

By the Committees on Judiciary; Banking and Insurance; and
Senator Clary

590-2375-05

1 A bill to be entitled
2 An act relating to the disposition of unclaimed
3 property; amending s. 717.101, F.S.; providing
4 definitions; amending s. 717.106, F.S.,
5 relating to funds in financial organizations;
6 providing for documented telephone contact in
7 certain cases; amending s. 717.1101, F.S.;
8 revising the time in which stock, equity
9 interest, and certain debt of a business
10 association is presumed unclaimed; revising the
11 time period in which such property ceases to be
12 unclaimed; providing the time period in which
13 certain other equity of a business association
14 is presumed unclaimed; amending s. 717.117,
15 F.S., relating to reports of unclaimed
16 property; amending time and notice
17 requirements; providing an additional exception
18 to the reporting of unclaimed property;
19 amending s. 717.118, F.S., relating to
20 notification of apparent owners; providing
21 threshold value for notifications; amending s.
22 717.119, F.S., relating to payment or delivery
23 of unclaimed property; providing for
24 disposition of funds; amending s. 717.122,
25 F.S., relating to public sale of unclaimed
26 property; providing for disposition; amending
27 s. 717.124, F.S., relating to unclaimed
28 property claims; providing for identification;
29 amending s. 717.12404, F.S., relating to claims
30 on behalf of a business entity or trust;
31 providing for reference to corporate records on

1 the Internet; creating s. 717.12405, F.S.;

2 providing definitions; amending s. 717.1241,

3 F.S., relating to conflicting claims; amending

4 s. 717.1242, F.S., relating to jurisdiction of

5 probate court and department; amending s.

6 717.1243, F.S., relating to small-estate

7 accounts; providing for live testimony;

8 creating s. 717.1245, F.S.; providing for costs

9 and fees in cases seeking garnishment of

10 certain unclaimed property; repealing s.

11 717.1311(3), F.S., which provides for reporting

12 requirements and payments in cases where

13 records are not maintained; amending s.

14 717.1315, F.S., relating to records retention;

15 amending s. 717.132, F.S., relating to

16 enforcement; amending s. 717.1322, F.S.,

17 relating to administrative and civil

18 enforcement; providing for registration;

19 providing times for revocation and suspension

20 of registration; creating s. 717.1323, F.S.;

21 prohibiting entry of false information;

22 amending s. 717.1331, F.S., relating to actions

23 against holders; providing for enforcement of

24 subpoena; amending s. 717.1333, F.S., relating

25 to evidence and reports; providing for

26 estimation of amount due in certain cases;

27 amending s. 717.135, F.S., relating to powers

28 of attorney and agreements; specifying certain

29 disclosure requirements and forms; amending s.

30 717.1351, F.S., relating to purchase

31 agreements; specifying form; creating s.

1 717.1381, F.S.; declaring state policy to
2 protect interests of owners of unclaimed
3 property; providing that certain powers of
4 attorney and purchase agreements are void;
5 providing for retroactive application; amending
6 s. 717.1400, F.S., relating to registration;
7 providing for maintenance of licensing and
8 other requirements as a condition of
9 registration; providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

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

16 717.101 Definitions.--As used in this chapter, unless
17 the context otherwise requires:

18 (11) "Health care provider" means any state-licensed
19 entity that provides and receives payment for health care
20 services. These entities include, but are not limited to,
21 hospitals, outpatient centers, physician practices, and
22 skilled nursing facilities.

23 ~~(12)~~~~(11)~~ "Holder" means a person, wherever organized
24 or domiciled, who is:

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

28 ~~(13)~~~~(12)~~ "Insurance company" means an association,
29 corporation, or fraternal or mutual benefit organization,
30 whether or not for profit, which is engaged in providing
31 insurance coverage, including, by way of illustration and not

1 | limitation, accident, burial, casualty, credit life, contract
2 | performance, dental, fidelity, fire, health, hospitalization,
3 | illness, life (including endowments and annuities),
4 | malpractice, marine, mortgage, surety, and wage protection
5 | insurance.

6 | ~~(14)~~~~(13)~~ "Intangible property" includes, by way of
7 | illustration and not limitation:

8 | (a) Moneys, checks, drafts, deposits, interest,
9 | dividends, and income.

10 | (b) Credit balances, customer overpayments, security
11 | deposits and other instruments as defined by chapter 679,
12 | refunds, unpaid wages, unused airline tickets, and
13 | unidentified remittances.

14 | (c) Stocks, and other intangible ownership interests
15 | in business associations.

16 | (d) Moneys deposited to redeem stocks, bonds, bearer
17 | bonds, original issue discount bonds, coupons, and other
18 | securities, or to make distributions.

19 | (e) Amounts due and payable under the terms of
20 | insurance policies.

21 | (f) Amounts distributable from a trust or custodial
22 | fund established under a plan to provide any health, welfare,
23 | pension, vacation, severance, retirement, death, stock
24 | purchase, profit sharing, employee savings, supplemental
25 | unemployment insurance, or similar benefit.

26 | ~~(15)~~~~(14)~~ "Last known address" means a description of
27 | the location of the apparent owner sufficient for the purpose
28 | of the delivery of mail. For the purposes of identifying,
29 | reporting, and remitting property to the department which is
30 | presumed to be unclaimed, "last known address" includes any
31 | partial description of the location of the apparent owner

1 sufficient to establish the apparent owner was a resident of
2 this state at the time of last contact with the apparent owner
3 or at the time the property became due and payable.

4 ~~(16)~~~~(15)~~ "Lawful charges" means charges against
5 dormant accounts that are authorized by statute for the
6 purpose of offsetting the costs of maintaining the dormant
7 account.

8 (17) "Managed care payor" means a health care plan
9 that has a defined system of selecting and limiting health
10 care providers as evidenced by a managed care contract with
11 the health care providers. These plans include, but are not
12 limited to, managed care health insurance companies and health
13 maintenance organizations.

14 ~~(18)~~~~(16)~~ "Owner" means a depositor in the case of a
15 deposit, a beneficiary in case of a trust or a deposit in
16 trust, or a payee in the case of other intangible property, or
17 a person having a legal or equitable interest in property
18 subject to this chapter or his or her legal representative.

19 ~~(19)~~~~(17)~~ "Public corporation" means a corporation
20 created by the state, founded and owned in the public
21 interest, supported by public funds, and governed by those
22 deriving their power from the state.

23 ~~(20)~~~~(18)~~ "Reportable period" means the calendar year
24 ending December 31 of each year.

25 ~~(21)~~~~(19)~~ "State," when applied to a part of the United
26 States, includes any state, district, commonwealth, territory,
27 insular possession, and any other area subject to the
28 legislative authority of the United States.

29 ~~(22)~~~~(20)~~ "Ultimate equitable owner" means a natural
30 person who, directly or indirectly, owns or controls an
31 ownership interest in a corporation, a foreign corporation, an

1 alien business organization, or any other form of business
2 organization, regardless of whether such natural person owns
3 or controls such ownership interest through one or more
4 natural persons or one or more proxies, powers of attorney,
5 nominees, corporations, associations, partnerships, trusts,
6 joint stock companies, or other entities or devices, or any
7 combination thereof.

8 ~~(23)(21)~~ "Utility" means a person who owns or
9 operates, for public use, any plant, equipment, property,
10 franchise, or license for the transmission of communications
11 or the production, storage, transmission, sale, delivery, or
12 furnishing of electricity, water, steam, or gas.

13 Section 2. Subsection (1) of section 717.106, Florida
14 Statutes, is amended to read:

15 717.106 Bank deposits and funds in financial
16 organizations.--

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

23 (a) Increased or decreased the amount of the deposit
24 or presented the passbook or other similar evidence of the
25 deposit for the crediting of interest;

26 (b) Communicated in writing or by documented telephone
27 contact with the banking or financial organization concerning
28 the property;

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

1 (d) Owned other property to which paragraph (a),
2 paragraph (b), or paragraph (c) is applicable and if the
3 banking or financial organization communicates in writing with
4 the owner with regard to the property that would otherwise be
5 presumed unclaimed under this subsection at the address to
6 which communications regarding the other property regularly
7 are sent; or

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

10 1. Communicated in writing with the banking or
11 financial organization; or

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

19 Section 3. Subsections (1) and (2) of section
20 717.1101, Florida Statutes, are amended, and subsection (4) is
21 added to that section, to read:

22 717.1101 Unclaimed equity and debt of business
23 associations.--

24 (1)(a) Stock or other equity interest in a business
25 association is presumed unclaimed 3 ~~5~~ years after the earliest
26 of:

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

29 2. The date of a statement of account or other
30 notification or communication that was returned as
31 undeliverable; or

1 3. The date the holder discontinued mailings,
2 notifications, or communications to the apparent owner.

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

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

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

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

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

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

24 (b) Presents an instrument issued to pay interest or a
25 dividend or other cash distribution. If any future dividend,
26 distribution, or other sum payable to the owner as a result of
27 the interest is subsequently not claimed by the owner, a new
28 period in which the property is presumed unclaimed commences
29 and relates back only to the time a subsequent dividend,
30 distribution, or other sum became due and payable.
31

1 (4) Any dividend, profit, distribution, interest
2 redemption, payment on principal, or other sum held or owing
3 by a business association for or to a shareholder,
4 certificateholder, member, bondholder, or other security
5 holder, who has not claimed it, or corresponded in writing
6 with the business association concerning it, within 3 years
7 after the date prescribed for payment or delivery, is presumed
8 unclaimed.

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

12 717.117 Report of unclaimed property.--

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

1 that the reported property is the same as the remitted
2 property.

3 (4) Holders of inactive accounts having a value of \$50
4 or more shall use due diligence to locate apparent owners. Not
5 more than 120 days and not less than 60 days prior to filing
6 the report required by this section, the holder in possession
7 of property presumed unclaimed and subject to custody as
8 unclaimed property under this chapter shall send written
9 notice to the apparent owner at the apparent owner's last
10 known address informing the apparent owner that the holder is
11 in possession of property subject to this chapter, if the
12 holder has in its records an address for the apparent owner
13 which the holder's records do not disclose to be inaccurate.

14 ~~(a) When an owner's account becomes inactive, the~~
15 ~~holder shall conduct at least one search for the apparent~~
16 ~~owner using due diligence. For purposes of this section, an~~
17 ~~account is inactive if 2 years have transpired after the last~~
18 ~~owner initiated account activity, if 2 years have transpired~~
19 ~~after the expiration date on the instrument or contract, or if~~
20 ~~2 years have transpired since first class mail has been~~
21 ~~returned as undeliverable.~~

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

27 ~~(c) Within 30 days after receiving updated address~~
28 ~~information, the holder shall provide notice by telephone or~~
29 ~~first class mail to the current address notifying the apparent~~
30 ~~owner that the holder is in possession of property which is~~
31 ~~presumed unclaimed and may be remitted to the department. The~~

1 ~~notice shall also provide the apparent owner with the address~~
2 ~~or the telephone number of an office where the apparent owner~~
3 ~~may claim the property or reestablish the inactive account.~~

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

9 (7)

10 (c) This section does not apply to credit balances,
11 overpayments, refunds, or outstanding checks owed by a health
12 care provider to a managed care payor with whom the health
13 care provider has a managed care contract, provided that the
14 credit balances, overpayments, refunds, or outstanding checks
15 become due and owing pursuant to the managed care contract.

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

18 717.118 Notification of apparent owners of unclaimed
19 property.--

20 (1) It is specifically recognized that the state has
21 an obligation to make an effort to notify owners of unclaimed
22 property in a cost-effective manner. In order to provide all
23 the citizens of this state an effective and efficient program
24 for the recovery of unclaimed property, the department shall
25 use cost-effective means to make at least one active attempt
26 to notify owners of unclaimed property accounts valued at more
27 than ~~\$250~~\$100 with a reported address or taxpayer
28 identification number. Such active attempt to notify apparent
29 owners shall include any attempt by the department to directly
30 contact the owner. Other means of notification, such as
31 publication of the names of owners in the newspaper, on

1 television, on the Internet, or through other promotional
2 efforts and items in which the department does not directly
3 attempt to contact the owner are expressly declared to be
4 passive attempts. Nothing in this subsection precludes other
5 agencies or entities of state government from notifying owners
6 of the existence of unclaimed property or attempting to notify
7 apparent owners of unclaimed property.

8 Section 6. Paragraph (b) of subsection (5) of section
9 717.119, Florida Statutes, is amended to read:

10 717.119 Payment or delivery of unclaimed property.--

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

24 (b) Any firearm or ammunition found in an unclaimed
25 safe-deposit box or any other safekeeping repository shall be
26 delivered by the holder to a law enforcement agency for
27 disposal pursuant to s. 705.103(2)(b), with the balance of the
28 proceeds deposited into the State School Fund if the firearm
29 is sold. However, the department is authorized to make a
30 reasonable attempt to ascertain the historical value to
31 collectors of any firearm that has been delivered to the

1 department. Any firearm appearing to have historical value to
2 collectors may be sold by the department pursuant to s.
3 717.122 to a person having a federal firearms license. Any
4 firearm which is not sold pursuant to s. 717.122 shall be
5 delivered by the department to a law enforcement agency in
6 this state for disposal pursuant to s. 705.103(2)(b), with the
7 balance of the proceeds deposited into the State School Fund
8 if the firearm is sold. The department shall not be
9 administratively, civilly, or criminally liable for any
10 firearm delivered by the department to a law enforcement
11 agency in this state for disposal.

12 Section 7. Section 717.122, Florida Statutes, is
13 amended to read:

14 717.122 Public sale of unclaimed property.--

15 (1) Except as provided in paragraph (2)(a) ~~subsection~~
16 ~~(2)~~, the department after the receipt of unclaimed property
17 shall sell it to the highest bidder at public sale on the
18 Internet or at a specified physical location wherever in the
19 judgment of the department the most favorable market for the
20 property involved exists. The department may decline the
21 highest bid and reoffer the property for sale if in the
22 judgment of the department the bid is insufficient. The
23 department shall have the discretion to withhold from sale any
24 unclaimed property that the department deems to be of benefit
25 to the people of the state. If in the judgment of the
26 department the probable cost of sale exceeds the value of the
27 property, it need not be offered for sale and may be disposed
28 of as the department determines appropriate. Any sale at a
29 specified physical location held under this section must be
30 preceded by a single publication of notice, at least 3 weeks
31 in advance of sale, in a newspaper of general circulation in

1 | the county in which the property is to be sold. The department
2 | shall proportionately deduct auction fees, preparation costs,
3 | and expenses from the amount posted to the owner's account
4 | when safe-deposit box contents are sold. No action or
5 | proceeding may be maintained against the department for or on
6 | account of any decision to decline the highest bid or withhold
7 | any unclaimed property from sale.

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

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

31 |

1 (c) Certificates for unclaimed stock or other equity
2 interest of business associations that cannot be cancelled and
3 registered in the department's name or that cannot be readily
4 liquidated and converted into the currency of the United
5 States may be sold for value of the certificate, if any, in
6 accordance with subsection (1) or may be destroyed in
7 accordance with s. 717.128.

8 ~~(3)(4)~~ The purchaser of property at any sale conducted
9 by the department pursuant to this chapter is entitled to
10 ownership of the property purchased free from all claims of
11 the owner or previous holder thereof and of all persons
12 claiming through or under them. The department shall execute
13 all documents necessary to complete the transfer of ownership.

14 ~~(4)(5)~~ The sale of unclaimed tangible personal
15 property is not subject to tax under chapter 212 when such
16 property is sold by or on behalf of the department pursuant to
17 this section.

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

20 717.124 Unclaimed property claims.--

21 (1) Any person, excluding another state, claiming an
22 interest in any property paid or delivered to the department
23 under this chapter may file with the department a claim on a
24 form prescribed by the department and verified by the claimant
25 or the claimant's representative. The claimant's
26 representative must be an attorney licensed to practice law in
27 this state, a licensed Florida-certified public accountant, or
28 a private investigator licensed under chapter 493. The
29 claimant's representative must be registered with the
30 department under this chapter. The claimant, or the claimant's
31 representative, shall provide the department with a legible

1 | copy of a valid driver's license of the claimant at the time
2 | the original claim form is filed. If the claimant has not been
3 | issued a valid driver's license at the time the original claim
4 | form is filed, the department shall be provided with a legible
5 | copy of a photographic identification of the claimant issued
6 | by the United States a state or territory of the United
7 | States, a foreign nation, or a political subdivision or agency
8 | thereof, or other evidence deemed acceptable by the department
9 | rule. In lieu of photographic identification, a notarized
10 | sworn statement by the claimant may be provided which affirms
11 | the claimant's identity and states the claimant's full name
12 | and address. The claimant must produce to the notary
13 | photographic identification of the claimant issued by the
14 | United States, a state or territory of the United States, a
15 | foreign nation, or a political subdivision or agency thereof
16 | or other evidence deemed acceptable by department rule. The
17 | notary shall indicate the notary's full address on the
18 | notarized sworn statement. Any claim filed without the
19 | required identification or the sworn statement with the
20 | original claim form and the original power of attorney or
21 | purchase agreement, if applicable, is void.

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

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

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

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

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

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

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

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

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

25 (4)(a) Except as otherwise provided in this chapter,
26 if a claim is determined in favor of the claimant, the
27 department shall deliver or pay over to the claimant the
28 property or the amount the department actually received or the
29 proceeds if it has been sold by the department, together with
30 any additional amount required by s. 717.121.
31

1 (b) If an owner authorizes an attorney licensed to
2 practice law in this state, Florida-certified public
3 accountant, or private investigator licensed under chapter
4 493, and registered with the department under this chapter, to
5 claim the unclaimed property on the owner's behalf, the
6 department is authorized to make distribution of the property
7 or money in accordance with such power of attorney. The
8 original power of attorney must be executed by the owner and
9 must be filed with the department.

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

16 2. Payments of fees and costs authorized pursuant to a
17 written power of attorney for approved claims shall be made or
18 issued to the law firm ~~employer~~ of the designated attorney
19 licensed to practice law in this state, the public accountancy
20 firm ~~employer~~ of the licensed Florida-certified public
21 accountant, or the designated employing private investigative
22 agency licensed by this state. Such payments shall be made by
23 electronic funds transfer and may be made on such periodic
24 schedule as the department may define by rule, provided the
25 payment intervals do not exceed 31 days. Payment made to an
26 attorney licensed in this state, a Florida-certified public
27 accountant, or a private investigator licensed under chapter
28 493, operating individually or as a sole practitioner, shall
29 be to the attorney, certified public accountant, or private
30 investigator.
31

1 Section 9. Section 717.12404, Florida Statutes, is
2 amended to read:

3 717.12404 Claims on behalf of a business entity or
4 trust.--

5 (1)(a) Claims on behalf of an active or dissolved
6 corporation, for which the last annual report is not available
7 from the Department of State through the Internet, must be
8 accompanied by a microfiche copy of the records on file with
9 the Department of State or, if the corporation has not made a
10 corporate filing with the Department of State, the claim must
11 be accompanied by a uniform resource locator for the address
12 of a free Internet site operated by the state of incorporation
13 of the corporation that provides access to the last corporate
14 filing identifying the officers and directors of the
15 corporation. If available, the claim must be accompanied by a
16 printout of the officers and directors from the Florida
17 Department of State Internet site or the free Internet site
18 operated by the state of incorporation of the corporation. If
19 the free Internet site is not available, the claim must be
20 accompanied by an authenticated copy of the last corporate
21 filing identifying the officers and directors from the
22 appropriate authorized official of the state of incorporation.

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

26 (2) Claims on behalf of a dissolved corporation, a
27 business entity other than an active corporation, or a trust
28 must include a legible copy of a valid driver's license of the
29 person acting on behalf of the dissolved corporation, business
30 entity other than an active corporation, or trust. If the
31 person has not been issued a valid driver's license, the

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

16 Section 10. Section 717.12405, Florida Statutes, is
17 created to read:

18 717.12405 Joint ownership of unclaimed securities or
19 dividends.--For the purpose of determining joint ownership of
20 unclaimed securities or dividends, the term:

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

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

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

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

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

29 Section 11. Section 717.1241, Florida Statutes, is
30 amended to read:

31 717.1241 Conflicting claims.--

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

6 ~~(a) As between an owner and an owner's representative;~~

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

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

14 (c) If a buyer's claim and a claimant's claim or a
15 claimant's representatives's claim are received by the bureau
16 of unclaimed property of the department on the same day and
17 the claims are complete, to the buyer.

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

21 (d)(e) As between two or more claimant's
22 representatives', claims received by the bureau of unclaimed
23 property of the department that are complete or made complete
24 ~~owner's representatives whose claims were complete~~ on the same
25 day, to the claimant's ~~owner's~~ representative who has agreed
26 to receive the lowest fee. If the two or more claimant's
27 ~~owner's~~ representatives whose claims received by the bureau of
28 unclaimed property of the department were complete or made
29 complete on the same day are charging the same lowest fee, the
30 fee fees shall be divided equally between the claimant's
31 ~~owner's~~ representatives.

1 (e) If more than one buyer's claim received by the
2 bureau of unclaimed property of the department is complete or
3 made complete on the same day, the department shall remit the
4 unclaimed property to the buyer who paid the highest amount to
5 the seller. If the buyers paid the same amount to the seller,
6 the department shall remit the unclaimed property to the
7 buyers divided in equal amounts.

8 (2) The purpose of this section is solely to provide
9 guidance to the department regarding to whom it should remit
10 the unclaimed property and is not intended to extinguish or
11 affect any private cause of action that any person may have
12 against another person for breach of contract or other
13 statutory or common-law remedy. A buyer's sole remedy, if any,
14 shall be against the claimant's representative or the seller,
15 or both. A claimant's representative's sole remedy, if any,
16 shall be against the buyer or the seller, or both. A
17 claimant's or seller's sole remedy, if any, shall be against
18 the buyer or the claimant's representative, or both. Nothing
19 in this section forecloses the right of a person to challenge
20 the department's determination of completeness in a proceeding
21 under ss. 120.569 and 120.57.

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

24 Section 12. Section 717.1242, Florida Statutes, is
25 amended to read:

26 717.1242 Restatement of jurisdiction of the circuit
27 court sitting in probate and the department.--

28 (1) It is and has been the intent of the Legislature
29 that, pursuant to s. 26.012(2)(b), circuit courts have
30 jurisdiction of proceedings relating to the settlement of the
31 estates of decedents and other jurisdiction usually pertaining

1 to courts of probate. It is and has been the intent of the
2 Legislature that, pursuant to s. 717.124, the department
3 determines the merits of claims for property paid or delivered
4 to the department under this chapter. Consistent with this
5 legislative intent, any estate or beneficiary, as defined in
6 s. 731.201, of an estate seeking to obtain property paid or
7 delivered to the department under this chapter must file a
8 claim with the department as provided in s. 717.124.

9 (2) ~~If should~~ any estate or heir of an estate seeks
10 ~~seek to obtain~~ or obtains ~~obtain~~ an order from a circuit court
11 sitting in probate directing the department to pay or deliver
12 to any person property paid or delivered to the department
13 under this chapter, the estate or heir shall ~~may~~ be ordered to
14 pay the department reasonable costs and attorney's fees in any
15 proceeding brought by the department to oppose, appeal, or
16 collaterally attack the order if the department is the
17 prevailing party in any such proceeding.

18 Section 13. Section 717.1243, Florida Statutes, is
19 amended to read:

20 717.1243 Small estate accounts.--

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

1 (2) Each person receiving property under this section
2 shall be personally liable for all lawful claims against the
3 estate of the owner, but only to the extent of the value of
4 the property received by such person under this section,
5 exclusive of the property exempt from claims of creditors
6 under the constitution and laws of this state.

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

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

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

19 Section 14. Section 717.1245, Florida Statutes, is
20 created to read:

21 717.1245 Garnishment of unclaimed property.--If any
22 person files a petition for writ of garnishment seeking to
23 obtain property paid or delivered to the department under this
24 chapter, the petitioner shall be ordered to pay the department
25 reasonable costs and attorney's fees in any proceeding brought
26 by the department to oppose, appeal, or collaterally attack
27 the petition or writ, if the department is the prevailing
28 party.

29 Section 15. Subsection (3) of section 717.1311,
30 Florida Statutes, is repealed.

31

1 Section 16. Section 717.1315, Florida Statutes, is
2 amended to read:

3 717.1315 Retention of records by claimants'
4 representatives and buyers of unclaimed property ~~owner's~~
5 ~~representative~~.--

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

18 (2) A claimant's ~~An owner's~~ representative or buyer of
19 unclaimed property, operating at two or more places of
20 business in this state, may maintain the books, accounts, and
21 records of all such offices at any one of such offices, or at
22 any other office maintained by such claimant's ~~owner's~~
23 representative or buyer of unclaimed property, upon the filing
24 of a written notice with the department designating in the
25 written notice the office at which such records are
26 maintained.

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

31

1 Section 17. Section 717.132, Florida Statutes, is
2 amended to read:

3 717.132 Enforcement; cease and desist orders;
4 ~~administrative~~ fines.--

5 (1) The department may bring an action in any court of
6 competent jurisdiction to enforce or administer any provision
7 of this chapter, any rule or order promulgated under this
8 chapter, or any written agreement entered into with the
9 department.

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

24 (3) In addition to any other powers conferred upon it
25 to enforce and administer the provisions of this chapter, the
26 department or a court of competent jurisdiction may impose
27 fines ~~and collect an administrative fine~~ against any person
28 found to have violated any provision of this chapter, any rule
29 or order promulgated under this chapter, or any written
30 agreement entered into with the department in an amount not to
31 exceed \$2,000 for each violation. All fines collected under

1 | this subsection shall be deposited as received in the
2 | Unclaimed Property Trust Fund.

3 | Section 18. Section 717.1322, Florida Statutes, is
4 | amended to read:

5 | 717.1322 Administrative and civil enforcement.--

6 | (1) The following acts are violations of this chapter
7 | and constitute grounds for an administrative enforcement
8 | action by the department in accordance with the requirements
9 | of chapter 120 and for civil enforcement by the department in
10 | a court of competent jurisdiction:

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

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

16 | (c) Fraudulent misrepresentation, circumvention, or
17 | concealment of any matter required to be stated or furnished
18 | to an owner or apparent owner under this chapter, regardless
19 | of reliance by or damage to the owner or apparent owner.

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

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

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

29 | (g) Refusal to permit inspection of books and records
30 | in an investigation or examination by the department or
31 |

1 refusal to comply with a subpoena issued by the department
2 under this chapter.

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

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

7 (j) Requesting or receiving compensation for notifying
8 a person of his or her unclaimed property or assisting another
9 person in filing a claim for unclaimed property, unless the
10 person is an attorney licensed to practice law in this state,
11 a Florida-certified public accountant, or a private
12 investigator licensed under chapter 493; or entering into, or
13 making a solicitation to enter into, a power of attorney to
14 file ~~For compensation or gain or in the expectation of~~
15 ~~compensation or gain, the filing of a claim for unclaimed~~
16 property owned by another, or a contract or agreement to
17 purchase unclaimed property, unless such person is registered
18 with the department pursuant to this chapter and an ~~a~~
19 ~~registered~~ attorney licensed to practice law in this state in
20 the regular practice of her or his profession, a
21 Florida-certified ~~registered~~ public accountant who is acting
22 within the scope of the practice of public accounting as
23 defined in chapter 473 ~~certified in this state, or a~~
24 ~~registered~~ private investigator licensed under chapter 493.

25 This subsection does not apply to a person who has been
26 granted a durable power of attorney to convey and receive all
27 of the real and personal property of the owner, is the
28 court-appointed guardian of the owner, ~~has been employed as an~~
29 ~~attorney or qualified representative to contest the~~
30 ~~department's denial of a claim,~~ has been employed as an
31 attorney or qualified representative to contest the

1 department's denial of a claim, or has been employed as an
2 attorney to probate the estate of the owner or an heir or
3 legatee of the owner.

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

8 (l) Receipt or solicitation of consideration to be
9 paid in advance of the approval of a claim under this chapter.

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

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

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

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

22 (d) Issuing a reprimand;

23 (e) Imposing an administrative fine not to exceed
24 \$2,000 for each such act; or

25 (f) Prohibiting any person from being a director,
26 officer, agent, employee, or ultimate equitable owner of a
27 10-percent or greater interest in an employer of a registrant.

28 (3) A registrant is subject to civil enforcement and
29 the disciplinary actions specified in subsection (2) for
30 violations of subsection (1) by an agent or employee of the
31 registrant's employer if the registrant knew or should have

1 | known that such agent or employee was violating any provision
2 | of this chapter.

3 | (4)(a) The department shall adopt, by rule, and
4 | periodically review the disciplinary guidelines applicable to
5 | each ground for disciplinary action which may be imposed by
6 | the department under this chapter.

7 | (b) The disciplinary guidelines shall specify a
8 | meaningful range of designated penalties based upon the
9 | severity or repetition of specific offenses, or both. It is
10 | the legislative intent that minor violations be distinguished
11 | from more serious violations; that such guidelines consider
12 | the amount of the claim involved, the complexity of locating
13 | the owner, the steps taken to ensure the accuracy of the claim
14 | by the person filing the claim, the acts of commission and
15 | omission of the ultimate owners in establishing themselves as
16 | rightful owners of the funds, the acts of commission or
17 | omission of the agent or employee of an employer in the filing
18 | of the claim, the actual knowledge of the agent, employee,
19 | employer, or owner in the filing of the claim, the departure,
20 | if any, by the agent or employee from the internal controls
21 | and procedures established by the employer with regard to the
22 | filing of a claim, the number of defective claims previously
23 | filed by the agent, employee, employer, or owner; that such
24 | guidelines provide reasonable and meaningful notice of likely
25 | penalties that may be imposed for proscribed conduct; and that
26 | such penalties be consistently applied by the department.

27 | (c) A specific finding of mitigating or aggravating
28 | circumstances shall allow the department to impose a penalty
29 | other than that provided for in such guidelines. The
30 | department shall adopt by rule disciplinary guidelines to
31 | designate possible mitigating and aggravating circumstances

1 and the variation and range of penalties permitted for such
2 circumstances. Such mitigating and aggravating circumstances
3 shall also provide for consideration of, and be consistent
4 with, the legislative intent expressed in paragraph (b).

5 (d) In any proceeding brought under this chapter, the
6 administrative law judge, in recommending penalties in any
7 recommended order, shall follow the penalty guidelines
8 established by the department and shall state in writing any
9 mitigating or aggravating circumstances upon which the
10 recommended penalty is based.

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

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

20 717.1323 Prohibited practice.--A person may not
21 knowingly enter false information onto the website of the
22 Bureau of Unclaimed Property.

23 Section 20. Section 717.1331, Florida Statutes, is
24 amended to read:

25 717.1331 Actions against holders.--The department may
26 initiate, or cause to be initiated, an action against a holder
27 to enforce a subpoena or recover unclaimed property. If the
28 department prevails in a civil or administrative action to
29 enforce a subpoena or recover unclaimed property initiated by
30 or on behalf of the department, the holder shall be ordered to
31 pay the department reasonable costs and attorney's fees.

1 Section 21. Section 717.1333, Florida Statutes, is
2 amended to read:

3 717.1333 Evidence; estimations, audit reports,
4 examiner's worksheets, investigative reports, other related
5 documents.--

6 (1) In any proceeding involving a holder under ss.
7 120.569 and 120.57 in which an auditor, examiner, or
8 investigator acting under authority of this chapter is
9 available for cross-examination, any official written report,
10 worksheet, or other related paper, or copy thereof, compiled,
11 prepared, drafted, or otherwise made or received by the
12 auditor, examiner, or investigator, after being duly
13 authenticated by the auditor, examiner, or investigator, may
14 be admitted as competent evidence upon the oath of the
15 auditor, examiner, or investigator that the report, worksheet,
16 or related paper was prepared or received as a result of an
17 audit, examination, or investigation of the books and records
18 of the person audited, examined, or investigated, or the agent
19 thereof.

20 (2) If the records of the holder which are available
21 for the periods subject to this chapter are insufficient to
22 permit the preparation of a report of the unclaimed property
23 due and owing by a holder, the amount due may be reasonably
24 estimated.

25 Section 22. Section 717.135, Florida Statutes, is
26 amended to read:

27 717.135 Power of attorney Agreement to recover
28 reported property in the custody of the department.--

29 (1) A power of attorney executed by a claimant to All
30 agreements between a claimant's representative and a claimant
31 for compensation to recover or assist in the recovery of

1 property reported to the department under s. 717.117 shall be
2 in 10-point ~~11-point~~ type or greater. ~~and:~~

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

5 (a) Limit the fees and costs for services to 20
6 percent per unclaimed property account held by the department.
7 Fees and costs for cash accounts shall be based on the value
8 of the property at the time the power of attorney agreement
9 ~~for recovery~~ is signed by the claimant. Fees and costs for
10 accounts containing securities or other intangible ownership
11 interests, which securities or interests are not converted to
12 cash, shall be based on the purchase price of the security as
13 quoted on a national exchange or other market on which the
14 property is regularly traded at the time the securities or
15 other ownership interest is remitted to the claimant or the
16 claimant's representative. Fees and costs for tangible
17 property or safe-deposit box accounts shall be based on the
18 value of the tangible property or contents of the safe-deposit
19 box at the time the ownership interest is transferred or
20 remitted to the claimant. Total fees and costs on any one
21 account owned by a natural person residing in this country
22 must not exceed \$1,000; or

23 (b) Fully disclose, on such form as the department
24 ~~shall prescribe by rule,~~ that the property is held by the
25 State of Florida Bureau of Unclaimed Property of the
26 Department of Financial Services, Bureau of Unclaimed
27 Property, pursuant to this chapter, the mailing address of the
28 Bureau of Unclaimed Property, the Internet address of the
29 Bureau of Unclaimed Property, the person or name of the entity
30 that held the property prior to the property becoming
31 unclaimed, the date of the holder's last contact with the

1 owner, if known, and the approximate value of the property,
2 and identify which of the following categories of unclaimed
3 property the claimant's ~~owner's~~ representative is seeking to
4 recover, as reported by the holder:

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

14
15 ~~This subsection~~ Such disclosure shall be on a page signed and
16 dated by the person asserting entitlement to the unclaimed
17 property. However, paragraph (a) or paragraph (b) shall not
18 apply if probate proceedings must be initiated on behalf of
19 the claimant for an estate that has never been probated or if
20 the unclaimed property is being claimed by a person outside
21 the United States.

22 (3)(a) A power of attorney described in paragraph
23 (2)(b) must state in 12-point type or greater in the order
24 indicated with the 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 (b) Immediately above the signature line for the
13 claimant, a power of attorney described in paragraph (2)(b)
14 must state in 12-point type or greater:

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

19 (4)(2)(a) Powers of attorney Agreements for recovery
20 of cash accounts shall state the value of the unclaimed
21 property and, the unclaimed property account number, ~~and the~~
22 ~~percentage value of the unclaimed property account to be paid~~
23 ~~to the claimant~~ and shall also state the percentage value of
24 compensation to be paid to the claimant's representative, if
25 applicable.

26 (b) Powers of attorney Agreements for recovery of
27 accounts containing securities, safe-deposit box accounts,
28 other intangible or tangible ownership interests, or other
29 types of accounts, except cash accounts, shall state the
30 unclaimed property account number, the number of shares of
31 stock, if applicable, the approximate value of the unclaimed

1 | property, and the percentage value of compensation to be paid
2 | to the claimant's representative, if applicable.

3 | (c) All ~~powers of attorney disclosures and agreements~~
4 | shall include the:

5 | 1. Name, address, and professional license number of
6 | the claimant's representative, ~~and,~~

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

9 | 3. The name, address, and telephone number of the
10 | claimant.

11 | 4. If available, the taxpayer identification number or
12 | social security number, ~~address, and telephone number~~ of the
13 | claimant.

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

16 | (d) The original of all such disclosures and powers of
17 | attorney agreements to pay compensation shall be signed and
18 | dated by the claimant of the property and shall be filed with
19 | the claim form.

20 | (e)(d) All powers of attorney executed by a claimant
21 | to agreements between a claimant's representative ~~and a~~
22 | ~~claimant, who is a natural person, trust, or a dissolved~~
23 | ~~corporation,~~ for compensation to recover or assist in the
24 | recovery of property reported to the department under s.
25 | 717.117 must use the following form on 8 and 1/2 -inch by
26 | 11-inch paper or on 8 and 1/2 -inch by 14-inch paper with all
27 | of the text on one side of the paper and with the other side
28 | of the paper left blank; ~~except that, at the option of the~~
29 | ~~owner representative, the department disclosure form may be~~
30 | ~~placed on the reverse side of the agreement.~~ The power of
31 | attorney agreement must be accurately completed and executed.

1 ~~No other writing or information shall be printed on the~~
2 ~~agreement.~~ The title of the power of attorney agreement shall
3 be in bold 14-point type or greater and underlined. Except as
4 otherwise provided in this section, the rest of the power of
5 attorney agreement shall be in 10-point type or greater. All
6 unclaimed property accounts claimed must be identified on the
7 power of attorney by account number agreement. The power of
8 attorney agreement must state in bold 12-point type or greater
9 at the top of the power of attorney in the order indicated:

10
11 LIMITED POWER OF ATTORNEY

12
13 \$ _____ = Approximate Dollar Value of the Property

14
15 _____ = Number of Shares of Stock (If Applicable)

16
17 _____ = Percent to be Paid as Compensation to
18 Claimant's Representative

19
20 \$ _____ = Amount to be Paid to Claimant's
21 Representative

22
23 \$ _____ = Net Amount to be Paid to Claimant

24
25 Property Account Number(s): _____

26
27 ~~RECOVERY AGREEMENT~~

28
29 ~~\$..... = APPROXIMATE DOLLAR VALUE OF UNCLAIMED PROPERTY~~

30 ~~NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF~~
31 ~~APPLICABLE):.....~~

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

1 ~~CLAIMANT'S Social Security Number or FEID number:.....~~
2 ~~Make the CLAIMANT'S check payable to:.....~~
3 ~~Mail check to this address:.....~~
4

5 ~~The CLAIMANT'S telephone number is:.....~~
6 ~~Original Signature of CLAIMANT'S REPRESENTATIVE:.....~~
7 ~~FEID Number of CLAIMANT'S REPRESENTATIVE:.....~~
8 ~~DATE:.....~~
9 ~~Address of CLAIMANT'S REPRESENTATIVE:.....~~
10

11 ~~Telephone number of CLAIMANT'S REPRESENTATIVE:.....~~
12 ~~Professional license number of CLAIMANT'S REPRESENTATIVE:.....~~
13

14 (f)(e) All fees, whether expressed as a percentage or
15 as a flat fee, are subject to the limitations and requirements
16 of subsection (1).

17 (g) This section does not prohibit:

18 1. Use of bolding, italics, print of different colors,
19 or text borders as a means of highlighting or stressing
20 certain selected items within the text.

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

27 3. Placement of the word "pending" prior to the words
28 "NET AMOUNT TO BE PAID CLAIMANT", if it is not yet possible to
29 determine the percentage interest of an heir or legatee prior
30 to a determination on the issue by the probate court.
31

1 4. Deletion of the words "Number of Shares of Stock
2 (If Applicable)," if the agreement does not relate to the
3 recovery of securities.

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

8 ~~(5)(3)~~ As used in this section, "claimant" means the
9 person on whose behalf a claim is filed.

10 ~~(6)(4)~~ This section does not supersede the licensing
11 requirements of chapter 493.

12 Section 23. Section 717.1351, Florida Statutes, is
13 amended to read:

14 717.1351 Acquisition of unclaimed property.--

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

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

27 (a) Have a purchase price that discounts the value of
28 the unclaimed property at the time the agreement is executed
29 by the seller at no greater than 20 percent per account held
30 by the department. An unclaimed property account must not be
31 discounted in excess of \$1,000. However, the \$1,000 discount

1 limitation does not apply if probate proceedings must be
2 initiated on behalf of the seller for an estate that has never
3 been probated or if the seller of the unclaimed property is
4 not a natural person or is a person outside the United States;

5 or

6 (b) Fully disclose, ~~on such form as the department~~
7 ~~shall prescribe by rule,~~ that the property is held by the
8 ~~Bureau of Unclaimed Property of the State of Florida~~
9 Department of Financial Services, Bureau of Unclaimed
10 Property, pursuant to this chapter, the mailing address of the
11 Bureau of Unclaimed Property, the Internet address of the
12 Bureau of Unclaimed Property, the person or name of the entity
13 that held the property prior to the property becoming
14 unclaimed, the date of the holder's last contact with the
15 owner, if known, and the approximate value of the property,
16 and identify which of the following categories of unclaimed
17 property the buyer is seeking to purchase as reported by the
18 holder:

- 19 1. Cash accounts.
- 20 2. Stale dated checks.
- 21 3. Life insurance or annuity contract assets.
- 22 4. Utility deposits.
- 23 5. Securities or other interests in business
- 24 associations.
- 25 6. Wages.
- 26 7. Accounts receivable.
- 27 8. Contents of safe-deposit boxes.

28
29 The purchase agreement described in this paragraph must state
30 in 12-point type or greater in the order indicated with the
31 blank spaces accurately completed:

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FULL DISCLOSURE STATEMENT

The Property is Currently held by the State of
Florida Department of Financial Services,
Bureau of Unclaimed Property, pursuant to
Chapter 717, Florida Statutes. The Mailing
Address of the Bureau of Unclaimed Property
is _____ . The Internet Address of the
Bureau of the Unclaimed Property
is _____ .

The Property was Remitted by: _____ .

Date of Last Contact: _____ .

Property Category: _____ .

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

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

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

(3) The originals of all such disclosures and
agreements to transfer ownership of or entitlement to
unclaimed property shall be signed and dated by the seller and

1 shall be filed with the claim form. The claimant shall provide
2 the department with a legible copy of a valid driver's license
3 of the seller at the time the original claim form is filed. If
4 a seller has not been issued a valid driver's license at the
5 time the original claim form is filed, the department shall be
6 provided with a legible copy of a photographic identification
7 of the seller issued by the United States or a foreign nation,
8 a state or territory of the United States or a foreign nation,
9 or a political subdivision or agency thereof. In lieu of
10 photographic identification, a notarized sworn statement by
11 the seller may be provided which affirms the seller's identity
12 and states the seller's full name and address. The seller must
13 produce to the notary his or her photographic identification
14 issued by the United States or a state or territory of the
15 United States, a foreign nation, or a political subdivision or
16 agency thereof, or other evidence deemed acceptable by
17 department rule. The notary shall indicate the notary's full
18 address on the notarized sworn statement. If a claim is filed
19 without the required identification or the sworn statement
20 with the original claim form and the original agreement to
21 acquire ownership of or entitlement to the unclaimed property,
22 the claim is void.

23 (4) Any contract to acquire ownership of or
24 entitlement to unclaimed property from the person or persons
25 entitled to the unclaimed property must provide for the
26 purchase price to be remitted to the seller or sellers within
27 10 days after the execution of the contract by the seller or
28 sellers. The contract must specify the unclaimed property
29 account number, the name of the holder who reported the
30 property to the department, the category of unclaimed
31 property, the value of the unclaimed property account, and the

1 number of shares of stock, if applicable. Proof of payment by
2 check must be filed with the department with the claim.

3 (5) All agreements to purchase unclaimed property from
4 an owner, ~~who is a natural person, a trust, or a dissolved~~
5 ~~corporation~~ must use the following form on 8 and 1/2 -inch by
6 11-inch paper or on 8 and 1/2 -inch by 14-inch paper with all
7 of the text on one side of the paper and with the other side
8 of the paper left blank; ~~except that, at the option of the~~
9 ~~owner representative, the department disclosure form may be~~
10 ~~placed on the reverse side of the agreement.~~ The agreement
11 must be accurately completed and executed. ~~No other writing or~~
12 ~~information shall be printed on the agreement.~~ The title of
13 the agreement shall be in bold 14-point type or greater and
14 underlined. Except as otherwise provided in this section, the
15 rest of the agreement shall be in 10-point type or greater.
16 All unclaimed property accounts to be purchased must be
17 identified on the agreement by account number. The agreement
18 must state in bold 12-point type or greater at the top of the
19 agreement in the order indicated:

20
21 PURCHASE AGREEMENT

22
23 \$ _____ = Approximate Dollar Value of the Property

24
25 _____ = Number of Shares of Stock (If Applicable)

26
27 _____ = Percent of Property to be Paid to Buyer

28
29 \$ _____ = Amount to be Paid to Buyer

30
31 \$ _____ = Net Amount to be Paid to Seller

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

1 ~~Within 10 days after the execution of this Purchase Agreement~~
2 ~~by the Owner, Buyer shall remit the OWNER'S check payable to:~~
3

4 ~~Mail check to this address:~~.....
5

6

7 ~~The OWNER'S telephone number is:~~.....

8 ~~Original Signature of BUYER:~~.....

9 ~~FEID Number of BUYER:~~ ~~DATE:~~

10 ~~Address of BUYER:~~

11

12 ~~Telephone number of BUYER:~~

13 ~~Professional license number of BUYER:~~

14 (7) This section does not prohibit:

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

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

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

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

30 ~~(8)(6)~~ This section does not supersede the licensing
31 requirements of chapter 493.

1 Section 24. Section 717.1381, Florida Statutes, is
2 created to read:

3 717.1381 Void unclaimed property; powers of attorney;
4 and purchase agreements.--

5 (1) Protecting the interests of owners of unclaimed
6 property is declared to be the public policy of this state. It
7 is in the best interests of the owners of unclaimed property
8 that they have the opportunity to receive the full amount of
9 the unclaimed property returned to them without deduction of
10 any fees. Further, it is specifically recognized that the
11 Legislature has mandated and the state has an obligation to
12 make meaningful and active efforts to notify owners concerning
13 their unclaimed property. The state recognizes that this
14 policy and obligation cannot be fulfilled without providing
15 the state with the first opportunity to notify the owners of
16 unclaimed property that they may file a claim for their
17 property with the department. In furtherance of this policy
18 and obligation:

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

28 (b) Any oral or written purchase agreements that
29 include an unclaimed property account valued at more than
30 \$250, owned by another made on or before 45 days after the
31 holder or examination report was processed and added to the

1 unclaimed property database, subsequent to a determination
2 that the report was accurate and that the reported property
3 was the same as the remitted property, is void as contrary to
4 public policy.

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

8 Section 25. Section 717.1400, Florida Statutes, is
9 amended to read:

10 717.1400 Registration.--

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

22 (a) A legible copy of the applicant's Class "A"
23 business license under chapter 493 or that of the applicant's
24 firm or employer which holds a Class "A" business license
25 under chapter 493.

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

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

31

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

6 (e) Sufficient information to enable the department to
7 disburse funds by electronic funds transfer.

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

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

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

24 (b) A legible copy of the applicant's current driver's
25 license showing the full name and current address of such
26 person. If a current driver's license is not available,
27 another form of identification showing the full name and
28 current address of such person or persons shall be filed with
29 the department.

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

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

6 (e) Sufficient information to enable the department to
7 disburse funds by electronic funds transfer.

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

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

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

22 (b) A legible copy of the applicant's current driver's
23 license showing the full name and current address of such
24 person. If a current driver's license is not available,
25 another form of identification showing the full name and
26 current address of such person or persons shall be filed with
27 the department.

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

30 (d) The names of agents or employees, if any, who are
31 designated to act on behalf of the attorney, together with a

1 legible copy of their photo identification issued by an agency
2 of the United States, or a state, or a political subdivision
3 thereof.

4 (e) Sufficient information to enable the department to
5 disburse funds by electronic funds transfer.

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

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

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

18 (a) If a designated agent or employee ceases to act on
19 behalf of the person who has designated the agent or employee
20 to act on such person's behalf, the designating person must,
21 within 30 days, inform the Bureau of Unclaimed Property in
22 writing of the termination of agency or employment.

23 (b) If a registrant surrenders the registrant's
24 license or the license is suspended or revoked, the registrant
25 must, within 30 days, inform the bureau in writing of the
26 surrender, suspension, or revocation.

27 (c) If a private investigator's Class "C" individual
28 license under chapter 493 or a private investigator's
29 employer's Class "A" business license under chapter 493 is
30 renewed, the private investigator must provide a copy of the
31 renewed license to the department within 30 days after the

1 receipt of the renewed license by the private investigator or
2 the private investigator's employer.

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

21 (7) The licensing and other requirements of this
22 section must be maintained as a condition of registration with
23 the department.

24 Section 26. This act shall take effect upon becoming a
25 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/Senate Bill 2494

The committee substitute makes the following changes to the underlying committee substitute:

- Provides definitions for "health care provider" and "managed care payor" as used in ch. 717, F.S.; and
- Creates an exception to the reporting requirements of 717.117, F.S., for health care providers and managed care payors who contract with each other, where the contract already provides for procedures related to the handling of credit balances, overpayments, refunds, and outstanding checks.