended
 365 to read:

366 717.12404 Claims on behalf of a business entity or
 367 trust.--

368 (1)(a) Claims on behalf of an active or dissolved
 369 corporation, for which the last annual report is not available

HB 1527

2005
CS

370 from the Department of State through the Internet, must be
 371 accompanied by a microfiche copy of the records on file with the
 372 Department of State or, if the corporation has not made a
 373 corporate filing with the Department of State, the claim must be
 374 accompanied by a uniform resource locator for the address of a
 375 free Internet site operated by the state of incorporation of the
 376 corporation that provides access to the last corporate filing
 377 identifying the officers and directors of the corporation. If
 378 available, the claim must be accompanied by a printout of the
 379 officers and directors from the Department of State Internet
 380 site or the free Internet site operated by the state of
 381 incorporation of the corporation. If the free Internet site is
 382 not available, the claim must be accompanied by an authenticated
 383 copy of the last corporate filing identifying the officers and
 384 directors from the appropriate authorized official of the state
 385 of incorporation.

386 (b) A claim on behalf of a corporation must be made by an
 387 officer or director identified on the last corporate filing.

388 (2) Claims on behalf of a dissolved corporation, a
 389 business entity other than an active corporation, or a trust
 390 must include a legible copy of a valid driver's license of the
 391 person acting on behalf of the dissolved corporation, business
 392 entity other than an active corporation, or trust. If the person
 393 has not been issued a valid driver's license, the department
 394 shall be provided with a legible copy of a photographic
 395 identification of the person issued by the United States, ~~or~~ a
 396 foreign nation, or a political subdivision or agency thereof. In

HB 1527

2005
CS

397 lieu of photographic identification, a notarized sworn statement
 398 by the person may be provided which affirms the person's
 399 identity and states the person's full name and address. The
 400 person must produce his or her photographic identification
 401 issued by the United States, a state or territory of the United
 402 States, a foreign nation, or a political subdivision or agency
 403 thereof or other evidence deemed acceptable by the department by
 404 rule. The notary shall indicate the notary's full address on the
 405 notarized sworn statement. Any claim filed without the required
 406 identification or the sworn statement with the original claim
 407 form and the original power of attorney, if applicable, is void.

408 Section 8. Section 717.12406, Florida Statutes, is created
 409 to read:

410 717.12406 Joint ownership of unclaimed securities or
 411 dividends.--For the purpose of determining joint ownership of
 412 unclaimed securities or dividends, the term:

413 (1) "TEN COM" means tenants in common.

414 (2) "TEN ENT" means tenants by the entireties.

415 (3) "JT TEN" or "JT" means joint tenants with the right of
 416 survivorship and not as tenants in common.

417 (4) "And" means tenants in common with each person
 418 entitled to an equal pro rata share.

419 (5) "Or" means that each person listed on the account is
 420 entitled to all of the funds.

421 Section 9. Section 717.1241, Florida Statutes, is amended
 422 to read:

423 717.1241 Conflicting claims.--

HB 1527

2005
CS

424 (1) When conflicting claims have been received by the
 425 department for the same unclaimed property account or accounts,
 426 the property shall be remitted in accordance with the claim
 427 filed by the person as follows, notwithstanding the withdrawal
 428 of a claim:

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

430 ~~1.~~ To the person submitting the first claim received by
 431 the Bureau of Unclaimed Property of the department that is
 432 complete or made complete. ~~;~~ ~~or~~

433 ~~(b)2.~~ If a claimant's ~~an owner's~~ claim and a claimant's ~~an~~
 434 ~~owner's~~ representative's claim are received by the Bureau of
 435 Unclaimed Property of the department on the same day and both
 436 claims are complete, to the claimant. ~~owner;~~

437 (c) If a buyer's claim and a claimant's claim or a
 438 claimant's representative's claim are received by the Bureau of
 439 Unclaimed Property of the department on the same day and the
 440 claims are complete, to the buyer.

441 ~~(b) As between two or more owner's representatives, to the~~
 442 ~~owner's representative who has submitted the first claim that is~~
 443 ~~complete or made complete; or~~

444 ~~(d)(e)~~ As between two or more claimant's representative's
 445 claims received by the Bureau of Unclaimed Property of the
 446 department that are complete or made ~~owner's representatives~~
 447 ~~whose claims were~~ complete on the same day, to the claimant's
 448 ~~owner's~~ representative who has agreed to receive the lowest fee.
 449 If the two or more claimant's ~~owner's~~ representatives whose
 450 claims received by the Bureau of Unclaimed Property of the

451 department were complete or made complete on the same day are
 452 charging the same lowest fee, the fee fees shall be divided
 453 equally between the claimant's ~~owner's~~ representatives.

454 (e) If more than one buyer's claim received by the Bureau
 455 of Unclaimed Property of the department is complete or made
 456 complete on the same day, the department shall remit the
 457 unclaimed property to the buyer who paid the highest amount to
 458 the seller. If the buyers paid the same amount to the seller,
 459 the department shall remit the unclaimed property to the buyers
 460 divided in equal amounts.

461 (2) The purpose of this section is solely to provide
 462 guidance to the department regarding to whom it should remit the
 463 unclaimed property and is not intended to extinguish or affect
 464 any private cause of action that any person may have against
 465 another person for breach of contract or other statutory or
 466 common-law remedy. A buyer's sole remedy, if any, shall be
 467 against the claimant's representative or the seller, or both. A
 468 claimant's representative's sole remedy, if any, shall be
 469 against the buyer or the seller, or both. A claimant's or
 470 seller's sole remedy, if any, shall be against the buyer or the
 471 claimant's representative, or both. Nothing in this section
 472 forecloses the right of a person to challenge the department's
 473 determination of completeness in a proceeding under ss. 120.569
 474 and 120.57.

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

HB 1527

2005
CS

477 Section 10. Subsection (2) of section 717.1242, Florida
478 Statutes, is amended to read:

479 717.1242 Restatement of jurisdiction of the circuit court
480 sitting in probate and the department.--

481 (2) If ~~Should~~ any estate or heir of an estate seeks ~~seek~~
482 ~~to obtain~~ or obtains ~~obtain~~ an order from a circuit court
483 sitting in probate directing the department to pay or deliver to
484 any person property paid or delivered to the department under
485 this chapter, the estate or heir shall ~~may~~ be ordered to pay the
486 department reasonable costs and attorney's fees in any
487 proceeding brought by the department to oppose, appeal, or
488 collaterally attack the order if the department is the
489 prevailing party in any such proceeding.

490 Section 11. Subsection (1) of section 717.1243, Florida
491 Statutes, is amended, and subsection (5) is added to said
492 section, to read:

493 717.1243 Small estate accounts.--

494 (1) A claim for unclaimed property made by a beneficiary,
495 as defined in s. 731.201, of a deceased owner need not be
496 accompanied by an order of a probate court if the claimant files
497 with the department an affidavit, signed by all beneficiaries,
498 stating that all the beneficiaries have amicably agreed among
499 themselves upon a division of the estate and that all funeral
500 expenses, expenses of the last illness, and any other lawful
501 claims have been paid, and any additional information reasonably
502 necessary to make a determination of entitlement. If the owner

HB 1527

2005
CS

503 died testate, the claim shall be accompanied by a copy of the
504 will.

505 (5) Nothing in this section shall be interpreted as
506 precluding the use of live testimony in order to establish
507 entitlement.

508 Section 12. Section 717.1245, Florida Statutes, is created
509 to read:

510 717.1245 Garnishment of unclaimed property.--If any person
511 files a petition for writ of garnishment seeking to obtain
512 property paid or delivered to the department under this chapter,
513 the petitioner shall be ordered to pay the department reasonable
514 costs and attorney's fees in any proceeding brought by the
515 department to oppose, appeal, or collaterally attack the
516 petition or writ if the department is the prevailing party in
517 any such proceeding.

518 Section 13. Subsection (3) of section 717.1311, Florida
519 Statutes, is amended to read:

520 717.1311 Retention of records.--

521 ~~(3) If a holder fails to maintain the records required by~~
522 ~~this section and the records of the holder which are available~~
523 ~~for the periods subject to this chapter are insufficient to~~
524 ~~permit the preparation of a report, the holder shall be required~~
525 ~~to report and pay such amounts as may reasonably be estimated~~
526 ~~from any available records.~~

527 Section 14. Section 717.1315, Florida Statutes, is amended
528 to read:

HB 1527

2005
CS

529 717.1315 Retention of records by claimant's
530 representatives and buyers of unclaimed property ~~owner's~~
531 ~~representative~~.--

532 (1) Every claimant's ~~owner's~~ representative and buyer of
533 unclaimed property shall keep and use in his or her business
534 such books, accounts, and records of the business conducted
535 under this chapter to enable the department to determine whether
536 such person ~~owner's representative~~ is complying with this
537 chapter and the rules adopted by the department under this
538 chapter. Every claimant's ~~owner's~~ representative and buyer of
539 unclaimed property shall preserve such books, accounts, and
540 records, including every power of attorney or agreement between
541 the owner and such claimant's ~~owner's~~ representative or buyer,
542 for at least 3 years after the date of the initial power of
543 attorney or agreement.

544 (2) A claimant's ~~An owner's~~ representative or buyer of
545 unclaimed property, operating at two or more places of business
546 in this state, may maintain the books, accounts, and records of
547 all such offices at any one of such offices, or at any other
548 office maintained by such claimant's ~~owner's~~ representative or
549 buyer of unclaimed property, upon the filing of a written notice
550 with the department designating in the written notice the office
551 at which such records are maintained.

552 (3) A claimant's ~~An owner's~~ representative or buyer of
553 unclaimed property shall make all books, accounts, and records
554 available at a convenient location in this state upon request of
555 the department.

HB 1527

2005
CS

556 Section 15. Subsection (3) of section 717.132, Florida
557 Statutes, is amended to read:

558 717.132 Enforcement; cease and desist orders;
559 ~~administrative~~ fines.--

560 (3) In addition to any other powers conferred upon it to
561 enforce and administer the provisions of this chapter, the
562 department or a court of competent jurisdiction may impose fines
563 ~~and collect an administrative fine~~ against any person found to
564 have violated any provision of this chapter, any rule or order
565 promulgated under this chapter, or any written agreement entered
566 into with the department in an amount not to exceed \$2,000 for
567 each violation. All fines collected under this subsection shall
568 be deposited as received in the Unclaimed Property Trust Fund.

569 Section 16. Subsection (1), paragraph (a) of subsection
570 (2), and subsections (3) and (5) of section 717.1322, Florida
571 Statutes, are amended to read:

572 717.1322 Administrative and civil enforcement.--

573 (1) The following acts are violations of this chapter and
574 constitute grounds for an administrative enforcement action by
575 the department in accordance with the requirements of chapter
576 120 and for civil enforcement by the department in a court of
577 competent jurisdiction:

578 (a) Failure to comply with any provision of this chapter,
579 any rule or order adopted under this chapter, or any written
580 agreement entered into with the department.

581 (b) Fraud, misrepresentation, deceit, or gross negligence
582 in any matter within the scope of this chapter.

HB 1527

2005
CS

583 (c) Fraudulent misrepresentation, circumvention, or
584 concealment of any matter required to be stated or furnished to
585 an owner or apparent owner under this chapter, regardless of
586 reliance by or damage to the owner or apparent owner.

587 (d) Willful imposition of illegal or excessive charges in
588 any unclaimed property transaction.

589 (e) False, deceptive, or misleading solicitation or
590 advertising within the scope of this chapter.

591 (f) Failure to maintain, preserve, and keep available for
592 examination all books, accounts, or other documents required by
593 this chapter, by any rule or order adopted under this chapter,
594 or by any agreement entered into with the department under this
595 chapter.

596 (g) Refusal to permit inspection of books and records in
597 an investigation or examination by the department or refusal to
598 comply with a subpoena issued by the department under this
599 chapter.

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

601 (i) Failure to timely pay any fine imposed or assessed
602 under this chapter or any rule adopted under this chapter.

603 (j) Requesting or receiving compensation for notifying a
604 person of his or her unclaimed property or assisting another
605 person in filing a claim for unclaimed property, unless the
606 person is an attorney licensed to practice law in this state, a
607 Florida-certified public accountant, or a private investigator
608 licensed under chapter 493, or entering into, or making a
609 solicitation to enter into, a power of attorney to file ~~For~~

HB 1527

2005
CS

610 ~~compensation or gain or in the expectation of compensation or~~
 611 ~~gain, the filing of~~ a claim for unclaimed property owned by
 612 another, or a contract or agreement to purchase unclaimed
 613 property, unless such person is registered with the department
 614 pursuant to this chapter and an ~~a registered~~ attorney licensed
 615 to practice law in this state in the regular practice of her or
 616 his profession, a Florida-certified ~~registered~~ public accountant
 617 who is acting within the scope of the practice of public
 618 accounting as defined in chapter 473 ~~certified in this state,~~ or
 619 a ~~registered~~ private investigator licensed under chapter 493.
 620 This subsection does not apply to a person who has been granted
 621 a durable power of attorney to convey and receive all of the
 622 real and personal property of the owner, is the court-appointed
 623 guardian of the owner, ~~has been employed as an attorney or~~
 624 ~~qualified representative to contest the department's denial of a~~
 625 ~~claim,~~ has been employed as an attorney or qualified
 626 representative to contest the department's denial of a claim, or
 627 has been employed as an attorney to probate the estate of the
 628 owner or an heir or legatee of the owner.

629 (k) Failure to authorize the release of records in the
 630 possession of a third party after being requested to do so by
 631 the department regarding a pending examination or investigation.

632 (1) Receipt or solicitation of consideration to be paid in
 633 advance of the approval of a claim under this chapter.

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

HB 1527

2005
CS

637 (a) Revoking for a minimum of 5 years or suspending for a
638 maximum of 5 years a registration previously granted under this
639 chapter during which time the registrant may not reapply for a
640 registration under this chapter;

641 (3) A registrant is subject to civil enforcement and the
642 disciplinary actions specified in subsection (2) for violations
643 of subsection (1) by an agent or employee of the registrant's
644 employer if the registrant knew or should have known that such
645 agent or employee was violating any provision of this chapter.

646 (5) The department may seek any appropriate civil legal
647 remedy available to it by filing a civil action in a court of
648 competent jurisdiction against any person who has, directly or
649 through a claimant's ~~an owner's~~ representative, wrongfully
650 submitted a claim as the ultimate owner of property and
651 improperly received funds from the department in violation of
652 this chapter.

653 Section 17. Section 717.1323, Florida Statutes, is created
654 to read:

655 717.1323 Prohibited practices; claim form requests through
656 the Internet or from the department; unregistered activities
657 pertaining to unclaimed property and property subject to a
658 running dormancy period; criminal penalties.--

659 (1) No person shall request a claim form from the
660 department or print a claim form from the department's Internet
661 site unless such person:

662 (a) Has a good faith belief that such person is, or
663 personally knows, the owner of the unclaimed property, an heir

HB 1527

2005
CS

664 or legatee of the owner, an officer or director of the corporate
 665 owner, the trustee of the trust owner, or a former officer,
 666 director, or shareholder of the dissolved corporate owner, or
 667 has been appointed by a court of competent jurisdiction to
 668 represent the owner of the unclaimed property; or

669 (b) Is registered with the department as a claimant's
 670 representative and has a power of attorney to represent a person
 671 the registrant believes to be entitled to the unclaimed property
 672 or has an agreement to purchase the unclaimed property from a
 673 person the registrant believes to be entitled to the unclaimed
 674 property.

675 (2) A person may not, directly or indirectly:

676 (a) Enter or offer to enter into a contract or agreement
 677 to purchase unclaimed property that has not yet been reported to
 678 the department but which is subject to a running dormancy
 679 period; or

680 (b) Receive a fee from an owner of unclaimed property for
 681 locating, notifying, or recovering unclaimed property that has
 682 not yet been reported to the department but is subject to a
 683 running dormancy period unless there is a valid written
 684 agreement between the holder and the owner of the property that
 685 allows such charges to be imposed.

686 (3) No person may knowingly enter false information onto
 687 the Website of the Bureau of Unclaimed Property.

688 Section 18. Section 717.1331, Florida Statutes, is amended
 689 to read:

HB 1527

2005
CS

690 717.1331 Actions against holders.--The department may
691 initiate, or cause to be initiated, an action against a holder
692 to enforce a subpoena or recover unclaimed property. If the
693 department prevails in a civil or administrative action to
694 enforce a subpoena or recover unclaimed property initiated by or
695 on behalf of the department, the holder shall be ordered to pay
696 the department reasonable costs and attorney's fees.

697 Section 19. Section 717.1333, Florida Statutes, is amended
698 to read:

699 717.1333 Evidence; estimations; audit reports, examiner's
700 worksheets, investigative reports, other related documents.--

701 (1) In any proceeding involving a holder under ss. 120.569
702 and 120.57 in which an auditor, examiner, or investigator acting
703 under authority of this chapter is available for cross-
704 examination, any official written report, worksheet, or other
705 related paper, or copy thereof, compiled, prepared, drafted, or
706 otherwise made or received by the auditor, examiner, or
707 investigator, after being duly authenticated by the auditor,
708 examiner, or investigator, may be admitted as competent evidence
709 upon the oath of the auditor, examiner, or investigator that the
710 report, worksheet, or related paper was prepared or received as
711 a result of an audit, examination, or investigation of the books
712 and records of the person audited, examined, or investigated, or
713 the agent thereof.

714 (2) If the records of the holder that are available for
715 the periods subject to this chapter are insufficient to permit

HB 1527

2005
CS

716 the preparation of a report of the unclaimed property due and
717 owing by a holder, the amount due may be reasonably estimated.

718 Section 20. Section 717.135, Florida Statutes, is amended
719 to read:

720 717.135 Power of attorney ~~Agreement~~ to recover reported
721 property in the custody of the department.--

722 (1) A power of attorney executed by a claimant to All
723 ~~agreements between~~ a claimant's representative ~~and a claimant~~
724 for compensation to recover or assist in the recovery of
725 property reported to the department under s. 717.117 shall be in
726 10-point 11-point type or greater. ~~and:~~

727 (2) A power of attorney described in subsection (1) must:

728 (a) Limit the fees and costs for services to 20 percent
729 per unclaimed property account held by the department. Fees and
730 costs for cash accounts shall be based on the value of the
731 property at the time the power of attorney agreement ~~for~~
732 ~~recovery~~ is signed by the claimant. Fees and costs for accounts
733 containing securities or other intangible ownership interests,
734 which securities or interests are not converted to cash, shall
735 be based on the purchase price of the security as quoted on a
736 national exchange or other market on which the property is
737 regularly traded at the time the securities or other ownership
738 interest is remitted to the claimant or the claimant's
739 representative. Fees and costs for tangible property or safe-
740 deposit box accounts shall be based on the value of the tangible
741 property or contents of the safe-deposit box at the time the
742 ownership interest is transferred or remitted to the claimant.

HB 1527

2005
CS

743 Total fees and costs on any single account owned by a natural
 744 person residing in this country must not exceed \$1,000; or

745 (b) Fully disclose, ~~on such form as the department shall~~
 746 ~~prescribe by rule,~~ that the property is held by the Bureau of
 747 Unclaimed Property of the Department of Financial Services
 748 pursuant to this chapter, the mailing address of the bureau, the
 749 Internet address of the bureau, the person or name of the entity
 750 that held the property prior to the property becoming unclaimed,
 751 the date of the holder's last contact with the owner, if known,
 752 and the approximate value of the property, and identify which of
 753 the following categories of unclaimed property the claimant's
 754 ~~owner's~~ representative is seeking to recover, as reported by the
 755 holder:

- 756 1. Cash accounts.
- 757 2. Stale dated checks.
- 758 3. Life insurance or annuity contract assets.
- 759 4. Utility deposits.
- 760 5. Securities or other interests in business associations.
- 761 6. Wages.
- 762 7. Accounts receivable.
- 763 8. Contents of safe-deposit boxes.

764
 765 This subsection ~~Such disclosure shall be on a page signed and~~
 766 ~~dated by the person asserting entitlement to the unclaimed~~
 767 ~~property. However, paragraph (a) or paragraph (b) shall not~~
 768 apply if probate proceedings must be initiated on behalf of the
 769 claimant for an estate that has never been probated or if the

HB 1527

2005
CS

770 unclaimed property is being claimed by a person outside of the
771 United States.

772 (3)(a) A power of attorney described in paragraph (2)(b)
773 must state in 12-point type or greater in the order indicated
774 with the blank spaces accurately completed:

775 FULL DISCLOSURE STATEMENT

776
777 The property is currently held by the State of Florida
778 Department of Financial Services, Bureau of Unclaimed
779 Property, pursuant to chapter 717, Florida Statutes. The
780 mailing address of the Bureau of Unclaimed Property
781 is_____. The Internet address of the Bureau of
782 Unclaimed Property is_____.

783 The property was Remitted by:_____.

784 Date of last contact:_____.

785 Property category:_____.

786

787 (b) Immediately above the signature line for the claimant,
788 a power of attorney described in paragraph (2)(b) must state in
789 12-point type or greater:

790
791 Claimant agrees, by signing below, that the FULL
792 DISCLOSURE STATEMENT has been read and fully understood.

793
794 (4)+(2)(a) Powers of attorney ~~Agreements~~ for recovery of
795 cash accounts shall state the value of the unclaimed property,
796 the unclaimed property account number, and the percentage value

HB 1527

2005
CS

797 of the unclaimed property account to be paid to the claimant and
798 shall also state the percentage value of compensation to be paid
799 to the claimant's representative, if applicable.

800 (b) Powers of attorney ~~Agreements~~ for recovery of accounts
801 containing securities, safe-deposit box accounts, other
802 intangible or tangible ownership interests, or other types of
803 accounts, except cash accounts, shall state the unclaimed
804 property account number, the number of shares of stock, if
805 applicable, the approximate value of the unclaimed property, and
806 the percentage value of compensation to be paid to the
807 claimant's representative, if applicable.

808 (c) All powers of attorney ~~disclosures and agreements~~
809 shall include:

810 1. The name, ~~address~~, and professional license number of
811 the claimant's representative.

812 2. The name, address, and telephone number of the
813 claimant's representative's firm or employer.

814 3. The name, address, and telephone number of the
815 claimant.

816 4. ~~, and,~~ If applicable available, the taxpayer
817 identification number or social security number, address, and
818 telephone number of the claimant.

819 5. The name and address to whom the warrant is to be
820 issued, if different than the claimant's name and address.

821 (d) The original of all such disclosures and powers of
822 attorney ~~agreements to pay compensation~~ shall be signed and

HB 1527

2005
CS

823 | dated by the claimant of the property and shall be filed with
824 | the claim form.

825 | (e)(d) All powers of attorney executed by a claimant to
826 | ~~agreements between~~ a claimant's representative ~~and a claimant,~~
827 | ~~who is a natural person, trust, or a dissolved corporation,~~ for
828 | compensation to recover or assist in the recovery of property
829 | reported to the department under s. 717.117 must use the
830 | following form on 8 and 1/2-inch by 11-inch paper or on 8 and
831 | 1/2-inch by 14-inch paper with all of the text on one side of
832 | the paper and with the other side of the paper left blank+
833 | ~~except that, at the option of the owner representative, the~~
834 | ~~department disclosure form may be placed on the reverse side of~~
835 | ~~the agreement.~~ The power of attorney agreement must be
836 | accurately completed and executed. ~~No other writing or~~
837 | ~~information shall be printed on the agreement.~~ The title of the
838 | power of attorney agreement shall be in bold 14-point type or
839 | greater and underlined. Except as otherwise provided in this
840 | section, the rest of the power of attorney agreement shall be in
841 | 10-point type or greater. All unclaimed property accounts
842 | claimed must be identified on the power of attorney by account
843 | number agreement. The power of attorney agreement must state in
844 | bold 12-point type or greater at the top of the power of
845 | attorney in the order indicated:

846 |
847 | LIMITED POWER OF ATTORNEY RECOVERY AGREEMENT

848 |
849 | \$_____ = Approximate Dollar Value of the UNCLAIMED Property

HB 1527

2005
CS

850 _____ = Number of Shares of Stock to be Recovered (If
851 Applicable): _____

852 ~~PROPERTY ACCOUNT NUMBERS: _____~~

853 _____ Percent to be Paid as Compensation to the Claimant's
854 Representative

855 \$ _____ = Amount to be Paid to Claimant's Representative

856 \$ _____ = Net Amount to be Paid to Claimant

857 Property Account Numbers: _____

858 ~~\$ _____ = AMOUNT TO BE PAID TO CLAIMANT'S REPRESENTATIVE~~

859
860 ~~THIS AGREEMENT is between: _____ (hereinafter,~~
861 ~~CLAIMANT) and _____ (hereinafter, CLAIMANT'S~~
862 ~~REPRESENTATIVE) who agree to the following:~~

863
864 ~~(1) As consideration for the research efforts in locating~~
865 ~~and identifying assets due to the CLAIMANT and for assistance in~~
866 ~~procuring payment of the assets to the CLAIMANT, the CLAIMANT~~
867 ~~authorizes the government to pay to the CLAIMANT'S~~
868 ~~REPRESENTATIVE a fee of either:~~

869 ~~(a) _____ percent of all assets recovered, or~~
870 ~~(b) A flat fee of \$ _____ to recover the unclaimed~~
871 ~~property account identified above.~~

872
873 ~~NO FEES ARE TO BE PAID IN ADVANCE.~~

874
875 ~~(2) I have read this agreement and in consideration~~
876 ~~thereof, do hereby grant the CLAIMANT'S REPRESENTATIVE a limited~~

HB 1527

2005
CS

877 ~~power of attorney to demand, collect, recover and receive the~~
 878 ~~above compensation from the government in accordance with this~~
 879 ~~agreement.~~

880 ~~(3) IT IS HEREBY ACKNOWLEDGED BY ALL PARTIES TO THIS~~
 881 ~~AGREEMENT THAT UNLESS THESE ASSETS ARE RECOVERED, NO FEES, NO~~
 882 ~~COSTS OR CHARGES ARE DUE TO THE CLAIMANT'S REPRESENTATIVE, ITS~~
 883 ~~AGENTS OR ATTORNEYS, AND THIS AGREEMENT WILL BECOME NULL AND~~
 884 ~~VOID.~~

885 ~~Original Signature of CLAIMANT:~~

886 ~~DATE:~~

887 ~~CLAIMANT'S Social Security Number or FEID number:~~

888 ~~Make the CLAIMANT'S check payable to:~~

889 ~~Mail check to this address:~~

890 ~~The CLAIMANT'S telephone number is:~~

891 ~~Original Signature of CLAIMANT'S REPRESENTATIVE:~~

892 ~~FEID Number of CLAIMANT'S REPRESENTATIVE:~~

893 ~~DATE:~~

894 ~~Address of CLAIMANT'S REPRESENTATIVE:~~

895 ~~Telephone number of CLAIMANT'S REPRESENTATIVE:~~

896 ~~Professional license number of CLAIMANT'S REPRESENTATIVE:~~

897 ~~(f)(e)~~ All fees, whether expressed as a percentage or as a
 898 flat fee, are subject to the limitations and requirements of
 899 subsection ~~(2)(1)~~.

900 ~~(g)(f)~~ This section does not prohibit the:

901 1. Use of bolding, italics, print of different colors, and
 902 text borders as a means of highlighting or stressing certain
 903 selected items within the text.

HB 1527

2005
CS

904 2. Placement of the name, address, and telephone number of
 905 the representative's firm or company in the top margin above the
 906 words "POWER OF ATTORNEY." No additional writing of any kind may
 907 be placed in the top margin including, but not limited to,
 908 logos, license numbers, Internet addresses, or slogans.

909 3. Placement of the word "pending" prior to the words "NET
 910 AMOUNT TO BE PAID TO CLAIMANT," if it is not yet possible to
 911 determine the percentage interest of an heir or legatee prior to
 912 a determination on the issue by the probate court.

913 4. Deletion of the words "Number of Shares of Stock (If
 914 Applicable)" if the agreement does not relate to the recovery of
 915 securities.

916 5. Deletion of the words "Percent to Be Paid as
 917 Compensation to Claimant's Representative" if the power of
 918 attorney provides for a flat fee to be paid as compensation to
 919 the claimant's representative.

920 ~~(5)(3)~~ As used in this section, "claimant" means the
 921 person on whose behalf a claim is filed.

922 ~~(6)(4)~~ This section does not supersede the licensing
 923 requirements of chapter 493.

924 Section 21. Section 717.1351, Florida Statutes, is amended
 925 to read:

926 717.1351 Acquisition of unclaimed property.--

927 (1) A person desiring to acquire ownership of or
 928 entitlement to property reported to the department under s.
 929 717.117 must be an attorney licensed to practice law in this
 930 state, a licensed Florida-certified public accountant, a private

HB 1527

2005
CS

931 investigator licensed under chapter 493, or an employer of a
 932 licensed private investigator which employer possesses a Class
 933 "A" license under chapter 493 and must be registered with the
 934 department under this chapter.

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

938 (a) Have a purchase price that discounts the value of the
 939 unclaimed property at the time the agreement is executed by the
 940 seller at no greater than 20 percent per account held by the
 941 department. An unclaimed property account must not be discounted
 942 in excess of \$1,000. However, the \$1,000 discount limitation
 943 does not apply if probate proceedings must be initiated on
 944 behalf of the seller for an estate that has never been probated
 945 or if the seller of the unclaimed property is not a natural
 946 person or is a person outside the United States; or

947 (b) ~~Fully disclose, on such form as the department shall~~
 948 ~~prescribe by rule,~~ that the property is held by the Bureau of
 949 Unclaimed Property of the Department of Financial Services
 950 pursuant to this chapter, the mailing address of the bureau, the
 951 Internet address of the bureau, the person or name of the entity
 952 that held the property prior to the property becoming unclaimed,
 953 the date of the holder's last contact with the owner, if known,
 954 and the approximate value of the property, and identify which of
 955 the following categories of unclaimed property the buyer is
 956 seeking to purchase as reported by the holder:

957 1. Cash accounts.

HB 1527

2005
CS

- 958 | 2. Stale dated checks.
- 959 | 3. Life insurance or annuity contract assets.
- 960 | 4. Utility deposits.
- 961 | 5. Securities or other interests in business associations.
- 962 | 6. Wages.
- 963 | 7. Accounts receivable.
- 964 | 8. Contents of safe-deposit boxes.
- 965 |

966 | The purchase agreement described in this paragraph must state in
 967 | 12-point type or greater in the order indicated with the blank
 968 | spaces accurately completed:

970 | FULL DISCLOSURE STATEMENT

971 |

972 | The property is currently held by the State of Florida
 973 | Department of Financial Services, Bureau of Unclaimed
 974 | Property, pursuant to chapter 717, Florida Statutes. The
 975 | mailing address of the Bureau of Unclaimed Property
 976 | is_____. The Internet address of the Bureau of
 977 | Unclaimed Property is_____.

978 | The property was remitted by:_____.

979 | Date of last contact:_____.

980 | Property category:_____.

981 |

982 | Immediately above the signature line for the seller, the
 983 | purchase agreement described in this paragraph must state in 12-
 984 | point type or greater:

985
986 Seller agrees, by signing below, that the FULL DISCLOSURE
987 STATEMENT has been read and fully understood.

988
989 ~~Such disclosure shall be on a page signed and dated by the~~
990 ~~seller of the unclaimed property.~~

991 (3) The originals of all such disclosures and agreements
992 to transfer ownership of or entitlement to unclaimed property
993 shall be signed and dated by the seller and shall be filed with
994 the claim form. The claimant shall provide the department with a
995 legible copy of a valid driver's license of the seller at the
996 time the original claim form is filed. If a seller has not been
997 issued a valid driver's license at the time the original claim
998 form is filed, the department shall be provided with a legible
999 copy of a photographic identification of the seller issued by
1000 the United States or a foreign nation, a state or territory of
1001 the United States or a foreign nation, or a political
1002 subdivision or agency thereof. In lieu of photographic
1003 identification, a notarized sworn statement by the seller may be
1004 provided which affirms the seller's identity and states the
1005 seller's full name and address. The seller must produce to the
1006 notary his or her photographic identification issued by the
1007 United States, a state or territory of the United States, a
1008 foreign nation, or a political subdivision or agency thereof.
1009 The notary shall indicate the notary's full address on the
1010 notarized sworn statement. If a claim is filed without the
1011 required identification or the sworn statement with the original

HB 1527

2005
CS

1012 claim form and the original agreement to acquire ownership of or
1013 entitlement to the unclaimed property, the claim is void.

1014 (4) Any contract to acquire ownership of or entitlement to
1015 unclaimed property from the person or persons entitled to the
1016 unclaimed property must provide for the purchase price to be
1017 remitted to the seller or sellers within 10 days after the
1018 execution of the contract by the seller or sellers. The contract
1019 must specify the unclaimed property account number, the name of
1020 the holder who reported the property to the department, the
1021 category of unclaimed property, the value of the unclaimed
1022 property account, and the number of shares of stock, if
1023 applicable. Proof of payment by check must be filed with the
1024 department with the claim.

1025 (5) All agreements to purchase unclaimed property from an
1026 owner, ~~who is a natural person, a trust, or a dissolved~~
1027 ~~corporation~~ must use the following form on 8 and 1/2-inch by 11-
1028 inch paper or on 8 and 1/2-inch by 14-inch paper with all of the
1029 text on one side of the paper and with the other side of the
1030 paper left blank; ~~except that, at the option of the owner~~
1031 ~~representative, the department disclosure form may be placed on~~
1032 ~~the reverse side of the agreement.~~ The agreement must be
1033 accurately completed and executed. ~~No other writing or~~
1034 ~~information shall be printed on the agreement.~~ The title of the
1035 agreement shall be in bold 14-point type or greater and
1036 underlined. Except as otherwise provided in this section, the
1037 rest of the agreement shall be in 10-point type or greater. All
1038 unclaimed property accounts to be purchased must be identified

HB 1527

2005
CS

1039 on the agreement by account number. The agreement must state, in
 1040 bold 12-point type or greater at the top of the agreement in the
 1041 order indicated:

1043 PURCHASE AGREEMENT

1045 \$_____ = Approximate Dollar Value of the UNCLAIMED Property
 1046 ~~PROPERTY ACCOUNT NUMBER(S):~~

1047 _____ = Number of Shares of Stock ~~TO BE RECOVERED~~ (If
 1048 Applicable):_____

1049 _____ = Percent of UNCLAIMED Property to be Paid to the
 1050 Buyer

1051 \$_____ = Amount to be Paid to Buyer

1052 \$_____ = Net Amount to be Paid to Seller ~~OWNER~~

1053 Property Account Number(s):_____

1054 \$_____ = ~~AMOUNT TO BE PAID TO BUYER~~

1056 ~~THIS AGREEMENT is between: _____ (hereinafter, OWNER)~~
 1057 ~~and _____ (hereinafter, BUYER) who agree that the~~
 1058 ~~OWNER transfers to the BUYER for a purchase price of \$_____~~
 1059 ~~all rights to the above identified unclaimed property accounts.~~

1060 ~~Original Signature of OWNER:~~

1061 ~~DATE:~~

1062 ~~OWNER'S Social Security Number or FEID number:~~

1063 ~~Within 10 days after the execution of this Purchase Agreement by~~
 1064 ~~the Owner, Buyer shall remit the OWNER'S check payable to:~~

1065

HB 1527

2005
CS

1066 ~~Mail check to this address:~~

1067

1068

1069 ~~The OWNER'S telephone number is:~~

1070 ~~Original Signature of BUYER:~~

1071 ~~FEID Number of BUYER: _____ DATE: _____~~

1072 ~~Address of BUYER:~~

1073

1074 ~~Telephone number of BUYER:~~

1075 ~~Professional license number of BUYER:~~

1076

1077 (6) All agreements shall include:

1078 (a) The name and professional license number of the
1079 registrant.

1080 (b) The name, address, and telephone number of the
1081 registrant's firm or employer.

1082 (c) The name, address, and telephone number of the seller.

1083 (d) The taxpayer identification number or social security
1084 number of the seller, if available.

1085 (e) The name and address to whom the warrant is to be
1086 issued if it is different from the seller's name and address.

1087 (f) The original signature of the registrant and the date
1088 signed by the registrant.

1089 (7) This section does not prohibit the:

1090 (a) Use of bolding, italics, print of different colors, or
1091 text borders as a means of highlighting or stressing certain
1092 selected items within the text.

HB 1527

2005
CS

1093 (b) Placement of the name, address, and telephone number
 1094 of the registrant's firm or company in the top margin above the
 1095 words "PURCHASE AGREEMENT." No additional writing of any kind
 1096 may be placed in the top margin, including, but not limited to,
 1097 logos, license numbers, Internet addresses, or slogans.

1098 (c) Deletion of the words "Number of Shares of Stock (If
 1099 Applicable)" if the agreement does not relate to the recovery of
 1100 securities.

1101 (d) Deletion of the words "Percent of Property to be Paid
 1102 to Buyer," if the purchase agreement provides for a flat fee to
 1103 be paid as compensation to the buyer.

1104 (8) This section does not supersede the licensing
 1105 requirements of chapter 493.

1106 Section 22. Section 717.1381, Florida Statutes, is created
 1107 to read:

1108 717.1381 Void unclaimed property powers of attorney and
 1109 purchase agreements.--

1110 (1) Protecting the interests of owners of unclaimed
 1111 property is declared to be the public policy of this state. It
 1112 is in the best interests of the owners of unclaimed property
 1113 that they have the opportunity to receive the full amount of the
 1114 unclaimed property returned to them without deduction of any
 1115 fees. Further, it is specifically recognized that the
 1116 Legislature has mandated and the state has an obligation to make
 1117 a meaningful and active efforts to notify owners concerning
 1118 their unclaimed property. The state recognizes that this policy
 1119 and obligation cannot be fulfilled without providing the state

HB 1527

2005
CS

1120 with the first opportunity to notify the owners of unclaimed
 1121 property that they may file a claim for their property with the
 1122 department. In furtherance of this policy and obligation:

1123 (a) Any oral or written agreement or power of attorney for
 1124 compensation or gain or in the expectation of compensation or
 1125 gain, that includes an unclaimed property account valued at more
 1126 than \$250 which was made on or before 45 days after the holder
 1127 or examination report was processed and added to the unclaimed
 1128 property data base, subsequent to a determination that the
 1129 report was accurate and that the reported property was the same
 1130 as the remitted property, is void as contrary to public policy.

1131 (b) Any oral or written purchase agreement that include an
 1132 unclaimed property account valued at more than \$250, owned by
 1133 another and made on or before 45 days after the holder or
 1134 examination report was processed and added to the unclaimed
 1135 property database, subsequent to a determination that the report
 1136 was accurate and that the reported property was the same as the
 1137 remitted property, is void as contrary to public policy.

1138 (2) A person may not enter into a power of attorney or an
 1139 agreement, or make a solicitation to enter into a power of
 1140 attorney or an agreement, that is void under this section.

1141 Section 23. Subsections (1), (2), (3), and (6) of section
 1142 717.1400, Florida Statutes, are amended, and subsection (7) is
 1143 added to said section, to read:

1144 717.1400 Registration.--

1145 (1) In order to file claims as a claimant's
 1146 representative, acquire ownership of or entitlement to unclaimed

HB 1527

2005
CS

1147 | property, receive a distribution of fees and costs from the
 1148 | department, and obtain unclaimed property dollar amounts,
 1149 | numbers ~~the number~~ of reported shares of stock, and ~~the last~~
 1150 | ~~four digits~~ of social security numbers held by the department, a
 1151 | private investigator holding a Class "C" individual license
 1152 | under chapter 493 must register with the department on such form
 1153 | as the department shall prescribe by rule, and must be verified
 1154 | by the applicant. To register with the department, a private
 1155 | investigator must provide:

1156 | (a) A legible copy of the applicant's Class "A" business
 1157 | license under chapter 493 or that of the applicant's firm or
 1158 | employer which holds a Class "A" business license under chapter
 1159 | 493.

1160 | (b) A legible copy of the applicant's Class "C" individual
 1161 | license issued under chapter 493.

1162 | (c) The ~~applicant's~~ business address and telephone number
 1163 | of the applicant's private investigative firm or employer.

1164 | (d) The names of agents or employees, if any, who are
 1165 | designated to act on behalf of the private investigator,
 1166 | together with a legible copy of their photo identification
 1167 | issued by an agency of the United States, or a state, or a
 1168 | political subdivision thereof.

1169 | (e) Sufficient information to enable the department to
 1170 | disburse funds by electronic funds transfer.

1171 | (f) The tax identification number of the private
 1172 | investigator's firm or employer which holds a Class "A" business
 1173 | license under chapter 493.

HB 1527

2005
CS

1174 (2) In order to file claims as a claimant's
1175 representative, acquire ownership of or entitlement to unclaimed
1176 property, receive a distribution of fees and costs from the
1177 department, and obtain unclaimed property dollar amounts,
1178 numbers ~~the number~~ of reported shares of stock, and ~~the last~~
1179 ~~four digits of~~ social security numbers held by the department, a
1180 Florida-certified public accountant must register with the
1181 department on such form as the department shall prescribe by
1182 rule, and must be verified by the applicant. To register with
1183 the department a Florida-certified public accountant must
1184 provide:

1185 (a) The applicant's Florida Board of Accountancy number.

1186 (b) A legible copy of the applicant's current driver's
1187 license showing the full name and current address of such
1188 person. If a current driver's license is not available, another
1189 form of identification showing the full name and current address
1190 of such person or persons shall be filed with the department.

1191 (c) The ~~applicant's~~ business address and telephone number
1192 of the applicant's public accounting firm or employer.

1193 (d) The names of agents or employees, if any, who are
1194 designated to act on behalf of the Florida-certified public
1195 accountant, together with a legible copy of their photo
1196 identification issued by an agency of the United States, or a
1197 state, or a political subdivision thereof.

1198 (e) Sufficient information to enable the department to
1199 disburse funds by electronic funds transfer.

HB 1527

2005
CS

1200 (f) The tax identification number of the accountant's
1201 public accounting firm employer.

1202 (3) In order to file claims as a claimant's
1203 representative, acquire ownership of or entitlement to unclaimed
1204 property, receive a distribution of fees and costs from the
1205 department, and obtain unclaimed property dollar amounts,
1206 numbers ~~the number~~ of reported shares of stock, and ~~the last~~
1207 ~~four digits of~~ social security numbers held by the department,
1208 an attorney licensed to practice in this state must register
1209 with the department on such form as the department shall
1210 prescribe by rule, and must be verified by the applicant. To
1211 register with the department, such attorney must provide:

1212 (a) The applicant's Florida Bar number.

1213 (b) A legible copy of the applicant's current driver's
1214 license showing the full name and current address of such
1215 person. If a current driver's license is not available, another
1216 form of identification showing the full name and current address
1217 of such person or persons shall be filed with the department.

1218 (c) ~~The applicant's~~ business address and telephone number
1219 of the applicants firm or employer.

1220 (d) The names of agents or employees, if any, who are
1221 designated to act on behalf of the attorney, together with a
1222 legible copy of their photo identification issued by an agency
1223 of the United States, or a state, or a political subdivision
1224 thereof.

1225 (e) Sufficient information to enable the department to
1226 disburse funds by electronic funds transfer.

HB 1527

2005
CS

1227 (f) The tax identification number of the attorney's firm
1228 or lawyer's employer law firm.

1229 (6) A registrant's firm or employer ~~registrant or~~
1230 ~~applicant for registration~~ may not have a name that might lead
1231 another person to conclude that the registrant's firm or
1232 employer ~~registrant~~ is affiliated or associated with the United
1233 States, or an agency thereof, or a state or an agency or
1234 political subdivision of a state. The department shall deny an
1235 application for registration or revoke a registration if the
1236 applicant's or registrant's firm or employer ~~applicant or~~
1237 ~~registrant~~ has a name that might lead another person to conclude
1238 that the firm or employer ~~applicant or registrant~~ is affiliated
1239 or associated with the United States, or an agency thereof, or a
1240 state or an agency or political subdivision of a state. Names
1241 that might lead another person to conclude that the firm or
1242 employer ~~applicant or registrant~~ is affiliated or associated
1243 with the United States, or an agency thereof, or a state or an
1244 agency or political subdivision of a state, include, but are not
1245 limited to, the words United States, Florida, state, bureau,
1246 division, department, or government.

1247 (7) The licensing and other requirements of this section
1248 must be maintained as a condition of registration with the
1249 department.

1250 Section 24. This act shall take effect upon becoming a
1251 law.