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HB 1527, Engrossed 2

2005 Legislature

1 A bill to be entitled
2 An act relating to disposition of unclaimed property;
3 amending s. 717.101, F.S.; providing definitions; amending
4 s. 717.106, F.S.; specifying communication by documented
5 telephone contact to avoid a presumption of certain
6 property being unclaimed; amending s. 717.1101, F.S.;
7 decreasing a time period for a presumption of stock,
8 equity interest, and certain debt of a business
9 association being unclaimed; specifying criteria for
10 certain other property of a business association being
11 presumed unclaimed; amending s. 717.117, F.S.; revising
12 requirements for notifying owners of inactive accounts;
13 providing an additional exception to the reporting of
14 unclaimed property; amending s. 717.118, F.S.; increasing
15 a threshold amount for a requirement for an active attempt
16 to notify owners of unclaimed property; amending s.
17 717.119, F.S.; revising provisions for disposal of
18 proceeds of sales of unclaimed firearms or ammunition;
19 amending s. 717.122, F.S.; providing for sale of unclaimed
20 stock or certain equity interest under certain
21 circumstances; amending s. 717.124, F.S.; revising
22 requirements for making unclaimed property claims;
23 amending s. 717.12404, F.S.; revising requirements for
24 making claims on behalf of a business entity or trust;
25 creating s. 717.12406, F.S.; providing definitions;
26 amending s. 717.1241, F.S.; revising requirements and
27 procedures for resolving conflicting claims; amending s.
28 717.1242, F.S.; requiring the ordering of estate or heirs

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29 | to pay the Department of Financial Services certain costs
30 | and fees; amending s. 717.1243, F.S.; revising
31 | requirements and procedures for claims by beneficiaries of
32 | deceased owners of unclaimed property; creating s.
33 | 717.1245, F.S.; requiring petitioners for writs of
34 | garnishment to pay the department certain costs and fees
35 | in certain actions; amending s. 717.1311, F.S.; deleting a
36 | provision requiring certain record holders to pay certain
37 | estimated amounts relating to insufficient records;
38 | amending s. 717.1315, F.S.; revising requirements and
39 | procedures for retention of records by an owner's
40 | representative; amending s. 717.132, F.S.; providing for
41 | imposition of fines by a court instead of the department;
42 | amending s. 717.1322, F.S.; providing for civil
43 | enforcement by the department of certain violations;
44 | revising the department's authority to issue certain
45 | registration revocation orders; creating s. 717.1323,
46 | F.S.; specifying a prohibited practice; amending s.
47 | 717.1331, F.S.; authorizing the department to enforce
48 | subpoenas; amending s. 717.1333, F.S.; authorizing the
49 | estimation of certain amounts due from insufficient
50 | records; amending s. 717.135, F.S.; revising requirements
51 | for powers of attorney to recover property; specifying
52 | forms; specifying certain activities as not prohibited;
53 | prohibiting certain modifications to a power of attorney;
54 | amending s. 717.1351, F.S.; revising requirements for
55 | contracts to acquire ownership of or entitlement to
56 | property; specifying forms; specifying certain activities

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57 as not prohibited; prohibiting certain modifications to an
 58 agreement; providing rulemaking authority to the
 59 department to specify what evidence may identify a seller;
 60 creating s. 717.1381, F.S.; specifying certain powers of
 61 attorney and agreements to be void as contrary to public
 62 policy; prohibiting entering into such agreements;
 63 providing application; amending s. 717.1400, F.S. ;
 64 revising registration requirements; providing an effective
 65 date.

66
 67 Be It Enacted by the Legislature of the State of Florida:

68
 69 Section 1. Subsections (11), (12), (13), (14), (15), (16),
 70 (17), (18), (19), (20), and (21) of section 717.101, Florida
 71 Statutes, are amended to read:

72 717.101 Definitions.--As used in this chapter, unless the
 73 context otherwise requires:

74 (11) "Health care provider" means any state-licensed
 75 entity that provides and receives payment for health care
 76 services. These entities include, but are not limited to,
 77 hospitals, outpatient centers, physician practices, and skilled
 78 nursing facilities.

79 ~~(12)~~~~(11)~~ "Holder" means a person, wherever organized or
 80 domiciled, who is:

- 81 (a) In possession of property belonging to another;
- 82 (b) A trustee in case of a trust; or
- 83 (c) Indebted to another on an obligation.

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84 (13)~~(12)~~ "Insurance company" means an association,
85 corporation, or fraternal or mutual benefit organization,
86 whether or not for profit, which is engaged in providing
87 insurance coverage, including, by way of illustration and not
88 limitation, accident, burial, casualty, credit life, contract
89 performance, dental, fidelity, fire, health, hospitalization,
90 illness, life (including endowments and annuities), malpractice,
91 marine, mortgage, surety, and wage protection insurance.

92 (14)~~(13)~~ "Intangible property" includes, by way of
93 illustration and not limitation:

94 (a) Moneys, checks, drafts, deposits, interest, dividends,
95 and income.

96 (b) Credit balances, customer overpayments, security
97 deposits and other instruments as defined by chapter 679,
98 refunds, unpaid wages, unused airline tickets, and unidentified
99 remittances.

100 (c) Stocks, and other intangible ownership interests in
101 business associations.

102 (d) Moneys deposited to redeem stocks, bonds, bearer
103 bonds, original issue discount bonds, coupons, and other
104 securities, or to make distributions.

105 (e) Amounts due and payable under the terms of insurance
106 policies.

107 (f) Amounts distributable from a trust or custodial fund
108 established under a plan to provide any health, welfare,
109 pension, vacation, severance, retirement, death, stock purchase,
110 profit sharing, employee savings, supplemental unemployment
111 insurance, or similar benefit.

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112 | ~~(15)-(14)~~ "Last known address" means a description of the
 113 | location of the apparent owner sufficient for the purpose of the
 114 | delivery of mail. For the purposes of identifying, reporting,
 115 | and remitting property to the department which is presumed to be
 116 | unclaimed, "last known address" includes any partial description
 117 | of the location of the apparent owner sufficient to establish
 118 | the apparent owner was a resident of this state at the time of
 119 | last contact with the apparent owner or at the time the property
 120 | became due and payable.

121 | ~~(16)-(15)~~ "Lawful charges" means charges against dormant
 122 | accounts that are authorized by statute for the purpose of
 123 | offsetting the costs of maintaining the dormant account.

124 | (17) "Managed care payor" means a health care plan that
 125 | has a defined system of selecting and limiting health care
 126 | providers as evidenced by a managed care contract with the
 127 | health care providers. These plans include, but are not limited
 128 | to, managed care health insurance companies and health
 129 | maintenance organizations.

130 | ~~(18)-(16)~~ "Owner" means a depositor in the case of a
 131 | deposit, a beneficiary in case of a trust or a deposit in trust,
 132 | or a payee in the case of other intangible property, or a person
 133 | having a legal or equitable interest in property subject to this
 134 | chapter or his or her legal representative.

135 | ~~(19)-(17)~~ "Public corporation" means a corporation created
 136 | by the state, founded and owned in the public interest,
 137 | supported by public funds, and governed by those deriving their
 138 | power from the state.

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139 (20)~~(18)~~ "Reportable period" means the calendar year
 140 ending December 31 of each year.

141 (21)~~(19)~~ "State," when applied to a part of the United
 142 States, includes any state, district, commonwealth, territory,
 143 insular possession, and any other area subject to the
 144 legislative authority of the United States.

145 (22)~~(20)~~ "Ultimate equitable owner" means a natural person
 146 who, directly or indirectly, owns or controls an ownership
 147 interest in a corporation, a foreign corporation, an alien
 148 business organization, or any other form of business
 149 organization, regardless of whether such natural person owns or
 150 controls such ownership interest through one or more natural
 151 persons or one or more proxies, powers of attorney, nominees,
 152 corporations, associations, partnerships, trusts, joint stock
 153 companies, or other entities or devices, or any combination
 154 thereof.

155 (23)~~(21)~~ "Utility" means a person who owns or operates,
 156 for public use, any plant, equipment, property, franchise, or
 157 license for the transmission of communications or the
 158 production, storage, transmission, sale, delivery, or furnishing
 159 of electricity, water, steam, or gas.

160 Section 2. Paragraph (b) of subsection (1) of section
 161 717.106, Florida Statutes, is amended to read:

162 717.106 Bank deposits and funds in financial
 163 organizations.--

164 (1) Any demand, savings, or matured time deposit with a
 165 banking or financial organization, including deposits that are
 166 automatically renewable, and any funds paid toward the purchase

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167 | of shares, a mutual investment certificate, or any other
 168 | interest in a banking or financial organization is presumed
 169 | unclaimed unless the owner has, within 5 years:

170 | (b) Communicated in writing or by documented telephone
 171 | contact with the banking or financial organization concerning
 172 | the property;

173 | Section 3. Paragraphs (a), (b), and (c) of subsection (1)
 174 | and subsection (2) of section 717.1101, Florida Statutes, are
 175 | amended, and subsection (4) is added to said section, to read:

176 | 717.1101 Unclaimed equity and debt of business
 177 | associations.--

178 | (1)(a) Stock or other equity interest in a business
 179 | association is presumed unclaimed 3 ~~5~~ years after the earliest
 180 | of:

181 | 1. The date of the most recent dividend, stock split, or
 182 | other distribution unclaimed by the apparent owner;

183 | 2. The date of a statement of account or other
 184 | notification or communication that was returned as
 185 | undeliverable; or

186 | 3. The date the holder discontinued mailings,
 187 | notifications, or communications to the apparent owner.

188 | (b) Unmatured or unredeemed debt, other than a bearer bond
 189 | or an original issue discount bond, is presumed unclaimed 3 ~~5~~
 190 | years after the date of the most recent interest payment
 191 | unclaimed by the owner.

192 | (c) Matured or redeemed debt is presumed unclaimed 3 ~~5~~
 193 | years after the date of maturity or redemption.

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194 (2) The running of such 3-year ~~5-year~~ period ceases if the
 195 person:

196 (a)1. Communicates in writing with the association or its
 197 agent regarding the interest or a dividend, distribution, or
 198 other sum payable as a result of the interest; or

199 2. Otherwise communicates with the association regarding
 200 the interest or a dividend, distribution, or other sum payable
 201 as a result of the interest, as evidenced by a memorandum or
 202 other record on file with the association or its agent.

203 (b) Presents an instrument issued to pay interest or a
 204 dividend or other cash distribution. If any future dividend,
 205 distribution, or other sum payable to the owner as a result of
 206 the interest is subsequently not claimed by the owner, a new
 207 period in which the property is presumed unclaimed commences and
 208 relates back only to the time a subsequent dividend,
 209 distribution, or other sum became due and payable.

210 (4) Any dividend, profit, distribution, interest
 211 redemption, payment on principal, or other sum held or owing by
 212 a business association for or to a shareholder,
 213 certificateholder, member, bondholder, or other security holder,
 214 who has not claimed such amount or corresponded in writing with
 215 the business association concerning such amount, within 3 years
 216 after the date prescribed for payment or delivery, is presumed
 217 unclaimed.

218 Section 4. Subsections (3) and (4) of subsection (7) of
 219 section 717.117, Florida Statutes, are amended, and paragraph
 220 (c) is added to subsection (7) of that section, to read:

221 717.117 Report of unclaimed property.--

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222 (3) The report must be filed before May 1 of each year.
 223 The ~~Such~~ report shall apply to the preceding calendar year. The
 224 department may impose and collect a penalty of \$10 per day up to
 225 a maximum of \$500 for the failure to timely report or the
 226 failure to include in a report information required by this
 227 chapter. The penalty shall be remitted to the department within
 228 30 days after the date of the notification to the holder that
 229 the penalty is due and owing. As necessary for proper
 230 administration of this chapter, the department may waive any
 231 penalty due with appropriate justification. On written request
 232 by any person required to file a report and upon a showing of
 233 good cause, the department may postpone the reporting date. The
 234 department must provide information contained in a report filed
 235 with the department to any person requesting a copy of the
 236 report or information contained in a report, to the extent the
 237 information requested is not confidential, within 45 ~~90~~ days
 238 after the report has been processed and added to the unclaimed
 239 property database subsequent to a determination that the report
 240 is accurate and that the reported property is the same as the
 241 remitted property.

242 (4) Holders of inactive accounts having a value of \$50 or
 243 more shall use due diligence to locate apparent owners. Not more
 244 than 120 days and not less than 60 days prior to filing the
 245 report required by this section, the holder in possession of
 246 property presumed unclaimed and subject to custody as unclaimed
 247 property under this chapter shall send written notice to the
 248 apparent owner at the apparent owner's last known address
 249 informing the apparent owner that the holder is in possession of

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250 property subject to this chapter, if the holder has in its
251 records an address for the apparent owner which the holder's
252 records do not disclose to be inaccurate.

253 ~~(a) When an owner's account becomes inactive, the holder~~
254 ~~shall conduct at least one search for the apparent owner using~~
255 ~~due diligence. For purposes of this section, an account is~~
256 ~~inactive if 2 years have transpired after the last owner~~
257 ~~initiated account activity, if 2 years have transpired after the~~
258 ~~expiration date on the instrument or contract, or if 2 years~~
259 ~~have transpired since first class mail has been returned as~~
260 ~~undeliverable.~~

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

266 ~~(c) Within 30 days after receiving updated address~~
267 ~~information, the holder shall provide notice by telephone or~~
268 ~~first class mail to the current address notifying the apparent~~
269 ~~owner that the holder is in possession of property which is~~
270 ~~presumed unclaimed and may be remitted to the department. The~~
271 ~~notice shall also provide the apparent owner with the address or~~
272 ~~the telephone number of an office where the apparent owner may~~
273 ~~claim the property or reestablish the inactive account.~~

274 ~~(d) The account shall be presumed unclaimed if the holder~~
275 ~~is not able to contact the apparent owner by telephone, the~~
276 ~~first class mail notice is returned to the holder as~~

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277 ~~undeliverable, or the apparent owner does not contact the holder~~
 278 ~~in response to the first class mail notice.~~

279 (7)

280 (c) This section does not apply to credit balances,
 281 overpayments, refunds, or outstanding checks owed by a health
 282 care provider to a managed care payor with whom the health care
 283 provider has a managed care contract, provided that the credit
 284 balances, overpayments, refunds, or outstanding checks become
 285 due and owing pursuant to the managed care contract.

286 Section 5. Subsection (1) of section 717.118, Florida
 287 Statutes, is amended to read:

288 717.118 Notification of apparent owners of unclaimed
 289 property.--

290 (1) It is specifically recognized that the state has an
 291 obligation to make an effort to notify owners of unclaimed
 292 property in a cost-effective manner. In order to provide all the
 293 citizens of this state an effective and efficient program for
 294 the recovery of unclaimed property, the department shall use
 295 cost-effective means to make at least one active attempt to
 296 notify owners of unclaimed property accounts valued at more than
 297 \$250 ~~\$100~~ with a reported address or taxpayer identification
 298 number. Such active attempt to notify apparent owners shall
 299 include any attempt by the department to directly contact the
 300 owner. Other means of notification, such as publication of the
 301 names of owners in the newspaper, on television, on the
 302 Internet, or through other promotional efforts and items in
 303 which the department does not directly attempt to contact the
 304 owner are expressly declared to be passive attempts. Nothing in

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305 | this subsection precludes other agencies or entities of state
306 | government from notifying owners of the existence of unclaimed
307 | property or attempting to notify apparent owners of unclaimed
308 | property.

309 | Section 6. Paragraph (b) of subsection (5) of section
310 | 717.119, Florida Statutes, is amended to read:

311 | 717.119 Payment or delivery of unclaimed property.--

312 | (5) All intangible and tangible property held in a safe-
313 | deposit box or any other safekeeping repository reported under
314 | s. 717.117 shall not be delivered to the department until 120
315 | days after the report due date. The delivery of the property,
316 | through the United States mail or any other carrier, shall be
317 | insured by the holder at an amount equal to the estimated value
318 | of the property. Each package shall be clearly marked on the
319 | outside "Deliver Unopened." A holder's safe-deposit box contents
320 | shall be delivered to the department in a single shipment. In
321 | lieu of a single shipment, holders may provide the department
322 | with a single detailed shipping schedule that includes package
323 | tracking information for all packages being sent pursuant to
324 | this section.

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

330 | However, the department is authorized to make a reasonable
331 | attempt to ascertain the historical value to collectors of any
332 | firearm that has been delivered to the department. Any firearm

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333 | appearing to have historical value to collectors may be sold by
 334 | the department pursuant to s. 717.122 to a person having a
 335 | federal firearms license. Any firearm which is not sold pursuant
 336 | to s. 717.122 shall be delivered by the department to a law
 337 | enforcement agency in this state for disposal pursuant to s.
 338 | 705.103(2)(b) with the balance of the proceeds deposited into
 339 | the State School Fund if the firearm is sold. The department
 340 | shall not be administratively, civilly, or criminally liable for
 341 | any firearm delivered by the department to a law enforcement
 342 | agency in this state for disposal.

343 | Section 7. Section 717.122, Florida Statutes, is amended
 344 | to read:

345 | 717.122 Public sale of unclaimed property.--

346 | (1) Except as provided in paragraph ~~subsection~~ (2)(a), the
 347 | department after the receipt of unclaimed property shall sell it
 348 | to the highest bidder at public sale on the Internet or at a
 349 | specified physical location wherever in the judgment of the
 350 | department the most favorable market for the property involved
 351 | exists. The department may decline the highest bid and reoffer
 352 | the property for sale if in the judgment of the department the
 353 | bid is insufficient. The department shall have the discretion to
 354 | withhold from sale any unclaimed property that the department
 355 | deems to be of benefit to the people of the state. If in the
 356 | judgment of the department the probable cost of sale exceeds the
 357 | value of the property, it need not be offered for sale and may
 358 | be disposed of as the department determines appropriate. Any
 359 | sale at a specified physical location held under this section
 360 | must be preceded by a single publication of notice, at least 3

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361 weeks in advance of sale, in a newspaper of general circulation
362 in the county in which the property is to be sold. The
363 department shall proportionately deduct auction fees,
364 preparation costs, and expenses from the amount posted to the
365 owner's account when safe-deposit box contents are sold. No
366 action or proceeding may be maintained against the department
367 for or on account of any decision to decline the highest bid or
368 withhold any unclaimed property from sale.

369 (2) (a) Securities listed on an established stock exchange
370 must be sold at prices prevailing at the time of sale on the
371 exchange. Other securities may be sold over the counter at
372 prices prevailing at the time of sale or by any other method the
373 department deems advisable. The department may authorize the
374 agent or broker acting on behalf of the department to deduct
375 fees from the proceeds of these sales at a rate agreed upon in
376 advance by the agent or broker and the department. The
377 department shall reimburse owners accounts for these brokerage
378 fees from the State School Fund unless the securities are sold
379 at the owner's request.

380 (b) ~~(3)~~ Unless the department deems it to be in the public
381 interest to do otherwise, all securities presumed unclaimed and
382 delivered to the department may be sold upon receipt. Any person
383 making a claim pursuant to this chapter is entitled to receive
384 either the securities delivered to the department by the holder,
385 if they still remain in the hands of the department, or the
386 proceeds received from sale, but no person has any claim under
387 this chapter against the state, the holder, any transfer agent,
388 any registrar, or any other person acting for or on behalf of a

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389 holder for any appreciation in the value of the property
 390 occurring after delivery by the holder to the state.

391 (c) Certificates for unclaimed stock or other equity
 392 interest of business associations that cannot be canceled and
 393 registered in the department's name or that cannot be readily
 394 liquidated and converted into the currency of the United States
 395 may be sold for the value of the certificate, if any, in
 396 accordance with subsection (1) or may be destroyed in accordance
 397 with s. 717.128.

398 ~~(3)-(4)~~ The purchaser of property at any sale conducted by
 399 the department pursuant to this chapter is entitled to ownership
 400 of the property purchased free from all claims of the owner or
 401 previous holder thereof and of all persons claiming through or
 402 under them. The department shall execute all documents necessary
 403 to complete the transfer of ownership.

404 ~~(4)-(5)~~ The sale of unclaimed tangible personal property is
 405 not subject to tax under chapter 212 when such property is sold
 406 by or on behalf of the department pursuant to this section.

407 Section 8. Subsections (1) and (4) of section 717.124,
 408 Florida Statutes, are amended to read:

409 717.124 Unclaimed property claims.--

410 (1) Any person, excluding another state, claiming an
 411 interest in any property paid or delivered to the department
 412 under this chapter may file with the department a claim on a
 413 form prescribed by the department and verified by the claimant
 414 or the claimant's representative. The claimant's representative
 415 must be an attorney licensed to practice law in this state, a
 416 licensed Florida-certified public accountant, or a private

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417 | investigator licensed under chapter 493. The claimant's
 418 | representative must be registered with the department under this
 419 | chapter. The claimant, or the claimant's representative, shall
 420 | provide the department with a legible copy of a valid driver's
 421 | license of the claimant at the time the original claim form is
 422 | filed. If the claimant has not been issued a valid driver's
 423 | license at the time the original claim form is filed, the
 424 | department shall be provided with a legible copy of a
 425 | photographic identification of the claimant issued by the United
 426 | States ~~or a foreign nation~~, a state or territory of the United
 427 | States, ~~or~~ a foreign nation, or a political subdivision or
 428 | agency thereof or other evidence deemed acceptable by the
 429 | department by rule. In lieu of photographic identification, a
 430 | notarized sworn statement by the claimant may be provided which
 431 | affirms the claimant's identity and states the claimant's full
 432 | name and address. The claimant must produce to the notary
 433 | photographic identification of the claimant issued by the United
 434 | States, a state or territory of the United States, a foreign
 435 | nation, or a political subdivision or agency thereof or other
 436 | evidence deemed acceptable by the department by rule. The notary
 437 | shall indicate the notary's full address on the notarized sworn
 438 | statement. Any claim filed without the required identification
 439 | or the sworn statement with the original claim form and the
 440 | original power of attorney or purchase agreement, if applicable,
 441 | is void.

442 | (a) Within 90 days after receipt of a claim, the
 443 | department may return any claim that provides for the receipt of
 444 | fees and costs greater than that permitted under this chapter or

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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445 that contains any apparent errors or omissions. The department
 446 may also request that the claimant or the claimant's
 447 representative provide additional information. The department
 448 shall retain a copy or electronic image of the claim.

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

454 (c) Within 90 days after receipt of the claim, or the
 455 response of the claimant or the claimant's representative to the
 456 department's request for additional information, whichever is
 457 later, the department shall determine each claim. Such
 458 determination shall contain a notice of rights provided by ss.
 459 120.569 and 120.57. The 90-day period shall be extended by 60
 460 days if the department has good cause to need additional time or
 461 if the unclaimed property:

- 462 1. Is owned by a person who has been a debtor in
 463 bankruptcy;
- 464 2. Was reported with an address outside of the United
 465 States;
- 466 3. Is being claimed by a person outside of the United
 467 States; or
- 468 4. Contains documents filed in support of the claim that
 469 are not in the English language and have not been accompanied by
 470 an English language translation.

471 (d) The department shall deny any claim under which the
 472 claimant's representative has refused to authorize the

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473 department to reduce the fees and costs to the maximum permitted
474 under this chapter.

475 (4) (a) Except as otherwise provided in this chapter, if a
476 claim is determined in favor of the claimant, the department
477 shall deliver or pay over to the claimant the property or the
478 amount the department actually received or the proceeds if it
479 has been sold by the department, together with any additional
480 amount required by s. 717.121.

481 (b) If an owner authorizes an attorney licensed to
482 practice law in this state, Florida-certified public accountant,
483 or private investigator licensed under chapter 493, and
484 registered with the department under this chapter, to claim the
485 unclaimed property on the owner's behalf, the department is
486 authorized to make distribution of the property or money in
487 accordance with such power of attorney. The original power of
488 attorney must be executed by the owner and must be filed with
489 the department.

490 (c)1. Payments of approved claims for unclaimed cash
491 accounts shall be made to the owner after deducting any fees and
492 costs authorized pursuant to a written power of attorney. The
493 contents of a safe-deposit box shall be delivered directly to
494 the claimant notwithstanding any power of attorney or agreement
495 to the contrary.

496 2. Payments of fees and costs authorized pursuant to a
497 written power of attorney for approved claims shall be made or
498 issued to the law firm ~~employer~~ of the designated attorney
499 licensed to practice law in this state, the public accountancy
500 firm ~~employer~~ of the licensed Florida-certified public

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501 accountant, or the designated employing private investigative
502 agency licensed by this state. Such payments shall be made by
503 electronic funds transfer and may be made on such periodic
504 schedule as the department may define by rule, provided the
505 payment intervals do not exceed 31 days. Payment made to an
506 attorney licensed in this state, a Florida-certified public
507 accountant, or a private investigator licensed under chapter
508 493, operating individually or as a sole practitioner, shall be
509 to the attorney, certified public accountant, or private
510 investigator.

511 Section 9. Section 717.12404, Florida Statutes, is amended
512 to read:

513 717.12404 Claims on behalf of a business entity or
514 trust.--

515 (1)(a) Claims on behalf of an active or dissolved
516 corporation, for which the last annual report is not available
517 from the Department of State through the Internet, must be
518 accompanied by a microfiche copy of the records on file with the
519 Department of State or, if the corporation has not made a
520 corporate filing with the Department of State, the claim must be
521 accompanied by a uniform resource locator for the address of a
522 free Internet site operated by the state of incorporation of the
523 corporation that provides access to the last corporate filing
524 identifying the officers and directors of the corporation. If
525 available, the claim must be accompanied by a printout of the
526 officers and directors from the Department of State Internet
527 site or the free Internet site operated by the state of
528 incorporation of the corporation. If the free Internet site is

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529 | not available, the claim must be accompanied by an authenticated
 530 | copy of the last corporate filing identifying the officers and
 531 | directors from the appropriate authorized official of the state
 532 | of incorporation.

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

535 | (2) Claims on behalf of a dissolved corporation, a
 536 | business entity other than an active corporation, or a trust
 537 | must include a legible copy of a valid driver's license of the
 538 | person acting on behalf of the dissolved corporation, business
 539 | entity other than an active corporation, or trust. If the person
 540 | has not been issued a valid driver's license, the department
 541 | shall be provided with a legible copy of a photographic
 542 | identification of the person issued by the United States, ~~or~~ a
 543 | foreign nation, or a political subdivision or agency thereof. In
 544 | lieu of photographic identification, a notarized sworn statement
 545 | by the person may be provided which affirms the person's
 546 | identity and states the person's full name and address. The
 547 | person must produce his or her photographic identification
 548 | issued by the United States, a state or territory of the United
 549 | States, a foreign nation, or a political subdivision or agency
 550 | thereof or other evidence deemed acceptable by the department by
 551 | rule. The notary shall indicate the notary's full address on the
 552 | notarized sworn statement. Any claim filed without the required
 553 | identification or the sworn statement with the original claim
 554 | form and the original power of attorney, if applicable, is void.

555 | Section 10. Section 717.12406, Florida Statutes, is
 556 | created to read:

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- 557 717.12406 Joint ownership of unclaimed securities or
 558 dividends.--For the purpose of determining joint ownership of
 559 unclaimed securities or dividends, the term:
- 560 (1) "TEN COM" means tenants in common.
 - 561 (2) "TEN ENT" means tenants by the entireties.
 - 562 (3) "JT TEN" or "JT" means joint tenants with the right of
 563 survivorship and not as tenants in common.
 - 564 (4) "And" means tenants in common with each person
 565 entitled to an equal pro rata share.
 - 566 (5) "Or" means that each person listed on the account is
 567 entitled to all of the funds.

568 Section 11. Section 717.1241, Florida Statutes, is amended
 569 to read:

570 717.1241 Conflicting claims.--

571 (1) When conflicting claims have been received by the
 572 department for the same unclaimed property account or accounts,
 573 the property shall be remitted in accordance with the claim
 574 filed by the person as follows, notwithstanding the withdrawal
 575 of a claim:

- 576 (a) ~~As between an owner and an owner's representative:~~
- 577 ~~1-~~ To the person submitting the first claim received by
 578 the Bureau of Unclaimed Property of the department that is
 579 complete or made complete. ~~;~~ ~~or~~
- 580 (b) ~~2-~~ If a claimant's ~~an owner's~~ claim and a claimant's ~~an~~
 581 ~~owner's~~ representative's claim are received by the Bureau of
 582 Unclaimed Property of the department on the same day and both
 583 claims are complete, to the claimant. ~~owner;~~

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584 (c) If a buyer's claim and a claimant's claim or a
585 claimant's representative's claim are received by the Bureau of
586 Unclaimed Property of the department on the same day and the
587 claims are complete, to the buyer.

588 ~~(b) As between two or more owner's representatives, to the~~
589 ~~owner's representative who has submitted the first claim that is~~
590 ~~complete or made complete, or~~

591 (d) (e) As between two or more claimant's representative's
592 claims received by the Bureau of Unclaimed Property of the
593 department that are complete or made ~~owner's representatives~~
594 ~~whose claims were~~ complete on the same day, to the claimant's
595 ~~owner's~~ representative who has agreed to receive the lowest fee.
596 If the two or more claimant's ~~owner's~~ representatives whose
597 claims received by the Bureau of Unclaimed Property of the
598 department were complete or made complete on the same day are
599 charging the same lowest fee, the fee fees shall be divided
600 equally between the claimant's ~~owner's~~ representatives.

601 (e) If more than one buyer's claim received by the Bureau
602 of Unclaimed Property of the department is complete or made
603 complete on the same day, the department shall remit the
604 unclaimed property to the buyer who paid the highest amount to
605 the seller. If the buyers paid the same amount to the seller,
606 the department shall remit the unclaimed property to the buyers
607 divided in equal amounts.

608 (2) The purpose of this section is solely to provide
609 guidance to the department regarding to whom it should remit the
610 unclaimed property and is not intended to extinguish or affect
611 any private cause of action that any person may have against

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612 another person for breach of contract or other statutory or
 613 common-law remedy. A buyer's sole remedy, if any, shall be
 614 against the claimant's representative or the seller, or both. A
 615 claimant's representative's sole remedy, if any, shall be
 616 against the buyer or the seller, or both. A claimant's or
 617 seller's sole remedy, if any, shall be against the buyer or the
 618 claimant's representative, or both. Nothing in this section
 619 forecloses the right of a person to challenge the department's
 620 determination of completeness in a proceeding under ss. 120.569
 621 and 120.57.

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

624 Section 12. Subsection (2) of section 717.1242, Florida
 625 Statutes, is amended to read:

626 717.1242 Restatement of jurisdiction of the circuit court
 627 sitting in probate and the department.--

628 (2) If ~~Should~~ any estate or heir of an estate seeks ~~seek~~
 629 ~~to obtain~~ or obtains ~~obtain~~ an order from a circuit court
 630 sitting in probate directing the department to pay or deliver to
 631 any person property paid or delivered to the department under
 632 this chapter, the estate or heir shall ~~may~~ be ordered to pay the
 633 department reasonable costs and attorney's fees in any
 634 proceeding brought by the department to oppose, appeal, or
 635 collaterally attack the order if the department is the
 636 prevailing party in any such proceeding.

637 Section 13. Subsection (1) of section 717.1243, Florida
 638 Statutes, is amended, and subsection (5) is added to said
 639 section, to read:

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640 717.1243 Small estate accounts.--

641 (1) A claim for unclaimed property made by a beneficiary,
 642 as defined in s. 731.201, of a deceased owner need not be
 643 accompanied by an order of a probate court if the claimant files
 644 with the department an affidavit, signed by all beneficiaries,
 645 stating that all the beneficiaries have amicably agreed among
 646 themselves upon a division of the estate and that all funeral
 647 expenses, expenses of the last illness, and any other lawful
 648 claims have been paid, and any additional information reasonably
 649 necessary to make a determination of entitlement. If the owner
 650 died testate, the claim shall be accompanied by a copy of the
 651 will.

652 (5) Nothing in this section shall be interpreted as
 653 precluding the use of live testimony in order to establish
 654 entitlement.

655 Section 14. Section 717.1245, Florida Statutes, is created
 656 to read:

657 717.1245 Garnishment of unclaimed property.--If any person
 658 files a petition for writ of garnishment seeking to obtain
 659 property paid or delivered to the department under this chapter,
 660 the petitioner shall be ordered to pay the department reasonable
 661 costs and attorney's fees in any proceeding brought by the
 662 department to oppose, appeal, or collaterally attack the
 663 petition or writ if the department is the prevailing party in
 664 any such proceeding.

665 Section 15. Subsection (3) of section 717.1311, Florida
 666 Statutes, is amended to read:

667 717.1311 Retention of records.--

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668 ~~(3) If a holder fails to maintain the records required by~~
669 ~~this section and the records of the holder which are available~~
670 ~~for the periods subject to this chapter are insufficient to~~
671 ~~permit the preparation of a report, the holder shall be required~~
672 ~~to report and pay such amounts as may reasonably be estimated~~
673 ~~from any available records.~~

674 Section 16. Section 717.1315, Florida Statutes, is amended
675 to read:

676 717.1315 Retention of records by claimant's
677 representatives and buyers of unclaimed property ~~owner's~~
678 ~~representative.--~~

679 (1) Every claimant's ~~owner's~~ representative and buyer of
680 unclaimed property shall keep and use in his or her business
681 such books, accounts, and records of the business conducted
682 under this chapter to enable the department to determine whether
683 such person ~~owner's representative~~ is complying with this
684 chapter and the rules adopted by the department under this
685 chapter. Every claimant's ~~owner's~~ representative and buyer of
686 unclaimed property shall preserve such books, accounts, and
687 records, including every power of attorney or agreement between
688 the owner and such claimant's ~~owner's~~ representative or buyer,
689 for at least 3 years after the date of the initial power of
690 attorney or agreement.

691 (2) A claimant's ~~An owner's~~ representative or buyer of
692 unclaimed property, operating at two or more places of business
693 in this state, may maintain the books, accounts, and records of
694 all such offices at any one of such offices, or at any other
695 office maintained by such claimant's ~~owner's~~ representative or

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696 buyer of unclaimed property, upon the filing of a written notice
 697 with the department designating in the written notice the office
 698 at which such records are maintained.

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

703 Section 17. Subsection (3) of section 717.132, Florida
 704 Statutes, is amended to read:

705 717.132 Enforcement; cease and desist orders;
 706 ~~administrative fines.--~~

707 (3) In addition to any other powers conferred upon it to
 708 enforce and administer the provisions of this chapter, the
 709 department or a court of competent jurisdiction may impose fin
 710 ~~and collect an administrative fine~~ against any person found to
 711 have violated any provision of this chapter, any rule or order
 712 promulgated under this chapter, or any written agreement entered
 713 into with the department in an amount not to exceed \$2,000 for
 714 each violation. All fines collected under this subsection shall
 715 be deposited as received in the Unclaimed Property Trust Fund.

716 Section 18. Subsection (1), paragraph (a) of subsection
 717 (2), and subsections (3) and (5) of section 717.1322, Florida
 718 Statutes, are amended to read:

719 717.1322 Administrative and civil enforcement.--

720 (1) The following acts are violations of this chapter and
 721 constitute grounds for an administrative enforcement action by
 722 the department in accordance with the requirements of chapter

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723 | 120 and for civil enforcement by the department in a court of
 724 | competent jurisdiction:

725 | (a) Failure to comply with any provision of this chapter,
 726 | any rule or order adopted under this chapter, or any written
 727 | agreement entered into with the department.

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

730 | (c) Fraudulent misrepresentation, circumvention, or
 731 | concealment of any matter required to be stated or furnished to
 732 | an owner or apparent owner under this chapter, regardless of
 733 | reliance by or damage to the owner or apparent owner.

734 | (d) Willful imposition of illegal or excessive charges in
 735 | any unclaimed property transaction.

736 | (e) False, deceptive, or misleading solicitation or
 737 | advertising within the scope of this chapter.

738 | (f) Failure to maintain, preserve, and keep available for
 739 | examination all books, accounts, or other documents required by
 740 | this chapter, by any rule or order adopted under this chapter,
 741 | or by any agreement entered into with the department under this
 742 | chapter.

743 | (g) Refusal to permit inspection of books and records in
 744 | an investigation or examination by the department or refusal to
 745 | comply with a subpoena issued by the department under this
 746 | chapter.

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

748 | (i) Failure to timely pay any fine imposed or assessed
 749 | under this chapter or any rule adopted under this chapter.

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750 (j) Requesting or receiving compensation for notifying a
751 person of his or her unclaimed property or assisting another
752 person in filing a claim for unclaimed property, unless the
753 person is an attorney licensed to practice law in this state, a
754 Florida-certified public accountant, or a private investigator
755 licensed under chapter 493, or entering into, or making a
756 solicitation to enter into, a power of attorney to file ~~For~~
757 ~~compensation or gain or in the expectation of compensation or~~
758 ~~gain, the filing of a claim for unclaimed property owned by~~
759 ~~another, or a contract or agreement to purchase unclaimed~~
760 property, unless such person is registered with the department
761 pursuant to this chapter and an ~~a registered~~ attorney licensed
762 to practice law in this state in the regular practice of her or
763 his profession, a Florida-certified ~~registered~~ public accountant
764 who is acting within the scope of the practice of public
765 accounting as defined in chapter 473 ~~certified in this state, or~~
766 ~~a registered~~ private investigator licensed under chapter 493.
767 This subsection does not apply to a person who has been granted
768 a durable power of attorney to convey and receive all of the
769 real and personal property of the owner, is the court-appointed
770 guardian of the owner, ~~has been employed as an attorney or~~
771 ~~qualified representative to contest the department's denial of a~~
772 ~~claim, has been employed as an attorney or qualified~~
773 representative to contest the department's denial of a claim, or
774 has been employed as an attorney to probate the estate of the
775 owner or an heir or legatee of the owner.

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

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

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

784 (a) Revoking for a minimum of 5 years or suspending for a
 785 maximum of 5 years a registration previously granted under this
 786 chapter during which time the registrant may not reapply for a
 787 registration under this chapter;

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

793 (5) The department may seek any appropriate civil legal
 794 remedy available to it by filing a civil action in a court of
 795 competent jurisdiction against any person who has, directly or
 796 through a claimant's ~~an owner's~~ representative, wrongfully
 797 submitted a claim as the ultimate owner of property and
 798 improperly received funds from the department in violation of
 799 this chapter.

800 Section 19. Section 717.1323, Florida Statutes, is created
 801 to read:

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802 717.1323 Prohibited practice.--No person may knowingly
 803 enter false information onto the Internet website of the Bureau
 804 of Unclaimed Property.

805 Section 20. Section 717.1331, Florida Statutes, is amended
 806 to read:

807 717.1331 Actions against holders.--The department may
 808 initiate, or cause to be initiated, an action against a holder
 809 to enforce a subpoena or recover unclaimed property. If the
 810 department prevails in a civil or administrative action to
 811 enforce a subpoena or recover unclaimed property initiated by or
 812 on behalf of the department, the holder shall be ordered to pay
 813 the department reasonable costs and attorney's fees.

814 Section 21. Section 717.1333, Florida Statutes, is amended
 815 to read:

816 717.1333 Evidence; estimations; audit reports, examiner's
 817 worksheets, investigative reports, other related documents.--

818 (1) In any proceeding involving a holder under ss. 120.569
 819 and 120.57 in which an auditor, examiner, or investigator acting
 820 under authority of this chapter is available for cross-
 821 examination, any official written report, worksheet, or other
 822 related paper, or copy thereof, compiled, prepared, drafted, or
 823 otherwise made or received by the auditor, examiner, or
 824 investigator, after being duly authenticated by the auditor,
 825 examiner, or investigator, may be admitted as competent evidence
 826 upon the oath of the auditor, examiner, or investigator that the
 827 report, worksheet, or related paper was prepared or received as
 828 a result of an audit, examination, or investigation of the books

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829 and records of the person audited, examined, or investigated, or
 830 the agent thereof.

831 (2) If the records of the holder that are available for
 832 the periods subject to this chapter are insufficient to permit
 833 the preparation of a report of the unclaimed property due and
 834 owing by a holder, the amount due may be reasonably estimated.

835 Section 22. Section 717.135, Florida Statutes, is amended
 836 to read:

837 717.135 Power of attorney ~~Agreement~~ to recover reported
 838 property in the custody of the department.--

839 (1) A power of attorney executed by a claimant to All
 840 ~~agreements between a claimant's representative and a claimant~~
 841 for compensation to recover or assist in the recovery of
 842 property reported to the department under s. 717.117 shall be in
 843 10-point 11-point type or greater. ~~and-~~

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

845 (a) Limit the fees and costs for services to 20 percent
 846 per unclaimed property account held by the department. Fees and
 847 costs for cash accounts shall be based on the value of the
 848 property at the time the power of attorney agreement for
 849 ~~recovery~~ is signed by the claimant. Fees and costs for accounts
 850 containing securities or other intangible ownership interests,
 851 which securities or interests are not converted to cash, shall
 852 be based on the purchase price of the security as quoted on a
 853 national exchange or other market on which the property is
 854 regularly traded at the time the securities or other ownership
 855 interest is remitted to the claimant or the claimant's
 856 representative. Fees and costs for tangible property or safe-

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857 deposit box accounts shall be based on the value of the tangible
858 property or contents of the safe-deposit box at the time the
859 ownership interest is transferred or remitted to the claimant.
860 Total fees and costs on any single account owned by a natural
861 person residing in this country must not exceed \$1,000; or

862 (b) Fully disclose, ~~on such form as the department shall~~
863 ~~prescribe by rule,~~ that the property is held by the Bureau of
864 Unclaimed Property of the Department of Financial Services
865 pursuant to this chapter, the mailing address of the bureau, the
866 Internet address of the bureau, the person or name of the entity
867 that held the property prior to the property becoming unclaimed,
868 the date of the holder's last contact with the owner, if known,
869 and the approximate value of the property, and identify which of
870 the following categories of unclaimed property the claimant's
871 ~~owner's~~ representative is seeking to recover, as reported by the
872 holder:

- 873 1. Cash accounts.
- 874 2. Stale dated checks.
- 875 3. Life insurance or annuity contract assets.
- 876 4. Utility deposits.
- 877 5. Securities or other interests in business associations.
- 878 6. Wages.
- 879 7. Accounts receivable.
- 880 8. Contents of safe-deposit boxes.

881
882 This subsection ~~Such disclosure shall be on a page signed and~~
883 ~~dated by the person asserting entitlement to the unclaimed~~
884 ~~property. However, paragraph (a) or paragraph (b) shall not~~

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885 | apply if probate proceedings must be initiated on behalf of the
 886 | claimant for an estate that has never been probated or if the
 887 | unclaimed property is being claimed by a person outside of the
 888 | United States.

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

892 | FULL DISCLOSURE STATEMENT

893 |
 894 | The property is currently held by the State of Florida
 895 | Department of Financial Services, Bureau of Unclaimed
 896 | Property, pursuant to chapter 717, Florida Statutes. The
 897 | mailing address of the Bureau of Unclaimed Property
 898 | is _____ . The Internet address of the Bureau of
 899 | Unclaimed Property is _____ .

900 | The property was Remitted by: _____ .
 901 | Date of last contact: _____ .
 902 | Property category: _____ .

903 |
 904 | (b) Immediately above the signature line for the claimant,
 905 | a power of attorney described in paragraph (2) (b) must state in
 906 | 12-point type or greater:

907 |
 908 | Claimant agrees, by signing below, that the FULL
 909 | DISCLOSURE STATEMENT has been read and fully understood.

910 |
 911 | (4) ~~(2)~~ (a) Powers of attorney ~~Agreements~~ for recovery of
 912 | cash accounts shall state the value of the unclaimed property,

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913 | the unclaimed property account number, and the percentage value
 914 | of the unclaimed property account to be paid to the claimant and
 915 | shall also state the percentage value of compensation to be paid
 916 | to the claimant's representative, if applicable.

917 | (b) Powers of attorney ~~Agreements~~ for recovery of accounts
 918 | containing securities, safe-deposit box accounts, other
 919 | intangible or tangible ownership interests, or other types of
 920 | accounts, except cash accounts, shall state the unclaimed
 921 | property account number, the number of shares of stock, if
 922 | applicable, the approximate value of the unclaimed property, and
 923 | the percentage value of compensation to be paid to the
 924 | claimant's representative, if applicable.

925 | (c) All powers of attorney disclosures ~~and agreements~~
 926 | shall include:

927 | 1. The name, ~~address~~, and professional license number of
 928 | the claimant's representative.

929 | 2. The name, address, and telephone number of the
 930 | claimant's representative's firm or employer.

931 | 3. The name, address, and telephone number of the
 932 | claimant.

933 | 4. ~~, and,~~ If applicable available, the taxpayer
 934 | identification number or social security number, address, and
 935 | telephone number of the claimant.

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

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

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940 | dated by the claimant of the property and shall be filed with
 941 | the claim form.

942 | ~~(e)(d)~~ All powers of attorney executed by a claimant to
 943 | ~~agreements between a claimant's representative and a claimant,~~
 944 | ~~who is a natural person, trust, or a dissolved corporation,~~ for
 945 | compensation to recover or assist in the recovery of property
 946 | reported to the department under s. 717.117 must use the
 947 | following form on 8 and 1/2-inch by 11-inch paper or on 8 and
 948 | 1/2-inch by 14-inch paper with all of the text on one side of
 949 | the paper and with the other side of the paper left blank,
 950 | ~~except that, at the option of the owner representative, the~~
 951 | ~~department disclosure form may be placed on the reverse side of~~
 952 | ~~the agreement.~~ The power of attorney agreement must be
 953 | accurately completed and executed. ~~No other writing or~~
 954 | ~~information shall be printed on the agreement.~~ The title of the
 955 | power of attorney agreement shall be in bold 14-point type or
 956 | greater and underlined. Except as otherwise provided in this
 957 | section, the rest of the power of attorney agreement shall be in
 958 | 10-point type or greater. All unclaimed property accounts
 959 | claimed must be identified on the power of attorney by account
 960 | number agreement. The power of attorney agreement must state in
 961 | bold 12-point type or greater at the top of the power of
 962 | attorney in the order indicated:

963 |
 964 | LIMITED POWER OF ATTORNEY RECOVERY AGREEMENT

965 |
 966 | \$ _____ = Approximate Dollar Value of the UNCLAIMED Property

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967 _____ = Number of Shares of Stock to be Recovered (If
 968 Applicable): _____

969 ~~PROPERTY ACCOUNT NUMBERS: _____~~

970 _____ Percent to be Paid as Compensation to the Claimant's
 971 Representative

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

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

974 Property Account Numbers: _____

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

977 ~~THIS AGREEMENT is between: _____ (hereinafter,~~
 978 ~~CLAIMANT) and _____ (hereinafter, CLAIMANT'S~~
 979 ~~REPRESENTATIVE) who agree to the following:~~

981 ~~(1) As consideration for the research efforts in locating~~
 982 ~~and identifying assets due to the CLAIMANT and for assistance in~~
 983 ~~procuring payment of the assets to the CLAIMANT, the CLAIMANT~~
 984 ~~authorizes the government to pay to the CLAIMANT'S~~
 985 ~~REPRESENTATIVE a fee of either:~~

- 986 ~~(a) _____ percent of all assets recovered, or~~
- 987 ~~(b) A flat fee of \$ _____ to recover the unclaimed~~
 988 ~~property account identified above.~~

990 ~~NO FEES ARE TO BE PAID IN ADVANCE.~~

992 ~~(2) I have read this agreement and in consideration~~
 993 ~~thereof, do hereby grant the CLAIMANT'S REPRESENTATIVE a limited~~
 994 ~~power of attorney to demand, collect, recover and receive the~~

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995 | ~~above compensation from the government in accordance with this~~
 996 | ~~agreement.~~

997 | ~~(3) IT IS HEREBY ACKNOWLEDGED BY ALL PARTIES TO THIS~~
 998 | ~~AGREEMENT THAT UNLESS THESE ASSETS ARE RECOVERED, NO FEES, NO~~
 999 | ~~COSTS OR CHARGES ARE DUE TO THE CLAIMANT'S REPRESENTATIVE, ITS~~
 1000 | ~~AGENTS OR ATTORNEYS, AND THIS AGREEMENT WILL BECOME NULL AND~~
 1001 | ~~VOID.~~

1002 | ~~Original Signature of CLAIMANT:~~
 1003 | ~~DATE:~~
 1004 | ~~CLAIMANT'S Social Security Number or FEID number:~~
 1005 | ~~Make the CLAIMANT'S check payable to:~~
 1006 | ~~Mail check to this address:~~
 1007 | ~~The CLAIMANT'S telephone number is:~~
 1008 | ~~Original Signature of CLAIMANT'S REPRESENTATIVE:~~
 1009 | ~~FEID Number of CLAIMANT'S REPRESENTATIVE:~~
 1010 | ~~DATE:~~
 1011 | ~~Address of CLAIMANT'S REPRESENTATIVE:~~
 1012 | ~~Telephone number of CLAIMANT'S REPRESENTATIVE:~~
 1013 | ~~Professional license number of CLAIMANT'S REPRESENTATIVE:~~

1014 | ~~(f)(e)~~ All fees, whether expressed as a percentage or as a
 1015 | flat fee, are subject to the limitations and requirements of
 1016 | subsection (2)~~(1)~~.

1017 | ~~(g)(f)~~ This section does not prohibit the:

1018 | 1. Use of bolding, italics, print of different colors, and
 1019 | text borders as a means of highlighting or stressing certain
 1020 | selected items within the text.

1021 | 2. Placement of the name, address, and telephone number of
 1022 | the representative's firm or company in the top margin above the

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1023 words "POWER OF ATTORNEY." No additional writing of any kind may
 1024 be placed in the top margin including, but not limited to,
 1025 logos, license numbers, Internet addresses, or slogans.

1026 3. Placement of the word "pending" prior to the words "NET
 1027 AMOUNT TO BE PAID TO CLAIMANT," if it is not yet possible to
 1028 determine the percentage interest of an heir or legatee prior to
 1029 a determination on the issue by the probate court.

1030 4. Deletion of the words "Number of Shares of Stock (If
 1031 Applicable)" if the agreement does not relate to the recovery of
 1032 securities.

1033 5. Deletion of the words "Percent to Be Paid as
 1034 Compensation to Claimant's Representative" if the power of
 1035 attorney provides for a flat fee to be paid as compensation to
 1036 the claimant's representative.

1037 (5)-(3) As used in this section, "claimant" means the
 1038 person on whose behalf a claim is filed.

1039 (6)-(4) This section does not supersede the licensing
 1040 requirements of chapter 493.

1041 Section 23. Section 717.1351, Florida Statutes, is amended
 1042 to read:

1043 717.1351 Acquisition of unclaimed property.--

1044 (1) A person desiring to acquire ownership of or
 1045 entitlement to property reported to the department under s.
 1046 717.117 must be an attorney licensed to practice law in this
 1047 state, a licensed Florida-certified public accountant, a private
 1048 investigator licensed under chapter 493, or an employer of a
 1049 licensed private investigator which employer possesses a Class

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1050 "A" license under chapter 493 and must be registered with the
 1051 department under this chapter.

1052 (2) All contracts to acquire ownership of or entitlement
 1053 to unclaimed property from the person or persons entitled to the
 1054 unclaimed property must be in 10-point type or greater and must:

1055 (a) Have a purchase price that discounts the value of the
 1056 unclaimed property at the time the agreement is executed by the
 1057 seller at no greater than 20 percent per account held by the
 1058 department. An unclaimed property account must not be discounted
 1059 in excess of \$1,000. However, the \$1,000 discount limitation
 1060 does not apply if probate proceedings must be initiated on
 1061 behalf of the seller for an estate that has never been probated
 1062 or if the seller of the unclaimed property is not a natural
 1063 person or is a person outside the United States; or

1064 (b) Fully disclose, ~~on such form as the department shall~~
 1065 ~~prescribe by rule,~~ that the property is held by the Bureau of
 1066 Unclaimed Property of the Department of Financial Services
 1067 pursuant to this chapter, the mailing address of the bureau, the
 1068 Internet address of the bureau, the person or name of the entity
 1069 that held the property prior to the property becoming unclaimed,
 1070 the date of the holder's last contact with the owner, if known,
 1071 and the approximate value of the property, and identify which of
 1072 the following categories of unclaimed property the buyer is
 1073 seeking to purchase as reported by the holder:

- 1074 1. Cash accounts.
- 1075 2. Stale dated checks.
- 1076 3. Life insurance or annuity contract assets.
- 1077 4. Utility deposits.

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- 1078 | 5. Securities or other interests in business associations.
- 1079 | 6. Wages.
- 1080 | 7. Accounts receivable.
- 1081 | 8. Contents of safe-deposit boxes.

1082 |
 1083 | The purchase agreement described in this paragraph must state in
 1084 | 12-point type or greater in the order indicated with the blank
 1085 | spaces accurately completed:

1086 |
 1087 | FULL DISCLOSURE STATEMENT

1088 |
 1089 | The property is currently held by the State of Florida
 1090 | Department of Financial Services, Bureau of Unclaimed
 1091 | Property, pursuant to chapter 717, Florida Statutes. The
 1092 | mailing address of the Bureau of Unclaimed Property
 1093 | is _____ . The Internet address of the Bureau of
 1094 | Unclaimed Property is _____ .
 1095 | The property was remitted by: _____ .
 1096 | Date of last contact: _____ .
 1097 | Property category: _____ .

1098 |
 1099 | Immediately above the signature line for the seller, the
 1100 | purchase agreement described in this paragraph must state in 12-
 1101 | point type or greater:

1102 |
 1103 | Seller agrees, by signing below, that the FULL DISCLOSURE
 1104 | STATEMENT has been read and fully understood.

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1106 ~~Such disclosure shall be on a page signed and dated by the~~
 1107 ~~seller of the unclaimed property.~~

1108 (3) The originals of all such disclosures and agreements
 1109 to transfer ownership of or entitlement to unclaimed property
 1110 shall be signed and dated by the seller and shall be filed with
 1111 the claim form. The claimant shall provide the department with a
 1112 legible copy of a valid driver's license of the seller at the
 1113 time the original claim form is filed. If a seller has not been
 1114 issued a valid driver's license at the time the original claim
 1115 form is filed, the department shall be provided with a legible
 1116 copy of a photographic identification of the seller issued by
 1117 the United States or a foreign nation, a state or territory of
 1118 the United States or a foreign nation, or a political
 1119 subdivision or agency thereof. In lieu of photographic
 1120 identification, a notarized sworn statement by the seller may be
 1121 provided which affirms the seller's identity and states the
 1122 seller's full name and address. The seller must produce to the
 1123 notary his or her photographic identification issued by the
 1124 United States, a state or territory of the United States, a
 1125 foreign nation, or a political subdivision or agency thereof or
 1126 other evidence deemed acceptable by department rule. The notary
 1127 shall indicate the notary's full address on the notarized sworn
 1128 statement. If a claim is filed without the required
 1129 identification or the sworn statement with the original claim
 1130 form and the original agreement to acquire ownership of or
 1131 entitlement to the unclaimed property, the claim is void.

1132 (4) Any contract to acquire ownership of or entitlement to
 1133 unclaimed property from the person or persons entitled to the

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1134 unclaimed property must provide for the purchase price to be
 1135 remitted to the seller or sellers within 10 days after the
 1136 execution of the contract by the seller or sellers. The contract
 1137 must specify the unclaimed property account number, the name of
 1138 the holder who reported the property to the department, the
 1139 category of unclaimed property, the value of the unclaimed
 1140 property account, and the number of shares of stock, if
 1141 applicable. Proof of payment by check must be filed with the
 1142 department with the claim.

1143 (5) All agreements to purchase unclaimed property from an
 1144 owner, ~~who is a natural person, a trust, or a dissolved~~
 1145 ~~corporation~~ must use the following form on 8 and 1/2-inch by 11-
 1146 inch paper or on 8 and 1/2-inch by 14-inch paper with all of the
 1147 text on one side of the paper and with the other side of the
 1148 paper left blank, ~~except that, at the option of the owner~~
 1149 ~~representative, the department disclosure form may be placed on~~
 1150 ~~the reverse side of the agreement.~~ The agreement must be
 1151 accurately completed and executed. ~~No other writing or~~
 1152 ~~information shall be printed on the agreement.~~ The title of the
 1153 agreement shall be in bold 14-point type or greater and
 1154 underlined. Except as otherwise provided in this section, the
 1155 rest of the agreement shall be in 10-point type or greater. All
 1156 unclaimed property accounts to be purchased must be identified
 1157 on the agreement by account number. The agreement must state, in
 1158 bold 12-point type or greater at the top of the agreement in the
 1159 order indicated:

1160
 1161

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1162
 1163 \$ _____ = Approximate Dollar Value of the ~~UNCLAIMED~~ Property
 1164 ~~PROPERTY ACCOUNT NUMBER(S):~~
 1165 _____ = Number of Shares of Stock ~~TO BE RECOVERED~~ (If
 1166 Applicable): _____
 1167 _____ = Percent of ~~UNCLAIMED~~ Property to be Paid to the
 1168 Buyer
 1169 \$ _____ = Amount to be Paid to Buyer
 1170 \$ _____ = Net Amount to be Paid to Seller ~~OWNER~~
 1171 Property Account Number(s): _____
 1172 \$ _____ = ~~AMOUNT TO BE PAID TO BUYER~~
 1173
 1174 ~~THIS AGREEMENT is between: _____ (hereinafter, OWNER)~~
 1175 ~~and _____ (hereinafter, BUYER) who agree that the~~
 1176 ~~OWNER transfers to the BUYER for a purchase price of \$ _____~~
 1177 ~~all rights to the above identified unclaimed property accounts.~~
 1178 ~~Original Signature of OWNER:~~
 1179 ~~DATE:~~
 1180 ~~OWNER'S Social Security Number or FEID number:~~
 1181 ~~Within 10 days after the execution of this Purchase Agreement by~~
 1182 ~~the Owner, Buyer shall remit the OWNER'S check payable to:~~
 1183
 1184 ~~Mail check to this address:~~
 1185
 1186
 1187 ~~The OWNER'S telephone number is:~~
 1188 ~~Original Signature of BUYER:~~
 1189 ~~FEID Number of BUYER: _____ DATE: _____~~

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1190 ~~Address of BUYER:~~

1191

1192 ~~Telephone number of BUYER:~~

1193 ~~Professional license number of BUYER:~~

1194

1195 (6) All agreements shall include:

1196 (a) The name and professional license number of the
 1197 registrant.

1198 (b) The name, address, and telephone number of the
 1199 registrant's firm or employer.

1200 (c) The name, address, and telephone number of the seller.

1201 (d) The taxpayer identification number or social security
 1202 number of the seller, if available.

1203 (e) The name and address to whom the warrant is to be
 1204 issued if it is different from the seller's name and address.

1205 (f) The original signature of the registrant and the date
 1206 signed by the registrant.

1207 (7) This section does not prohibit the:

1208 (a) Use of bolding, italics, print of different colors, or
 1209 text borders as a means of highlighting or stressing certain
 1210 selected items within the text.

1211 (b) Placement of the name, address, and telephone number
 1212 of the registrant's firm or company in the top margin above the
 1213 words "PURCHASE AGREEMENT." No additional writing of any kind
 1214 may be placed in the top margin, including, but not limited to,
 1215 logos, license numbers, Internet addresses, or slogans.

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1216 (c) Deletion of the words "Number of Shares of Stock (If
 1217 Applicable)" if the agreement does not relate to the recovery of
 1218 securities.

1219 (d) Deletion of the words "Percent of Property to be Paid
 1220 to Buyer," if the purchase agreement provides for a flat fee to
 1221 be paid as compensation to the buyer.

1222 (8) This section does not supersede the licensing
 1223 requirements of chapter 493.

1224 Section 24. Section 717.1381, Florida Statutes, is created
 1225 to read:

1226 717.1381 Void unclaimed property powers of attorney and
 1227 purchase agreements.--

1228 (1) Protecting the interests of owners of unclaimed
 1229 property is declared to be the public policy of this state. It
 1230 is in the best interests of the owners of unclaimed property
 1231 that they have the opportunity to receive the full amount of the
 1232 unclaimed property returned to them without deduction of any
 1233 fees. Further, it is specifically recognized that the
 1234 Legislature has mandated and the state has an obligation to make
 1235 a meaningful and active efforts to notify owners concerning
 1236 their unclaimed property. The state recognizes that this policy
 1237 and obligation cannot be fulfilled without providing the state
 1238 with the first opportunity to notify the owners of unclaimed
 1239 property that they may file a claim for their property with the
 1240 department. In furtherance of this policy and obligation:

1241 (a) Any oral or written agreement or power of attorney for
 1242 compensation or gain or in the expectation of compensation or
 1243 gain, that includes an unclaimed property account valued at more

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1244 than \$250 which was made on or before 45 days after the holder
 1245 or examination report was processed and added to the unclaimed
 1246 property data base, subsequent to a determination that the
 1247 report was accurate and that the reported property was the same
 1248 as the remitted property, is void as contrary to public policy.

1249 (b) Any oral or written purchase agreement that include an
 1250 unclaimed property account valued at more than \$250, owned by
 1251 another and made on or before 45 days after the holder or
 1252 examination report was processed and added to the unclaimed
 1253 property database, subsequent to a determination that the report
 1254 was accurate and that the reported property was the same as the
 1255 remitted property, is void as contrary to public policy.

1256 (2) A person may not enter into a power of attorney or an
 1257 agreement, or make a solicitation to enter into a power of
 1258 attorney or an agreement, that is void under this section.

1259 Section 25. Subsections (1), (2), (3), and (6) of section
 1260 717.1400, Florida Statutes, are amended, and subsection (7) is
 1261 added to said section, to read:

1262 717.1400 Registration.--

1263 (1) In order to file claims as a claimant's
 1264 representative, acquire ownership of or entitlement to unclaimed
 1265 property, receive a distribution of fees and costs from the
 1266 department, and obtain unclaimed property dollar amounts,
 1267 numbers ~~the number~~ of reported shares of stock, and ~~the last~~
 1268 ~~four digits~~ of social security numbers held by the department, a
 1269 private investigator holding a Class "C" individual license
 1270 under chapter 493 must register with the department on such form
 1271 as the department shall prescribe by rule, and must be verified

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1272 by the applicant. To register with the department, a private
 1273 investigator must provide:

1274 (a) A legible copy of the applicant's Class "A" business
 1275 license under chapter 493 or that of the applicant's firm or
 1276 employer which holds a Class "A" business license under chapter
 1277 493.

1278 (b) A legible copy of the applicant's Class "C" individual
 1279 license issued under chapter 493.

1280 (c) The ~~applicant's~~ business address and telephone number
 1281 of the applicant's private investigative firm or employer.

1282 (d) The names of agents or employees, if any, who are
 1283 designated to act on behalf of the private investigator,
 1284 together with a legible copy of their photo identification
 1285 issued by an agency of the United States, or a state, or a
 1286 political subdivision thereof.

1287 (e) Sufficient information to enable the department to
 1288 disburse funds by electronic funds transfer.

1289 (f) The tax identification number of the private
 1290 investigator's firm or employer which holds a Class "A" business
 1291 license under chapter 493.

1292 (2) In order to file claims as a claimant's
 1293 representative, acquire ownership of or entitlement to unclaimed
 1294 property, receive a distribution of fees and costs from the
 1295 department, and obtain unclaimed property dollar amounts,
 1296 numbers ~~the number~~ of reported shares of stock, and ~~the last~~
 1297 ~~four digits~~ of social security numbers held by the department, a
 1298 Florida-certified public accountant must register with the
 1299 department on such form as the department shall prescribe by

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1300 rule, and must be verified by the applicant. To register with
 1301 the department a Florida-certified public accountant must
 1302 provide:

1303 (a) The applicant's Florida Board of Accountancy number.

1304 (b) A legible copy of the applicant's current driver's
 1305 license showing the full name and current address of such
 1306 person. If a current driver's license is not available, another
 1307 form of identification showing the full name and current address
 1308 of such person or persons shall be filed with the department.

1309 (c) The ~~applicant's~~ business address and telephone number
 1310 of the applicant's public accounting firm or employer.

1311 (d) The names of agents or employees, if any, who are
 1312 designated to act on behalf of the Florida-certified public
 1313 accountant, together with a legible copy of their photo
 1314 identification issued by an agency of the United States, or a
 1315 state, or a political subdivision thereof.

1316 (e) Sufficient information to enable the department to
 1317 disburse funds by electronic funds transfer.

1318 (f) The tax identification number of the accountant's
 1319 public accounting firm employer.

1320 (3) In order to file claims as a claimant's
 1321 representative, acquire ownership of or entitlement to unclaimed
 1322 property, receive a distribution of fees and costs from the
 1323 department, and obtain unclaimed property dollar amounts,
 1324 numbers ~~the number~~ of reported shares of stock, and ~~the last~~
 1325 ~~four digits~~ of social security numbers held by the department,
 1326 an attorney licensed to practice in this state must register
 1327 with the department on such form as the department shall

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1328 prescribe by rule, and must be verified by the applicant. To
 1329 register with the department, such attorney must provide:

1330 (a) The applicant's Florida Bar number.

1331 (b) A legible copy of the applicant's current driver's
 1332 license showing the full name and current address of such
 1333 person. If a current driver's license is not available, another
 1334 form of identification showing the full name and current address
 1335 of such person or persons shall be filed with the department.

1336 (c) The ~~applicant's~~ business address and telephone number
 1337 of the applicants firm or employer.

1338 (d) The names of agents or employees, if any, who are
 1339 designated to act on behalf of the attorney, together with a
 1340 legible copy of their photo identification issued by an agency
 1341 of the United States, or a state, or a political subdivision
 1342 thereof.

1343 (e) Sufficient information to enable the department to
 1344 disburse funds by electronic funds transfer.

1345 (f) The tax identification number of the attorney's firm
 1346 or lawyer's employer law firm.

1347 (6) A registrant's firm or employer ~~registrant or~~
 1348 ~~applicant for registration~~ may not have a name that might lead
 1349 another person to conclude that the registrant's firm or
 1350 employer ~~registrant~~ is affiliated or associated with the United
 1351 States, or an agency thereof, or a state or an agency or
 1352 political subdivision of a state. The department shall deny an
 1353 application for registration or revoke a registration if the
 1354 applicant's or registrant's firm or employer ~~applicant or~~
 1355 ~~registrant~~ has a name that might lead another person to conclude

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1356 that the firm or employer ~~applicant or registrant~~ is affiliated
1357 or associated with the United States, or an agency thereof, or a
1358 state or an agency or political subdivision of a state. Names
1359 that might lead another person to conclude that the firm or
1360 employer ~~applicant or registrant~~ is affiliated or associated
1361 with the United States, or an agency thereof, or a state or an
1362 agency or political subdivision of a state, include, but are not
1363 limited to, the words United States, Florida, state, bureau,
1364 division, department, or government.

1365 (7) The licensing and other requirements of this section
1366 must be maintained as a condition of registration with the
1367 department.

1368 Section 26. This act shall take effect upon becoming a
1369 law.