

By the Committee on Banking and Insurance; and Senator Clary

597-2099-05

1 A bill to be entitled  
 2 An act relating to the disposition of unclaimed  
 3 property; amending s. 717.106, F.S., relating  
 4 to funds in financial organizations; providing  
 5 for documented telephone contact in certain  
 6 cases; amending s. 717.1101, F.S.; revising the  
 7 time in which stock, equity interest, and  
 8 certain debt of a business association is  
 9 presumed unclaimed; revising the time period in  
 10 which such property ceases to be unclaimed;  
 11 providing the time period in which certain  
 12 other equity of a business association is  
 13 presumed unclaimed; amending s. 717.117, F.S.,  
 14 relating to reports of unclaimed property;  
 15 amending time and notice requirements; amending  
 16 s. 717.118, F.S., relating to notification of  
 17 apparent owners; providing threshold value for  
 18 notifications; amending s. 717.119, F.S.,  
 19 relating to payment or delivery of unclaimed  
 20 property; providing for disposition of funds;  
 21 amending s. 717.122, F.S., relating to public  
 22 sale of unclaimed property; providing for  
 23 disposition; amending s. 717.124, F.S.,  
 24 relating to unclaimed property claims;  
 25 providing for identification; amending s.  
 26 717.12404, F.S., relating to claims on behalf  
 27 of a business entity or trust; providing for  
 28 reference to corporate records on the Internet;  
 29 creating s. 717.12405, F.S.; providing  
 30 definitions; amending s. 717.1241, F.S.,  
 31 relating to conflicting claims; amending s.

1           717.1242, F.S., relating to jurisdiction of  
2           probate court and department; amending s.  
3           717.1243, F.S., relating to small-estate  
4           accounts; providing for live testimony;  
5           creating s. 717.1245, F.S.; providing for costs  
6           and fees in cases seeking garnishment of  
7           certain unclaimed property; repealing s.  
8           717.1311(3), F.S., which provides for reporting  
9           requirements and payments in cases where  
10          records are not maintained; amending s.  
11          717.1315, F.S., relating to records retention;  
12          amending s. 717.132, F.S., relating to  
13          enforcement; amending s. 717.1322, F.S.,  
14          relating to administrative and civil  
15          enforcement; providing for registration;  
16          providing times for revocation and suspension  
17          of registration; creating s. 717.1323, F.S.;  
18          prohibiting entry of false information;  
19          amending s. 717.1331, F.S., relating to actions  
20          against holders; providing for enforcement of  
21          subpoena; amending s. 717.1333, F.S., relating  
22          to evidence and reports; providing for  
23          estimation of amount due in certain cases;  
24          amending s. 717.135, F.S., relating to powers  
25          of attorney and agreements; specifying certain  
26          disclosure requirements and forms; amending s.  
27          717.1351, F.S., relating to purchase  
28          agreements; specifying form; creating s.  
29          717.1381, F.S.; declaring state policy to  
30          protect interests of owners of unclaimed  
31          property; providing that certain powers of

1 attorney and purchase agreements are void;  
2 providing for retroactive application; amending  
3 s. 717.1400, F.S., relating to registration;  
4 providing for maintenance of licensing and  
5 other requirements as a condition of  
6 registration; providing an effective date.  
7

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

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

12 717.106 Bank deposits and funds in financial  
13 organizations.--

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

20 (a) Increased or decreased the amount of the deposit  
21 or presented the passbook or other similar evidence of the  
22 deposit for the crediting of interest;

23 (b) Communicated in writing or by documented telephone  
24 contact with the banking or financial organization concerning  
25 the property;

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

29 (d) Owned other property to which paragraph (a),  
30 paragraph (b), or paragraph (c) is applicable and if the  
31 banking or financial organization communicates in writing with

1 | the owner with regard to the property that would otherwise be  
2 | presumed unclaimed under this subsection at the address to  
3 | which communications regarding the other property regularly  
4 | are sent; or

5 |         (e) Had another relationship with the banking or  
6 | financial organization concerning which the owner has:

7 |             1. Communicated in writing with the banking or  
8 | financial organization; or

9 |             2. Otherwise indicated an interest as evidenced by a  
10 | memorandum or other record on file with the banking or  
11 | financial organization and if the banking or financial  
12 | organization communicates in writing with the owner with  
13 | regard to the property that would otherwise be unclaimed under  
14 | this subsection at the address to which communications  
15 | regarding the other relationship regularly are sent.

16 |         Section 2. Subsections (1) and (2) of section  
17 | 717.1101, Florida Statutes, are amended, and subsection (4) is  
18 | added to that section, to read:

19 |         717.1101 Unclaimed equity and debt of business  
20 | associations.--

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

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

26 |             2. The date of a statement of account or other  
27 | notification or communication that was returned as  
28 | undeliverable; or

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

31 |

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

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

7 (d) At the time property is presumed unclaimed under  
8 paragraph (a) or paragraph (b), any other property right  
9 accrued or accruing to the owner as a result of the property  
10 interest and not previously presumed unclaimed is also  
11 presumed unclaimed.

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

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

17 2. Otherwise communicates with the association  
18 regarding the interest or a dividend, distribution, or other  
19 sum payable as a result of the interest, as evidenced by a  
20 memorandum or other record on file with the association or its  
21 agent.

22 (b) Presents an instrument issued to pay interest or a  
23 dividend or other cash distribution. If any future dividend,  
24 distribution, or other sum payable to the owner as a result of  
25 the interest is subsequently not claimed by the owner, a new  
26 period in which the property is presumed unclaimed commences  
27 and relates back only to the time a subsequent dividend,  
28 distribution, or other sum became due and payable.

29 (4) Any dividend, profit, distribution, interest  
30 redemption, payment on principal, or other sum held or owing  
31 by a business association for or to a shareholder,

1 certificateholder, member, bondholder, or other security  
2 holder, who has not claimed it, or corresponded in writing  
3 with the business association concerning it, within 3 years  
4 after the date prescribed for payment or delivery, is presumed  
5 unclaimed.

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

8 717.117 Report of unclaimed property.--

9 (3) The report must be filed before May 1 of each  
10 year. ~~The~~ ~~Such~~ report shall apply to the preceding calendar  
11 year. The department may impose and collect a penalty of \$10  
12 per day up to a maximum of \$500 for the failure to timely  
13 report or the failure to include in a report information  
14 required by this chapter. The penalty shall be remitted to the  
15 department within 30 days after the date of the notification  
16 to the holder that the penalty is due and owing. As necessary  
17 for proper administration of this chapter, the department may  
18 waive any penalty due with appropriate justification. On  
19 written request by any person required to file a report and  
20 upon a showing of good cause, the department may postpone the  
21 reporting date. The department must provide information  
22 contained in a report filed with the department to any person  
23 requesting a copy of the report or information contained in a  
24 report, to the extent the information requested is not  
25 confidential, within ~~45~~ ~~90~~ days after the report has been  
26 processed and added to the unclaimed property database  
27 subsequent to a determination that the report is accurate and  
28 that the reported property is the same as the remitted  
29 property.

30 (4) Holders of inactive accounts having a value of \$50  
31 or more shall use due diligence to locate apparent owners. Not

1 more than 120 days and not less than 60 days prior to filing  
2 the report required by this section, the holder in possession  
3 of property presumed unclaimed and subject to custody as  
4 unclaimed property under this chapter shall send written  
5 notice to the apparent owner at the apparent owner's last  
6 known address informing the apparent owner that the holder is  
7 in possession of property subject to this chapter, if the  
8 holder has in its records an address for the apparent owner  
9 which the holder's records do not disclose to be inaccurate.

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

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

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

31

1           ~~(d) The account shall be presumed unclaimed if the~~  
2 ~~holder is not able to contact the apparent owner by telephone,~~  
3 ~~the first class mail notice is returned to the holder as~~  
4 ~~undeliverable, or the apparent owner does not contact the~~  
5 ~~holder in response to the first class mail notice.~~

6           Section 4. Subsection (1) of section 717.118, Florida  
7 Statutes, is amended to read:

8           717.118 Notification of apparent owners of unclaimed  
9 property.--

10           (1) It is specifically recognized that the state has  
11 an obligation to make an effort to notify owners of unclaimed  
12 property in a cost-effective manner. In order to provide all  
13 the citizens of this state an effective and efficient program  
14 for the recovery of unclaimed property, the department shall  
15 use cost-effective means to make at least one active attempt  
16 to notify owners of unclaimed property accounts valued at more  
17 than ~~\$250~~\$100 with a reported address or taxpayer  
18 identification number. Such active attempt to notify apparent  
19 owners shall include any attempt by the department to directly  
20 contact the owner. Other means of notification, such as  
21 publication of the names of owners in the newspaper, on  
22 television, on the Internet, or through other promotional  
23 efforts and items in which the department does not directly  
24 attempt to contact the owner are expressly declared to be  
25 passive attempts. Nothing in this subsection precludes other  
26 agencies or entities of state government from notifying owners  
27 of the existence of unclaimed property or attempting to notify  
28 apparent owners of unclaimed property.

29           Section 5. Paragraph (b) of subsection (5) of section  
30 717.119, Florida Statutes, is amended to read:

31           717.119 Payment or delivery of unclaimed property.--



1           (5) All intangible and tangible property held in a  
2 safe-deposit box or any other safekeeping repository reported  
3 under s. 717.117 shall not be delivered to the department  
4 until 120 days after the report due date. The delivery of the  
5 property, through the United States mail or any other carrier,  
6 shall be insured by the holder at an amount equal to the  
7 estimated value of the property. Each package shall be clearly  
8 marked on the outside "Deliver Unopened." A holder's  
9 safe-deposit box contents shall be delivered to the department  
10 in a single shipment. In lieu of a single shipment, holders  
11 may provide the department with a single detailed shipping  
12 schedule that includes package tracking information for all  
13 packages being sent pursuant to this section.

14           (b) Any firearm or ammunition found in an unclaimed  
15 safe-deposit box or any other safekeeping repository shall be  
16 delivered by the holder to a law enforcement agency for  
17 disposal pursuant to s. 705.103(2)(b), with the balance of the  
18 proceeds deposited into the State School Fund if the firearm  
19 is sold. However, the department is authorized to make a  
20 reasonable attempt to ascertain the historical value to  
21 collectors of any firearm that has been delivered to the  
22 department. Any firearm appearing to have historical value to  
23 collectors may be sold by the department pursuant to s.  
24 717.122 to a person having a federal firearms license. Any  
25 firearm which is not sold pursuant to s. 717.122 shall be  
26 delivered by the department to a law enforcement agency in  
27 this state for disposal pursuant to s. 705.103(2)(b), with the  
28 balance of the proceeds deposited into the State School Fund  
29 if the firearm is sold. The department shall not be  
30 administratively, civilly, or criminally liable for any  
31

1 | firearm delivered by the department to a law enforcement  
2 | agency in this state for disposal.

3 |         Section 6. Section 717.122, Florida Statutes, is  
4 | amended to read:

5 |             717.122 Public sale of unclaimed property.--

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

30 |             (2)(a) Securities listed on an established stock  
31 | exchange must be sold at prices prevailing at the time of sale

1 on the exchange. Other securities may be sold over the  
2 counter at prices prevailing at the time of sale or by any  
3 other method the department deems advisable. The department  
4 may authorize the agent or broker acting on behalf of the  
5 department to deduct fees from the proceeds of these sales at  
6 a rate agreed upon in advance by the agent or broker and the  
7 department. The department shall reimburse owners accounts  
8 for these brokerage fees from the State School Fund unless the  
9 securities are sold at the owner's request.

10 ~~(b)(3)~~ Unless the department deems it to be in the  
11 public interest to do otherwise, all securities presumed  
12 unclaimed and delivered to the department may be sold upon  
13 receipt. Any person making a claim pursuant to this chapter is  
14 entitled to receive either the securities delivered to the  
15 department by the holder, if they still remain in the hands of  
16 the department, or the proceeds received from sale, but no  
17 person has any claim under this chapter against the state, the  
18 holder, any transfer agent, any registrar, or any other person  
19 acting for or on behalf of a holder for any appreciation in  
20 the value of the property occurring after delivery by the  
21 holder to the state.

22 (c) Certificates for unclaimed stock or other equity  
23 interest of business associations that cannot be cancelled and  
24 registered in the department's name or that cannot be readily  
25 liquidated and converted into the currency of the United  
26 States may be sold for value of the certificate, if any, in  
27 accordance with subsection (1) or may be destroyed in  
28 accordance with s. 717.128.

29 ~~(3)(4)~~ The purchaser of property at any sale conducted  
30 by the department pursuant to this chapter is entitled to  
31 ownership of the property purchased free from all claims of

1 | the owner or previous holder thereof and of all persons  
2 | claiming through or under them. The department shall execute  
3 | all documents necessary to complete the transfer of ownership.

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

8 |       Section 7. Subsections (1) and (4) of section 717.124,  
9 | Florida Statutes, are amended to read:

10 |           717.124 Unclaimed property claims.--

11 |       (1) Any person, excluding another state, claiming an  
12 | interest in any property paid or delivered to the department  
13 | under this chapter may file with the department a claim on a  
14 | form prescribed by the department and verified by the claimant  
15 | or the claimant's representative. The claimant's  
16 | representative must be an attorney licensed to practice law in  
17 | this state, a licensed Florida-certified public accountant, or  
18 | a private investigator licensed under chapter 493. The  
19 | claimant's representative must be registered with the  
20 | department under this chapter. The claimant, or the claimant's  
21 | representative, shall provide the department with a legible  
22 | copy of a valid driver's license of the claimant at the time  
23 | the original claim form is filed. If the claimant has not been  
24 | issued a valid driver's license at the time the original claim  
25 | form is filed, the department shall be provided with a legible  
26 | copy of a photographic identification of the claimant issued  
27 | by the United States a state or territory of the United  
28 | States, a foreign nation, or a political subdivision or agency  
29 | thereof, or other evidence deemed acceptable by the department  
30 | rule. In lieu of photographic identification, a notarized  
31 | sworn statement by the claimant may be provided which affirms

1 the claimant's identity and states the claimant's full name  
2 and address. The claimant must produce to the notary  
3 photographic identification of the claimant issued by the  
4 United States, a state or territory of the United States, a  
5 foreign nation, or a political subdivision or agency thereof  
6 or other evidence deemed acceptable by department rule. The  
7 notary shall indicate the notary's full address on the  
8 notarized sworn statement. Any claim filed without the  
9 required identification or the sworn statement with the  
10 original claim form and the original power of attorney or  
11 purchase agreement, if applicable, is void.

12 (a) Within 90 days after receipt of a claim, the  
13 department may return any claim that provides for the receipt  
14 of fees and costs greater than that permitted under this  
15 chapter or that contains any apparent errors or omissions. The  
16 department may also request that the claimant or the  
17 claimant's representative provide additional information. The  
18 department shall retain a copy or electronic image of the  
19 claim.

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

25 (c) Within 90 days after receipt of the claim, or the  
26 response of the claimant or the claimant's representative to  
27 the department's request for additional information, whichever  
28 is later, the department shall determine each claim. Such  
29 determination shall contain a notice of rights provided by ss.  
30 120.569 and 120.57. The 90-day period shall be extended by 60  
31

1 days if the department has good cause to need additional time  
2 or if the unclaimed property:

3 1. Is owned by a person who has been a debtor in  
4 bankruptcy;

5 2. Was reported with an address outside of the United  
6 States;

7 3. Is being claimed by a person outside of the United  
8 States; or

9 4. Contains documents filed in support of the claim  
10 that are not in the English language and have not been  
11 accompanied by an English language translation.

12 (d) The department shall deny any claim under which  
13 the claimant's representative has refused to authorize the  
14 department to reduce the fees and costs to the maximum  
15 permitted under this chapter.

16 (4)(a) Except as otherwise provided in this chapter,  
17 if a claim is determined in favor of the claimant, the  
18 department shall deliver or pay over to the claimant the  
19 property or the amount the department actually received or the  
20 proceeds if it has been sold by the department, together with  
21 any additional amount required by s. 717.121.

22 (b) If an owner authorizes an attorney licensed to  
23 practice law in this state, Florida-certified public  
24 accountant, or private investigator licensed under chapter  
25 493, and registered with the department under this chapter, to  
26 claim the unclaimed property on the owner's behalf, the  
27 department is authorized to make distribution of the property  
28 or money in accordance with such power of attorney. The  
29 original power of attorney must be executed by the owner and  
30 must be filed with the department.

31

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

7           2. Payments of fees and costs authorized pursuant to a  
8 written power of attorney for approved claims shall be made or  
9 issued to the law firm ~~employer~~ of the designated attorney  
10 licensed to practice law in this state, the public accountancy  
11 firm ~~employer~~ of the licensed Florida-certified public  
12 accountant, or the designated employing private investigative  
13 agency licensed by this state. Such payments shall be made by  
14 electronic funds transfer and may be made on such periodic  
15 schedule as the department may define by rule, provided the  
16 payment intervals do not exceed 31 days. Payment made to an  
17 attorney licensed in this state, a Florida-certified public  
18 accountant, or a private investigator licensed under chapter  
19 493, operating individually or as a sole practitioner, shall  
20 be to the attorney, certified public accountant, or private  
21 investigator.

22           Section 8. Section 717.12404, Florida Statutes, is  
23 amended to read:

24           717.12404 Claims on behalf of a business entity or  
25 trust.--

26           (1)(a) Claims on behalf of an active or dissolved  
27 corporation, for which the last annual report is not available  
28 from the Department of State through the Internet, must be  
29 accompanied by a microfiche copy of the records on file with  
30 the Department of State or, if the corporation has not made a  
31 corporate filing with the Department of State, the claim must

1 be accompanied by a uniform resource locator for the address  
2 of a free Internet site operated by the state of incorporation  
3 of the corporation that provides access to the last corporate  
4 filing identifying the officers and directors of the  
5 corporation. If available, the claim must be accompanied by a  
6 printout of the officers and directors from the Florida  
7 Department of State Internet site or the free Internet site  
8 operated by the state of incorporation of the corporation. If  
9 the free Internet site is not available, the claim must be  
10 accompanied by an authenticated copy of the last corporate  
11 filing identifying the officers and directors from the  
12 appropriate authorized official of the state of incorporation.

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

16 (2) Claims on behalf of a dissolved corporation, a  
17 business entity other than an active corporation, or a trust  
18 must include a legible copy of a valid driver's license of the  
19 person acting on behalf of the dissolved corporation, business  
20 entity other than an active corporation, or trust. If the  
21 person has not been issued a valid driver's license, the  
22 department shall be provided with a legible copy of a  
23 photographic identification of the person issued by the United  
24 States a foreign nation, or a political subdivision or agency  
25 thereof. In lieu of photographic identification, a notarized  
26 sworn statement by the person may be provided which affirms  
27 the person's identity and states the person's full name and  
28 address. The person must produce to the notary his or her  
29 photographic identification issued by the United States, a  
30 state or territory of the United States, a foreign nation, or  
31 a political subdivision or agency thereof, or other evidence



1 deemed acceptable by department rule. The notary shall  
2 indicate the notary's full address on the notarized sworn  
3 statement. Any claim filed without the required identification  
4 or the sworn statement with the original claim form and the  
5 original power of attorney, if applicable, is void.

6 Section 9. Section 717.12405, Florida Statutes, is  
7 created to read:

8 717.12405 Joint ownership of unclaimed securities or  
9 dividends.--For the purpose of determining joint ownership of  
10 unclaimed securities or dividends, the term:

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

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

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

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

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

19 Section 10. Section 717.1241, Florida Statutes, is  
20 amended to read:

21 717.1241 Conflicting claims.--

22 (1) When conflicting claims have been received by the  
23 department for the same unclaimed property account or  
24 accounts, the property shall be remitted in accordance with  
25 the claim filed by the person as follows, notwithstanding the  
26 withdrawal of a claim:

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

28 (a)1. To the person submitting the first claim  
29 received by the bureau of unclaimed property of the department  
30 that is complete or made complete.~~;~~ ~~or~~

1           ~~(b)2-~~ If a claimant's ~~an owner's~~ claim and a  
2 claimant's ~~an owner's~~ representative's claim are received by  
3 the bureau of unclaimed property of the department on the same  
4 day and both claims are complete, to the claimant. ~~owner;~~

5           (c) If a buyer's claim and a claimant's claim or a  
6 claimant's representatives's claim are received by the bureau  
7 of unclaimed property of the department on the same day and  
8 the claims are complete, to the buyer.

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

12           ~~(d)(e)~~ As between two or more claimant's  
13 representatives', claims received by the bureau of unclaimed  
14 property of the department that are complete or made complete  
15 ~~owner's representatives whose claims were complete~~ on the same  
16 day, to the claimant's ~~owner's~~ representative who has agreed  
17 to receive the lowest fee. If the two or more claimant's  
18 ~~owner's~~ representatives whose claims received by the bureau of  
19 unclaimed property of the department were complete or made  
20 complete on the same day are charging the same lowest fee, the  
21 fee fees shall be divided equally between the claimant's  
22 ~~owner's~~ representatives.

23           (e) If more than one buyer's claim received by the  
24 bureau of unclaimed property of the department is complete or  
25 made complete on the same day, the department shall remit the  
26 unclaimed property to the buyer who paid the highest amount to  
27 the seller. If the buyers paid the same amount to the seller,  
28 the department shall remit the unclaimed property to the  
29 buyers divided in equal amounts.

30           (2) The purpose of this section is solely to provide  
31 guidance to the department regarding to whom it should remit

1 | the unclaimed property and is not intended to extinguish or  
2 | affect any private cause of action that any person may have  
3 | against another person for breach of contract or other  
4 | statutory or common-law remedy. A buyer's sole remedy, if any,  
5 | shall be against the claimant's representative or the seller,  
6 | or both. A claimant's representative's sole remedy, if any,  
7 | shall be against the buyer or the seller, or both. A  
8 | claimant's or seller's sole remedy, if any, shall be against  
9 | the buyer or the claimant's representative, or both. Nothing  
10 | in this section forecloses the right of a person to challenge  
11 | the department's determination of completeness in a proceeding  
12 | under ss. 120.569 and 120.57.

13 |           (3) A claim is complete when entitlement to the  
14 | unclaimed property has been established.

15 |           Section 11. Section 717.1242, Florida Statutes, is  
16 | amended to read:

17 |           717.1242 Restatement of jurisdiction of the circuit  
18 | court sitting in probate and the department.--

19 |           (1) It is and has been the intent of the Legislature  
20 | that, pursuant to s. 26.012(2)(b), circuit courts have  
21 | jurisdiction of proceedings relating to the settlement of the  
22 | estates of decedents and other jurisdiction usually pertaining  
23 | to courts of probate. It is and has been the intent of the  
24 | Legislature that, pursuant to s. 717.124, the department  
25 | determines the merits of claims for property paid or delivered  
26 | to the department under this chapter. Consistent with this  
27 | legislative intent, any estate or beneficiary, as defined in  
28 | s. 731.201, of an estate seeking to obtain property paid or  
29 | delivered to the department under this chapter must file a  
30 | claim with the department as provided in s. 717.124.

31 |

1           (2) ~~If Should~~ any estate or heir of an estate seeks  
2 ~~seek to obtain~~ or obtains ~~obtain~~ an order from a circuit court  
3 sitting in probate directing the department to pay or deliver  
4 to any person property paid or delivered to the department  
5 under this chapter, the estate or heir shall ~~may~~ be ordered to  
6 pay the department reasonable costs and attorney's fees in any  
7 proceeding brought by the department to oppose, appeal, or  
8 collaterally attack the order if the department is the  
9 prevailing party in any such proceeding.

10           Section 12. Section 717.1243, Florida Statutes, is  
11 amended to read:

12           717.1243 Small estate accounts.--

13           (1) A claim for unclaimed property made by a  
14 beneficiary, as defined in s. 731.201, of a deceased owner  
15 need not be accompanied by an order of a probate court if the  
16 claimant files with the department an affidavit, signed by all  
17 beneficiaries, stating that all the beneficiaries have  
18 amicably agreed among themselves upon a division of the estate  
19 and that all funeral expenses, expenses of the last illness,  
20 and any other lawful claims have been paid, and any additional  
21 information reasonably necessary to make a determination of  
22 entitlement. If the owner died testate, the claim shall be  
23 accompanied by a copy of the will.

24           (2) Each person receiving property under this section  
25 shall be personally liable for all lawful claims against the  
26 estate of the owner, but only to the extent of the value of  
27 the property received by such person under this section,  
28 exclusive of the property exempt from claims of creditors  
29 under the constitution and laws of this state.

30           (3) Any heir or devisee of the owner, who was lawfully  
31 entitled to share in the property but did not receive his or

1 her share of the property, may enforce his or her rights in  
2 appropriate proceedings against those who received the  
3 property and shall be awarded taxable costs as in chancery  
4 actions, including attorney's fees.

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

9 (5) Nothing in this section shall be interpreted as  
10 precluding the use of live testimony to establish entitlement.

11 Section 13. Section 717.1245, Florida Statutes, is  
12 created to read:

13 717.1245 Garnishment of unclaimed property.--If any  
14 person files a petition for writ of garnishment seeking to  
15 obtain property paid or delivered to the department under this  
16 chapter, the petitioner shall be ordered to pay the department  
17 reasonable costs and attorney's fees in any proceeding brought  
18 by the department to oppose, appeal, or collaterally attack  
19 the petition or writ, if the department is the prevailing  
20 party.

21 Section 14. Subsection (3) of section 717.1311,  
22 Florida Statutes, is repealed.

23 Section 15. Section 717.1315, Florida Statutes, is  
24 amended to read:

25 717.1315 Retention of records by claimants'  
26 representatives and buyers of unclaimed property ~~owner's~~  
27 ~~representative.--~~

28 (1) Every claimant's ~~owner's~~ representative and buyer  
29 of unclaimed property shall keep and use in his or her  
30 business such books, accounts, and records of the business  
31 conducted under this chapter to enable the department to

1 determine whether such person ~~owner's representative~~ is  
2 complying with this chapter and the rules adopted by the  
3 department under this chapter. Every claimant's ~~owner's~~  
4 representative and buyer of unclaimed property shall preserve  
5 such books, accounts, and records, including every power of  
6 attorney or agreement between the owner and such claimant's  
7 ~~owner's~~ representative or buyer, for at least 3 years after  
8 the date of the initial power of attorney or agreement.

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

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

22 Section 16. Section 717.132, Florida Statutes, is  
23 amended to read:

24 717.132 Enforcement; cease and desist orders;  
25 ~~administrative~~ fines.--

26 (1) The department may bring an action in any court of  
27 competent jurisdiction to enforce or administer any provision  
28 of this chapter, any rule or order promulgated under this  
29 chapter, or any written agreement entered into with the  
30 department.

31

1           (2) In addition to any other powers conferred upon it  
2 to enforce and administer the provisions of this chapter, the  
3 department may issue and serve upon a person an order to cease  
4 and desist and to take corrective action whenever the  
5 department finds that such person is violating, has violated,  
6 or is about to violate any provision of this chapter, any rule  
7 or order promulgated under this chapter, or any written  
8 agreement entered into with the department. For purposes of  
9 this subsection, the term "corrective action" includes  
10 refunding excessive charges, requiring a person to return  
11 unclaimed property, requiring a holder to remit unclaimed  
12 property, and requiring a holder to correct a report that  
13 contains errors or omissions. Any such order shall contain a  
14 notice of rights provided by ss. 120.569 and 120.57.

15           (3) In addition to any other powers conferred upon it  
16 to enforce and administer the provisions of this chapter, the  
17 department or a court of competent jurisdiction may impose  
18 finer ~~and collect an administrative fine~~ against any person  
19 found to have violated any provision of this chapter, any rule  
20 or order promulgated under this chapter, or any written  
21 agreement entered into with the department in an amount not to  
22 exceed \$2,000 for each violation. All fines collected under  
23 this subsection shall be deposited as received in the  
24 Unclaimed Property Trust Fund.

25           Section 17. Section 717.1322, Florida Statutes, is  
26 amended to read:

27           717.1322 Administrative and civil enforcement.--

28           (1) The following acts are violations of this chapter  
29 and constitute grounds for an administrative enforcement  
30 action by the department in accordance with the requirements  
31

1 of chapter 120 and for civil enforcement by the department in  
2 a court of competent jurisdiction:

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

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

8 (c) Fraudulent misrepresentation, circumvention, or  
9 concealment of any matter required to be stated or furnished  
10 to an owner or apparent owner under this chapter, regardless  
11 of reliance by or damage to the owner or apparent owner.

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

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

16 (f) Failure to maintain, preserve, and keep available  
17 for examination all books, accounts, or other documents  
18 required by this chapter, by any rule or order adopted under  
19 this chapter, or by any agreement entered into with the  
20 department under this chapter.

21 (g) Refusal to permit inspection of books and records  
22 in an investigation or examination by the department or  
23 refusal to comply with a subpoena issued by the department  
24 under this chapter.

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

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

29 (j) Requesting or receiving compensation for notifying  
30 a person of his or her unclaimed property or assisting another  
31 person in filing a claim for unclaimed property, unless the



1 person is an attorney licensed to practice law in this state,  
2 a Florida-certified public accountant, or a private  
3 investigator licensed under chapter 493; or entering into, or  
4 making a solicitation to enter into, a power of attorney to  
5 file ~~For compensation or gain or in the expectation of~~  
6 ~~compensation or gain, the filing of a claim for unclaimed~~  
7 ~~property owned by another, or a contract or agreement to~~  
8 purchase unclaimed property, unless such person is registered  
9 with the department pursuant to this chapter and an a  
10 ~~registered~~ attorney licensed to practice law in this state in  
11 the regular practice of her or his profession, a  
12 Florida-certified ~~registered~~ public accountant who is acting  
13 within the scope of the practice of public accounting as  
14 defined in chapter 473 ~~certified in this state,~~ or a  
15 ~~registered~~ private investigator licensed under chapter 493.  
16 This subsection does not apply to a person who has been  
17 granted a durable power of attorney to convey and receive all  
18 of the real and personal property of the owner, is the  
19 court-appointed guardian of the owner, ~~has been employed as an~~  
20 ~~attorney or qualified representative to contest the~~  
21 ~~department's denial of a claim,~~ has been employed as an  
22 attorney or qualified representative to contest the  
23 department's denial of a claim, or has been employed as an  
24 attorney to probate the estate of the owner or an heir or  
25 legatee of the owner.  
26 (k) Failure to authorize the release of records in the  
27 possession of a third party after being requested to do so by  
28 the department regarding a pending examination or  
29 investigation.  
30 (l) Receipt or solicitation of consideration to be  
31 paid in advance of the approval of a claim under this chapter.

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

4           (a) Revoking for a minimum of 5 years or suspending  
5 for a maximum of 5 years a registration previously granted  
6 under this chapter, during which time the registrant may not  
7 reapply for registration under this chapter;

8           (b) Placing a registrant or an applicant for a  
9 registration on probation for a period of time and subject to  
10 such conditions as the department may specify;

11           (c) Placing permanent restrictions or conditions upon  
12 issuance or maintenance of a registration under this chapter;

13           (d) Issuing a reprimand;

14           (e) Imposing an administrative fine not to exceed  
15 \$2,000 for each such act; or

16           (f) Prohibiting any person from being a director,  
17 officer, agent, employee, or ultimate equitable owner of a  
18 10-percent or greater interest in an employer of a registrant.

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

25           (4)(a) The department shall adopt, by rule, and  
26 periodically review the disciplinary guidelines applicable to  
27 each ground for disciplinary action which may be imposed by  
28 the department under this chapter.

29           (b) The disciplinary guidelines shall specify a  
30 meaningful range of designated penalties based upon the  
31 severity or repetition of specific offenses, or both. It is

1 | the legislative intent that minor violations be distinguished  
2 | from more serious violations; that such guidelines consider  
3 | the amount of the claim involved, the complexity of locating  
4 | the owner, the steps taken to ensure the accuracy of the claim  
5 | by the person filing the claim, the acts of commission and  
6 | omission of the ultimate owners in establishing themselves as  
7 | rightful owners of the funds, the acts of commission or  
8 | omission of the agent or employee of an employer in the filing  
9 | of the claim, the actual knowledge of the agent, employee,  
10 | employer, or owner in the filing of the claim, the departure,  
11 | if any, by the agent or employee from the internal controls  
12 | and procedures established by the employer with regard to the  
13 | filing of a claim, the number of defective claims previously  
14 | filed by the agent, employee, employer, or owner; that such  
15 | guidelines provide reasonable and meaningful notice of likely  
16 | penalties that may be imposed for proscribed conduct; and that  
17 | such penalties be consistently applied by the department.

18 |       (c) A specific finding of mitigating or aggravating  
19 | circumstances shall allow the department to impose a penalty  
20 | other than that provided for in such guidelines. The  
21 | department shall adopt by rule disciplinary guidelines to  
22 | designate possible mitigating and aggravating circumstances  
23 | and the variation and range of penalties permitted for such  
24 | circumstances. Such mitigating and aggravating circumstances  
25 | shall also provide for consideration of, and be consistent  
26 | with, the legislative intent expressed in paragraph (b).

27 |       (d) In any proceeding brought under this chapter, the  
28 | administrative law judge, in recommending penalties in any  
29 | recommended order, shall follow the penalty guidelines  
30 | established by the department and shall state in writing any  
31 |

1 mitigating or aggravating circumstances upon which the  
2 recommended penalty is based.

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

10 Section 18. Section 717.1323, Florida Statutes, is  
11 created to read:

12 717.1323 Prohibited practice.--A person may not  
13 knowingly enter false information onto the website of the  
14 Bureau of Unclaimed Property.

15 Section 19. Section 717.1331, Florida Statutes, is  
16 amended to read:

17 717.1331 Actions against holders.--The department may  
18 initiate, or cause to be initiated, an action against a holder  
19 to enforce a subpoena or recover unclaimed property. If the  
20 department prevails in a civil or administrative action to  
21 enforce a subpoena or recover unclaimed property initiated by  
22 or on behalf of the department, the holder shall be ordered to  
23 pay the department reasonable costs and attorney's fees.

24 Section 20. Section 717.1333, Florida Statutes, is  
25 amended to read:

26 717.1333 Evidence; estimations, audit reports,  
27 examiner's worksheets, investigative reports, other related  
28 documents.--

29 (1) In any proceeding involving a holder under ss.  
30 120.569 and 120.57 in which an auditor, examiner, or  
31 investigator acting under authority of this chapter is

1 available for cross-examination, any official written report,  
2 worksheet, or other related paper, or copy thereof, compiled,  
3 prepared, drafted, or otherwise made or received by the  
4 auditor, examiner, or investigator, after being duly  
5 authenticated by the auditor, examiner, or investigator, may  
6 be admitted as competent evidence upon the oath of the  
7 auditor, examiner, or investigator that the report, worksheet,  
8 or related paper was prepared or received as a result of an  
9 audit, examination, or investigation of the books and records  
10 of the person audited, examined, or investigated, or the agent  
11 thereof.

12 (2) If the records of the holder which are available  
13 for the periods subject to this chapter are insufficient to  
14 permit the preparation of a report of the unclaimed property  
15 due and owing by a holder, the amount due may be reasonably  
16 estimated.

17 Section 21. Section 717.135, Florida Statutes, is  
18 amended to read:

19 717.135 Power of attorney Agreement to recover  
20 reported property in the custody of the department.--

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

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

28 (a) Limit the fees and costs for services to 20  
29 percent per unclaimed property account held by the department.  
30 Fees and costs for cash accounts shall be based on the value  
31 of the property at the time the power of attorney agreement

1 ~~for recovery~~ is signed by the claimant. Fees and costs for  
2 accounts containing securities or other intangible ownership  
3 interests, which securities or interests are not converted to  
4 cash, shall be based on the purchase price of the security as  
5 quoted on a national exchange or other market on which the  
6 property is regularly traded at the time the securities or  
7 other ownership interest is remitted to the claimant or the  
8 claimant's representative. Fees and costs for tangible  
9 property or safe-deposit box accounts shall be based on the  
10 value of the tangible property or contents of the safe-deposit  
11 box at the time the ownership interest is transferred or  
12 remitted to the claimant. Total fees and costs on any one  
13 account owned by a natural person residing in this country  
14 must not exceed \$1,000; or

15 (b) Fully disclose, ~~on such form as the department~~  
16 ~~shall prescribe by rule,~~ that the property is held by the  
17 State of Florida Bureau of Unclaimed Property of the  
18 Department of Financial Services, Bureau of Unclaimed  
19 Property, pursuant to this chapter, the mailing address of the  
20 Bureau of Unclaimed Property, the Internet address of the  
21 Bureau of Unclaimed Property, the person or name of the entity  
22 that held the property prior to the property becoming  
23 unclaimed, the date of the holder's last contact with the  
24 owner, if known, and the approximate value of the property,  
25 and identify which of the following categories of unclaimed  
26 property the claimant's ~~owner's~~ representative is seeking to  
27 recover, as reported by the holder:

- 28 1. Cash accounts.
- 29 2. Stale dated checks.
- 30 3. Life insurance or annuity contract assets.
- 31 4. Utility deposits.

- 1           5. Securities or other interests in business  
2 associations.  
3           6. Wages.  
4           7. Accounts receivable.  
5           8. Contents of safe-deposit boxes.  
6

7 ~~This subsection~~ ~~Such disclosure shall be on a page signed and~~  
8 ~~dated by the person asserting entitlement to the unclaimed~~  
9 ~~property. However, paragraph (a) or paragraph (b) shall not~~  
10 apply if probate proceedings must be initiated on behalf of  
11 the claimant for an estate that has never been probated or if  
12 the unclaimed property is being claimed by a person outside  
13 the United States.

14           (3)(a) A power of attorney described in paragraph  
15 (2)(b) must state in 12-point type or greater in the order  
16 indicated with the blank spaces accurately completed:  
17

18                           FULL DISCLOSURE STATEMENT

19  
20           The Property is Currently held by the State of  
21 Florida Department of Financial Services,  
22 Bureau of Unclaimed Property, pursuant to  
23 Chapter 717, Florida Statutes. The Mailing  
24 Address of the Bureau of Unclaimed Property  
25 is \_\_\_\_\_ . The Internet Address of the  
26 Bureau of the Unclaimed Property  
27 is \_\_\_\_\_ .

28  
29           The Property was Remitted by: \_\_\_\_\_ .

30  
31           Date of Last Contact: \_\_\_\_\_ .

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

Property Category: \_\_\_\_\_.

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

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

(4)(2)(a) Powers of attorney Agreements for recovery of cash accounts shall state the value of the unclaimed property and, the unclaimed property account number, ~~and the percentage value of the unclaimed property account to be paid to the claimant~~ and shall also state the percentage value of compensation to be paid to the claimant's representative, if applicable.

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

(c) All powers of attorney disclosures and agreements shall include the:

1. Name, address, and professional license number of the claimant's representative., and,
2. The name, address, and telephone number of the claimant's representative's firm or employer.



1           3. The name, address, and telephone number of the  
2 claimant.

3           4. If available, the taxpayer identification number or  
4 social security number, address, and telephone number of the  
5 claimant.

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

8           (d) The original of all such disclosures and powers of  
9 attorney agreements to pay compensation shall be signed and  
10 dated by the claimant of the property and shall be filed with  
11 the claim form.

12           (e)(d) All powers of attorney executed by a claimant  
13 to agreements between a claimant's representative and a  
14 claimant, who is a natural person, trust, or a dissolved  
15 corporation, for compensation to recover or assist in the  
16 recovery of property reported to the department under s.  
17 717.117 must use the following form on 8 and 1/2 -inch by  
18 11-inch paper or on 8 and 1/2 -inch by 14-inch paper with all  
19 of the text on one side of the paper and with the other side  
20 of the paper left blank; ~~except that, at the option of the~~  
21 ~~owner representative, the department disclosure form may be~~  
22 ~~placed on the reverse side of the agreement.~~ The power of  
23 attorney agreement must be accurately completed and executed.  
24 ~~No other writing or information shall be printed on the~~  
25 ~~agreement.~~ The title of the power of attorney agreement shall  
26 be in bold 14-point type or greater and underlined. Except as  
27 otherwise provided in this section, the rest of the power of  
28 attorney agreement shall be in 10-point type or greater. All  
29 unclaimed property accounts claimed must be identified on the  
30 power of attorney by account number agreement. The power of  
31

1 attorney agreement must state in bold 12-point type or greater  
2 at the top of the power of attorney in the order indicated:

3  
4 LIMITED POWER OF ATTORNEY

5  
6 \$ \_\_\_\_\_ = Approximate Dollar Value of the Property

7  
8 \_\_\_\_\_ = Number of Shares of Stock (If Applicable)

9  
10 \_\_\_\_\_ = Percent to be Paid as Compensation to  
11 Claimant's Representative

12  
13 \$ \_\_\_\_\_ = Amount to be Paid to Claimant's  
14 Representative

15  
16 \$ \_\_\_\_\_ = Net Amount to be Paid to Claimant

17  
18 Property Account Number(s): \_\_\_\_\_

19  
20 ~~RECOVERY AGREEMENT~~

21  
22 ~~\$..... = APPROXIMATE DOLLAR VALUE OF UNCLAIMED PROPERTY~~

23 ~~NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF~~  
24 ~~APPLICABLE):.....~~

25 ~~PROPERTY ACCOUNT NUMBERS:.....~~

26 ~~..... PERCENT TO BE PAID AS COMPENSATION TO THE CLAIMANT'S~~  
27 ~~REPRESENTATIVE~~

28 ~~\$..... = NET AMOUNT TO BE PAID TO CLAIMANT~~

29 ~~\$..... = AMOUNT TO BE PAID TO CLAIMANT'S REPRESENTATIVE~~

1 ~~THIS AGREEMENT is between: ..... (hereinafter,~~  
2 ~~CLAIMANT) and ..... (hereinafter, CLAIMANT'S~~  
3 ~~REPRESENTATIVE) who agree to the following:~~

4  
5 ~~(1) As consideration for the research efforts in~~  
6 ~~locating and identifying assets due to the CLAIMANT and for~~  
7 ~~assistance in procuring payment of the assets to the CLAIMANT,~~  
8 ~~the CLAIMANT authorizes the government to pay to the~~  
9 ~~CLAIMANT'S REPRESENTATIVE a fee of either:~~

10 ~~(a) ..... percent of all assets recovered, or~~  
11 ~~(b) A flat fee of \$ ..... to recover the unclaimed~~  
12 ~~property account identified above.~~

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

14 ~~(2) I have read this agreement and in consideration~~  
15 ~~thereof, do hereby grant the CLAIMANT'S REPRESENTATIVE a~~  
16 ~~limited power of attorney to demand, collect, recover and~~  
17 ~~receive the above compensation from the government in~~  
18 ~~accordance with this agreement.~~

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

24 ~~Original Signature of CLAIMANT:.....~~

25 ~~DATE:.....~~

26 ~~CLAIMANT'S Social Security Number or FEID number:.....~~

27 ~~Make the CLAIMANT'S check payable to:.....~~

28 ~~Mail check to this address:.....~~

29 ~~.....~~

30 ~~The CLAIMANT'S telephone number is:.....~~

31 ~~Original Signature of CLAIMANT'S REPRESENTATIVE:.....~~

1 ~~FEID Number of CLAIMANT'S REPRESENTATIVE:.....~~  
2 ~~DATE:.....~~  
3 ~~Address of CLAIMANT'S REPRESENTATIVE:.....~~  
4 ~~.....~~  
5 ~~Telephone number of CLAIMANT'S REPRESENTATIVE:.....~~  
6 ~~Professional license number of CLAIMANT'S REPRESENTATIVE:.....~~  
7 ~~.....~~

8       ~~(f)(e)~~ All fees, whether expressed as a percentage or  
9 as a flat fee, are subject to the limitations and requirements  
10 of subsection (1).

11       ~~(g)~~ This section does not prohibit:

12           1. Use of bolding, italics, print of different colors,  
13 or text borders as a means of highlighting or stressing  
14 certain selected items within the text.

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

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

25           4. Deletion of the words "Number of Shares of Stock  
26 (If Applicable)," if the agreement does not relate to the  
27 recovery of securities.

28           5. Deletion of the words "Percent to be Paid as  
29 Compensation to Claimant's Representative," if the power of  
30 attorney provides for a flat fee to be paid as compensation to  
31 the claimant's representative.

1           ~~(5)(3)~~ As used in this section, "claimant" means the  
2 person on whose behalf a claim is filed.

3           ~~(6)(4)~~ This section does not supersede the licensing  
4 requirements of chapter 493.

5           Section 22. Section 717.1351, Florida Statutes, is  
6 amended to read:

7           717.1351 Acquisition of unclaimed property.--

8           (1) A person desiring to acquire ownership of or  
9 entitlement to property reported to the department under s.  
10 717.117 must be an attorney licensed to practice law in this  
11 state, a licensed Florida-certified public accountant, a  
12 private investigator licensed under chapter 493, or an  
13 employer of a licensed private investigator which employer  
14 possesses a Class "A" license under chapter 493 and must be  
15 registered with the department under this chapter.

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

20           (a) Have a purchase price that discounts the value of  
21 the unclaimed property at the time the agreement is executed  
22 by the seller at no greater than 20 percent per account held  
23 by the department. An unclaimed property account must not be  
24 discounted in excess of \$1,000. However, the \$1,000 discount  
25 limitation does not apply if probate proceedings must be  
26 initiated on behalf of the seller for an estate that has never  
27 been probated or if the seller of the unclaimed property is  
28 not a natural person or is a person outside the United States;  
29 or

30           (b) Fully disclose, ~~on such form as the department~~  
31 ~~shall prescribe by rule,~~ that the property is held by the

1 ~~Bureau of Unclaimed Property of the State of Florida~~  
2 Department of Financial Services, Bureau of Unclaimed  
3 Property, pursuant to this chapter, the mailing address of the  
4 Bureau of Unclaimed Property, the Internet address of the  
5 Bureau of Unclaimed Property, the person or name of the entity  
6 that held the property prior to the property becoming  
7 unclaimed, the date of the holder's last contact with the  
8 owner, if known, and the approximate value of the property,  
9 and identify which of the following categories of unclaimed  
10 property the buyer is seeking to purchase as reported by the  
11 holder:

- 12 1. Cash accounts.
- 13 2. Stale dated checks.
- 14 3. Life insurance or annuity contract assets.
- 15 4. Utility deposits.
- 16 5. Securities or other interests in business  
17 associations.
- 18 6. Wages.
- 19 7. Accounts receivable.
- 20 8. Contents of safe-deposit boxes.

21  
22 The purchase agreement described in this paragraph must state  
23 in 12-point type or greater in the order indicated with the  
24 blank spaces accurately completed:

25  
26 FULL DISCLOSURE STATEMENT

27  
28 The Property is Currently held by the State of  
29 Florida Department of Financial Services,  
30 Bureau of Unclaimed Property, pursuant to  
31 Chapter 717, Florida Statutes. The Mailing

1           Address of the Bureau of Unclaimed Property  
2           is \_\_\_\_\_ . The Internet Address of the  
3           Bureau of the Unclaimed Property  
4           is \_\_\_\_\_ .  
5  
6           The Property was Remitted by: \_\_\_\_\_ .  
7  
8           Date of Last Contact: \_\_\_\_\_ .  
9  
10          Property Category: \_\_\_\_\_ .

11  
12          Immediately above the signature line for the seller, the  
13          purchase agreement described in this paragraph must state in  
14          12-point type or greater:

15  
16                 Seller agrees, by signing below, that the FULL  
17                 DISCLOSURE STATEMENT has been read and fully  
18                 understood.

19  
20          ~~Such disclosure shall be on a page signed and dated by the~~  
21          ~~seller of the unclaimed property.~~

22                 (3) The originals of all such disclosures and  
23          agreements to transfer ownership of or entitlement to  
24          unclaimed property shall be signed and dated by the seller and  
25          shall be filed with the claim form. The claimant shall provide  
26          the department with a legible copy of a valid driver's license  
27          of the seller at the time the original claim form is filed. If  
28          a seller has not been issued a valid driver's license at the  
29          time the original claim form is filed, the department shall be  
30          provided with a legible copy of a photographic identification  
31          of the seller issued by the United States or a foreign nation,

1 | a state or territory of the United States or a foreign nation,  
2 | or a political subdivision or agency thereof. In lieu of  
3 | photographic identification, a notarized sworn statement by  
4 | the seller may be provided which affirms the seller's identity  
5 | and states the seller's full name and address. The seller must  
6 | produce to the notary his or her photographic identification  
7 | issued by the United States or a state or territory of the  
8 | United States, a foreign nation, or a political subdivision or  
9 | agency thereof, or other evidence deemed acceptable by  
10 | department rule. The notary shall indicate the notary's full  
11 | address on the notarized sworn statement. If a claim is filed  
12 | without the required identification or the sworn statement  
13 | with the original claim form and the original agreement to  
14 | acquire ownership of or entitlement to the unclaimed property,  
15 | the claim is void.

16 |         (4) Any contract to acquire ownership of or  
17 | entitlement to unclaimed property from the person or persons  
18 | entitled to the unclaimed property must provide for the  
19 | purchase price to be remitted to the seller or sellers within  
20 | 10 days after the execution of the contract by the seller or  
21 | sellers. The contract must specify the unclaimed property  
22 | account number, the name of the holder who reported the  
23 | property to the department, the category of unclaimed  
24 | property, the value of the unclaimed property account, and the  
25 | number of shares of stock, if applicable. Proof of payment by  
26 | check must be filed with the department with the claim.

27 |         (5) All agreements to purchase unclaimed property from  
28 | an owner, ~~who is a natural person, a trust, or a dissolved~~  
29 | ~~corporation~~ must use the following form on 8 and 1/2 -inch by  
30 | 11-inch paper or on 8 and 1/2 -inch by 14-inch paper with all  
31 | of the text on one side of the paper and with the other side



1 of the paper left blank; ~~except that, at the option of the~~  
2 ~~owner representative, the department disclosure form may be~~  
3 ~~placed on the reverse side of the agreement.~~ The agreement  
4 must be accurately completed and executed. ~~No other writing or~~  
5 ~~information shall be printed on the agreement.~~ The title of  
6 the agreement shall be in bold 14-point type or greater and  
7 underlined. Except as otherwise provided in this section, the  
8 rest of the agreement shall be in 10-point type or greater.  
9 All unclaimed property accounts to be purchased must be  
10 identified on the agreement by account number. The agreement  
11 must state in bold 12-point type or greater at the top of the  
12 agreement in the order indicated:

13  
14 PURCHASE AGREEMENT

15  
16 \$ \_\_\_\_\_ = Approximate Dollar Value of the Property

17  
18 \_\_\_\_\_ = Number of Shares of Stock (If Applicable)

19  
20 \_\_\_\_\_ = Percent of Property to be Paid to Buyer

21  
22 \$ \_\_\_\_\_ = Amount to be Paid to Buyer

23  
24 \$ \_\_\_\_\_ = Net Amount to be Paid to Seller

25  
26 Property Account Number(s): \_\_\_\_\_

27 (6) All agreements shall include:

28 (a) The name and professional license number of the  
29 registrant.

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

1           (c) The name, address, and telephone number of the  
2 seller.  
3           (d) If available, the taxpayer identification number  
4 or social security number of the seller.  
5           (e) The name and address to whom the warrant is to be  
6 issued if it is different from the seller's name and address.  
7           (f) The original signature of the registrant and the  
8 date signed by the registrant.  
9  
10 ~~\$. . . . . = APPROXIMATE DOLLAR VALUE OF THE UNCLAIMED PROPERTY~~  
11 ~~PROPERTY ACCOUNT NUMBER(S): . . . . .~~  
12 ~~NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF~~  
13 ~~APPLICABLE): . . . . .~~  
14 ~~. . . . . PERCENT OF UNCLAIMED PROPERTY TO BE PAID TO THE BUYER~~  
15 ~~\$. . . . . = NET AMOUNT TO BE PAID TO OWNER~~  
16 ~~\$. . . . . = AMOUNT TO BE PAID TO BUYER~~  
17 ~~THIS AGREEMENT is between: . . . . . (hereinafter, OWNER)~~  
18 ~~and . . . . . (hereinafter, BUYER) who agree that the OWNER~~  
19 ~~transfers to the BUYER for a purchase price of \$. . . . . all~~  
20 ~~rights to the above identified unclaimed property accounts.~~  
21 ~~Original Signature of OWNER: . . . . .~~  
22 ~~DATE: . . . . .~~  
23 ~~OWNER'S Social Security Number or FEID number: . . . . .~~  
24 ~~Within 10 days after the execution of this Purchase Agreement~~  
25 ~~by the Owner, Buyer shall remit the OWNER'S check payable to:~~  
26 ~~. . . . .~~  
27 ~~Mail check to this address: . . . . .~~  
28 ~~. . . . .~~  
29 ~~. . . . .~~  
30 ~~The OWNER'S telephone number is: . . . . .~~  
31 ~~Original Signature of BUYER: . . . . .~~

1 ~~FEID Number of BUYER: .....~~ ~~DATE: .....~~

2 ~~Address of BUYER: .....~~

3 .....

4 ~~Telephone number of BUYER: .....~~

5 ~~Professional license number of BUYER: .....~~

6 (7) This section does not prohibit:

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

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

16 (c) Deletion of the words "Number of Shares of Stock,  
17 (If Applicable)," if the agreement does not relate to the  
18 recovery of securities.

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

22 ~~(8)(6)~~ This section does not supersede the licensing  
23 requirements of chapter 493.

24 Section 23. Section 717.1381, Florida Statutes, is  
25 created to read:

26 717.1381 Void unclaimed property; powers of attorney;  
27 and purchase agreements.--

28 (1) Protecting the interests of owners of unclaimed  
29 property is declared to be the public policy of this state. It  
30 is in the best interests of the owners of unclaimed property  
31 that they have the opportunity to receive the full amount of

1 the unclaimed property returned to them without deduction of  
2 any fees. Further, it is specifically recognized that the  
3 Legislature has mandated and the state has an obligation to  
4 make meaningful and active efforts to notify owners concerning  
5 their unclaimed property. The state recognizes that this  
6 policy and obligation cannot be fulfilled without providing  
7 the state with the first opportunity to notify the owners of  
8 unclaimed property that they may file a claim for their  
9 property with the department. In furtherance of this policy  
10 and obligation:

11 (a) Any oral or written agreement or power of attorney  
12 for compensation or gain or in the expectation of compensation  
13 or gain which includes an unclaimed property account valued at  
14 more than \$250, which has been made on or before 45 days after  
15 the holder or examination report was processed and added to  
16 the unclaimed property data base, subsequent to a  
17 determination that the report was accurate and that the  
18 reported property was the same as the remitted property, is  
19 void as contrary to public policy.

20 (b) Any oral or written purchase agreements that  
21 include an unclaimed property account valued at more than  
22 \$250, owned by another made on or before 45 days after the  
23 holder or examination report was processed and added to the  
24 unclaimed property database, subsequent to a determination  
25 that the report was accurate and that the reported property  
26 was the same as the remitted property, is void as contrary to  
27 public policy.

28 (2) A person may not enter into a power of attorney or  
29 agreement, or make a solicitation to enter into a power of  
30 attorney or agreement, which is void under this section.

31

1           Section 24. Section 717.1400, Florida Statutes, is  
2 amended to read:

3           717.1400 Registration.--

4           (1) In order to file claims as a claimant's  
5 representative, acquire ownership of or entitlement to  
6 unclaimed property, receive a distribution of fees and costs  
7 from the department, and obtain unclaimed property dollar  
8 amounts, ~~numbers the number~~ of reported shares of stock, and  
9 ~~the last four digits of~~ social security numbers held by the  
10 department, a private investigator holding a Class "C"  
11 individual license under chapter 493 must register with the  
12 department on such form as the department shall prescribe by  
13 rule, and must be verified by the applicant. To register with  
14 the department, a private investigator must provide:

15           (a) A legible copy of the applicant's Class "A"  
16 business license under chapter 493 or that of the applicant's  
17 firm or employer which holds a Class "A" business license  
18 under chapter 493.

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

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

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

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

31

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

4 (2) In order to file claims as a claimant's  
5 representative, acquire ownership of or entitlement to  
6 unclaimed property, receive a distribution of fees and costs  
7 from the department, and obtain unclaimed property dollar  
8 amounts, numbers ~~the number~~ of reported shares of stock, and  
9 ~~the last four digits of~~ social security numbers held by the  
10 department, a Florida-certified public accountant must  
11 register with the department on such form as the department  
12 shall prescribe by rule, and must be verified by the  
13 applicant. To register with the department a Florida-certified  
14 public accountant must provide:

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

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

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

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

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

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

3 (3) In order to file claims as a claimant's  
4 representative, acquire ownership of or entitlement to  
5 unclaimed property, receive a distribution of fees and costs  
6 from the department, and obtain unclaimed property dollar  
7 amounts, numbers ~~the number~~ of reported shares of stock, and  
8 ~~the last four digits of~~ social security numbers held by the  
9 department, an attorney licensed to practice in this state  
10 must register with the department on such form as the  
11 department shall prescribe by rule, and must be verified by  
12 the applicant. To register with the department, such attorney  
13 must provide:

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

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

21 (c) The ~~applicant's~~ business address and telephone  
22 number of the applicant's firm or employer.

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

28 (e) Sufficient information to enable the department to  
29 disburse funds by electronic funds transfer.

30 (f) The tax identification number of the attorney's  
31 firm or employer ~~lawyer's employer law firm.~~

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

4           (5) If a material change in the status of a  
5 registration occurs, a registrant must, within 30 days,  
6 provide the department with the updated documentation and  
7 information in writing. Material changes include, but are not  
8 limited to: a designated agent or employee ceasing to act on  
9 behalf of the designating person, a surrender, suspension, or  
10 revocation of a license, or a license renewal.

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

16           (b) If a registrant surrenders the registrant's  
17 license or the license is suspended or revoked, the registrant  
18 must, within 30 days, inform the bureau in writing of the  
19 surrender, suspension, or revocation.

20           (c) If a private investigator's Class "C" individual  
21 license under chapter 493 or a private investigator's  
22 employer's Class "A" business license under chapter 493 is  
23 renewed, the private investigator must provide a copy of the  
24 renewed license to the department within 30 days after the  
25 receipt of the renewed license by the private investigator or  
26 the private investigator's employer.

27           (6) A registrant's firm or employer ~~registrant or~~  
28 ~~applicant for registration~~ may not have a name that might lead  
29 another person to conclude that the registrant's firm or  
30 employer ~~registrant~~ is affiliated or associated with the  
31 United States, or an agency thereof, or a state or an agency



1 | or political subdivision of a state. The department shall deny  
2 | an application for registration or revoke a registration if  
3 | the applicant's or registrant's firm or employer ~~applicant or~~  
4 | ~~registrant~~ has a name that might lead another person to  
5 | conclude that the firm or employer ~~applicant or registrant~~ is  
6 | affiliated or associated with the United States, or an agency  
7 | thereof, or a state or an agency or political subdivision of a  
8 | state. Names that might lead another person to conclude that  
9 | the firm or employer ~~applicant or registrant~~ is affiliated or  
10 | associated with the United States, or an agency thereof, or a  
11 | state or an agency or political subdivision of a state,  
12 | include, but are not limited to, the words United States,  
13 | Florida, state, bureau, division, department, or government.

14 |       (7) The licensing and other requirements of this  
15 | section must be maintained as a condition of registration with  
16 | the department.

17 |       Section 25. This act shall take effect upon becoming a  
18 | law.

19 |  
20 |                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
21 |                   COMMITTEE SUBSTITUTE FOR  
22 |                   Senate Bill 2494

23 | The committee substitute provides the following changes:

24 | Presumes that stock, equity interests in a business,  
25 | dividends, profits, or other specified sums are unclaimed  
26 | after three (3) years with no contact from the owner, rather  
27 | than five (5) years. Prohibits entering false information on  
28 | the Bureau of Unclaimed Property website and eliminates  
29 | prohibition in SB 2494 against unauthorized parties obtaining  
30 | information from the website. Specifies that the Department of  
31 | Financial Services is entitled to costs and attorney's fees in  
defending against certain probate challenges or writs of  
garnishment if the department is the prevailing party in a  
legal action.