

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 263 Disposition of Unclaimed Property
SPONSOR(S): Government Operations Subcommittee; Mayfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 464

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 0 N, As CS	Stramski	Williamson
2) State Affairs Committee	17 Y, 0 N	Stramski	Camechis

SUMMARY ANALYSIS

Unclaimed property consists of any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain period of time. Savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes are potentially unclaimed property. Holders of unclaimed property, which typically include banks and insurance companies, are required to report unclaimed property to the Department of Financial Services (DFS).

Current law places an obligation on the state to notify owners of unclaimed property accounts valued at over \$250, in a cost-effective manner, including through attempts to directly contact the owner.

A claimant who submits a claim for unclaimed property is required to provide to DFS a copy of a valid government issued photographic identification or a notarized sworn statement affirming the claimant's identification.

This bill authorizes DFS to allow an apparent owner of unclaimed property to electronically submit a claim for such property. For an electronically submitted claim for unclaimed property of \$1,000 or less, the bill authorizes DFS to use an alternative method of identity verification instead of requiring a copy of a valid driver's license, other government issued photographic identification, or a sworn notarized statement.

This bill also provides that s. 717.124, F.S., relating to unclaimed property claims, applies to all unclaimed property reported and remitted to the Chief Financial Officer, including property reported pursuant to:

- Section 43.19, F.S., which provides that unclaimed funds held in the court registry for five years must be deposited with the Chief Financial Officer to the credit of the State School Fund.
- Section 45.032, F.S., which provides that unclaimed funds as a result of a property foreclosure must be deposited with the Chief Financial Officer.
- Section 732.107, F.S., which provides that property held by an estate without heirs escheats to the state.
- Section 733.816, F.S., which provides that property held by a personal representative that cannot be distributed to a beneficiary is deposited into the court registry and then deposited with the Chief Financial Officer.
- Section 744.534, F.S., which provides that property held by a legal guardian that cannot be distributed to a ward or ward's estate is deposited into the court registry and then deposited with the Chief Financial Officer.

The bill provides an effective date of July 1, 2013.

The bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Unclaimed Property

Unclaimed property consists of any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain period of time.¹ Savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes are potentially unclaimed property.² Holders of unclaimed property, which typically include banks and insurance companies, are required to report unclaimed property to the Department of Financial Services (DFS).³ Unclaimed property is deposited by DFS into the Department of Education School Trust Fund (State School Fund), except for a \$15 million balance that is retained in a separate account (the Unclaimed Property Trust Fund) for the prompt payment of verified claims.⁴

Florida Disposition of Unclaimed Property Act

The Florida Disposition of Unclaimed Property Act serves to protect the interest of missing owners of property while the people of the state derive a benefit from the unclaimed and abandoned property until the property is claimed, if ever. DFS administers the Act through its Bureau of Unclaimed Property (bureau).⁵

Holders of inactive accounts (presumed unclaimed property) are required to use due diligence to locate apparent owners through at least one search for the owners within 180 days after an account becomes inactive (two years). Once the allowable time period for holding unclaimed property has expired, a holder is required to file a report with DFS by May 1, for all property valued at \$50 or more and presumed unclaimed for the preceding calendar year. The report generally must contain the name and social security number or federal employer identification number, if known, and the last known address of the apparent owner.⁶

Current law places an obligation on the state to notify owners of unclaimed property accounts valued at over \$250 in a cost-effective manner, including through attempts to directly contact the owner.⁷ DFS indicates that the means used to find lost property owners include social security numbers, direct mailing, motor vehicle records, state payroll records, newspaper advertisements, and a state website⁸ where unclaimed property can be found.

Attorneys, Florida-certified public accountants, Florida-licensed private investigators, and Florida-licensed private investigative agencies register with DFS in order to act as a claimant's representative, to assist claimants in locating and submitting claims for unclaimed property, and receive a distribution of fees and costs from DFS.⁹

A claimant who submits a claim for unclaimed property is required to provide DFS with a copy of a valid government issued photographic identification or a notarized sworn statement affirming the claimant's identification.¹⁰

¹ See s. 717.102(1), F.S.

² See ss. 717.104 – 717.116, F.S.

³ Section 717.117(1), F.S.

⁴ See s. 717.123, F.S.

⁵ See chapter 717, F.S.

⁶ See s. 717.117, F.S.

⁷ See s. 717.118, F.S.

⁸ www.fltreasurehunt.org.

⁹ Section 717.1400, F.S.

¹⁰ Section 717.124(1), F.S.

Effect of the Bill

The bill authorizes DFS to accept an electronic claim for unclaimed property submitted by an apparent owner.¹¹ For an electronically submitted claim for unclaimed property of \$1,000 or less, the bill authorizes DFS to use an alternative method of identity verification instead of requiring a copy of a valid driver's license, other government issued photographic identification, or a sworn notarized statement.

This bill also provides that s. 717.124, F.S., relating to unclaimed property claims, applies to all property reported and remitted to the Chief Financial Officer, including, but not limited to, property reported pursuant to:

- Section 43.19, F.S., which provides that unclaimed funds held in the court registry for five years must be deposited with the Chief Financial Officer to the credit of the State School Fund.¹²
- Section 45.032, F.S., which provides that unclaimed funds as a result of a property foreclosure must be deposited with the Chief Financial Officer.¹³
- Section 732.107, F.S., which provides that property held by an estate without heirs escheats to the state.¹⁴
- Section 733.816, F.S., which provides that property held by a personal representative that cannot be distributed to a beneficiary is deposited into the court registry and then deposited with the Chief Financial Officer.¹⁵
- Section 744.534, F.S., which provides that property held by a legal guardian that cannot be distributed to a ward or ward's estate is deposited into the court registry and then deposited with the Chief Financial Officer.¹⁶

The bill has an effective date of July 1, 2013.

B. SECTION DIRECTORY:

Section 1 amends s. 717.124, F.S., authorizing DFS to accept alternative methods of verifying claimant identification for certain electronically filed claims, and providing for applicability with respect to specified property reported and remitted to the CFO.

Section 2 provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

¹¹ Section 717.101(2), F.S. defines an "apparent owner" as the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

¹² Accounts or funds are held in perpetuity.

¹³ Accounts or funds are held in perpetuity.

¹⁴ Accounts or funds can be claimed for 10 years, after which the funds permanently escheat.

¹⁵ Accounts or funds can be claimed for 10 years, after which the funds permanently escheat.

¹⁶ Accounts or funds can be claimed for five years, after which the funds permanently escheat.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Provisions in the bill could expedite the return of unclaimed property to the rightful owners.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 27, 2013, the Government Operations Subcommittee adopted a strike-all amendment to House Bill 263 and reported the bill favorably with committee substitute.

The strike-all amendment:

- Authorizes the Department of Financial Services to accept an electronic claim for unclaimed property submitted by an apparent owner.
- Authorizes DFS to use an alternative method of identity verification for an electronically submitted claim of \$1,000 or less.
- Clarifies that the claim procedure for unclaimed property applies to all such property reported and remitted to the Chief Financial Officer.
- Removes the rulemaking authority provided in the bill, because a general grant of rulemaking authority already exists.

This analysis has been revised to reflect the committee substitute as passed by the Government Operations Subcommittee.