

1 A bill to be entitled
2 An act relating to unclaimed property; amending s.
3 717.101, F.S.; revising and providing definitions;
4 creating s. 717.1235, F.S.; requiring certain
5 unclaimed funds to be deposited with the Chief
6 Financial Officer for certain purposes; amending s.
7 717.1243, F.S.; revising the aggregate value that
8 constitutes a small estate account; amending s.
9 717.1262, F.S.; requiring a copy of certain pleadings
10 to be filed with the Department of Financial Services;
11 amending s. 717.1333, F.S.; revising requirements for
12 the estimation of certain amounts due to the
13 department; amending s. 717.135, F.S.; revising
14 requirements for a power of attorney used in the
15 recovery of unclaimed property; eliminating a maximum
16 fee provision for such recovery; revising
17 applicability; deleting a provision that allows
18 deletion of certain wording from a power of attorney;
19 providing requirements for certain authorizations and
20 agreements to recover unclaimed property; amending s.
21 717.1351, F.S.; revising requirements for contracts to
22 acquire ownership of or entitlement to unclaimed
23 property; providing that certain claims are void;
24 deleting a provision that allows deletion of certain
25 wording from a purchase agreement; providing
26 requirements for certain authorizations and agreements

27 to purchase unclaimed property; repealing s. 717.1381,
 28 F.S., relating to void unclaimed property powers of
 29 attorney and purchase agreements; amending s. 717.139,
 30 F.S.; providing a statement of public policy; amending
 31 s. 717.1400, F.S.; removing authority of certain
 32 private investigators, accountants, and attorneys to
 33 obtain social security numbers; providing an effective
 34 date.

35
 36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. Subsection (24) of section 717.101, Florida
 39 Statutes, is renumbered as subsection (25), subsections (4),
 40 (8), and (13) of that section are amended, and a new subsection
 41 (24) is added to that section, to read:

42 717.101 Definitions.—As used in this chapter, unless the
 43 context otherwise requires:

44 (4) "Business association" means any corporation (other
 45 than a public corporation), joint stock company, investment
 46 company, business trust, partnership, limited liability company,
 47 or association of two or more individuals for business purposes
 48 ~~of two or more individuals, whether or not for profit or not for~~
 49 ~~profit, including a banking organization, financial~~
 50 ~~organization, insurance company, dissolved pension plan, or~~
 51 ~~utility.~~

52 (8) "Domicile" means the state of incorporation for, in

53 ~~the case of a corporation incorporated under the laws of a~~
 54 ~~state, and or, for an unincorporated business association, the~~
 55 ~~state where of the principal place of business association is~~
 56 ~~organized, in the case of a person not incorporated under the~~
 57 ~~laws of a state.~~

58 (13) "Insurance company" means an association,
 59 corporation, or fraternal or mutual benefit organization,
 60 whether ~~or not~~ for profit or not for profit, which is engaged in
 61 providing insurance coverage, ~~including, by way of illustration~~
 62 ~~and not limitation, accident, burial, casualty, credit life,~~
 63 ~~contract performance, dental, fidelity, fire, health,~~
 64 ~~hospitalization, illness, life (including endowments and~~
 65 ~~annuities), malpractice, marine, mortgage, surety, and wage~~
 66 ~~protection insurance.~~

67 (24) "United States" means any state, district,
 68 commonwealth, territory, insular possession, and any other area
 69 subject to the legislative authority of the United States of
 70 America.

71 Section 2. Section 717.1235, Florida Statutes, is created
 72 to read:

73 717.1235 Dormant campaign accounts; report of unclaimed
 74 property.—Unclaimed funds reported in the name of a campaign for
 75 public office, for any campaign that must dispose of surplus
 76 funds in its campaign account pursuant to s. 106.141, after
 77 being reported to the department, shall be deposited with the
 78 Chief Financial Officer to the credit of the State School Fund.

79 Section 3. Subsection (4) of section 717.1243, Florida
80 Statutes, is amended to read:

81 717.1243 Small estate accounts.—

82 (4) This section only applies if all of the unclaimed
83 property held by the department on behalf of the owner has an
84 aggregate value of \$10,000 ~~\$5,000~~ or less and no probate
85 proceeding is pending.

86 Section 4. Section 717.1262, Florida Statutes, is amended
87 to read:

88 717.1262 Court documents.—Any person who claims
89 entitlement to unclaimed property by reason of a court document
90 shall file a certified copy of the court document with the
91 department. A certified copy of each pleading filed with the
92 court to obtain a court document establishing entitlement, filed
93 within 180 days before the date the claim form was signed by the
94 claimant or claimant's representative, must also be filed with
95 the department.

96 Section 5. Subsection (2) of section 717.1333, Florida
97 Statutes, is amended to read:

98 717.1333 Evidence; estimations; audit reports, examiner's
99 worksheets, investigative reports, other related documents.—

100 (2) If the records of the holder that are available for
101 the periods subject to this chapter are insufficient to permit
102 the preparation of a report of the unclaimed property due and
103 owing by a holder, or if the holder fails to provide records
104 after being requested to do so, the amount due to the department

105 may be reasonably estimated.

106 Section 6. Subsections (5) and (6) of section 717.135,
107 Florida Statutes, are renumbered as subsections (6) and (7),
108 respectively, subsection (2) and paragraph (g) of subsection (4)
109 of that section are amended, and a new subsection (5) is added
110 to that section, to read:

111 717.135 Power of attorney to recover reported property in
112 the custody of the department.—

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

114 (a) Limit the fees and costs for services to 20 percent
115 per unclaimed property account held by the department. Fees and
116 costs for cash accounts shall be based on the value of the
117 property at the time the power of attorney is signed by the
118 claimant. Fees and costs for accounts containing securities or
119 other intangible ownership interests, which securities or
120 interests are not converted to cash, shall be based on the
121 purchase price of the security as quoted on a national exchange
122 or other market on which the property is regularly traded at the
123 time the securities or other ownership interest is remitted to
124 the claimant or the claimant's representative. Fees and costs
125 for tangible property or safe-deposit box accounts shall be
126 based on the value of the tangible property or contents of the
127 safe-deposit box at the time the ownership interest is
128 transferred or remitted to the claimant. ~~Total fees and costs on~~
129 ~~any single account owned by a natural person residing in this~~
130 ~~country must not exceed \$1,000; or~~

131 (b) Fully disclose that the property is held by the Bureau
 132 of Unclaimed Property of the Department of Financial Services
 133 pursuant to this chapter, the mailing address of the bureau, the
 134 Internet address of the bureau, the person or name of the entity
 135 that held the property prior to the property becoming unclaimed,
 136 the date of the holder's last contact with the owner, if known,
 137 and the approximate value of the property, and identify which of
 138 the following categories of unclaimed property the claimant's
 139 representative is seeking to recover, as reported by the holder:

- 140 1. Cash accounts.
- 141 2. Stale dated checks.
- 142 3. Life insurance or annuity contract assets.
- 143 4. Utility deposits.
- 144 5. Securities or other interests in business associations.
- 145 6. Wages.
- 146 7. Accounts receivable.
- 147 8. Contents of safe-deposit boxes.

148
 149 ~~This subsection shall not apply if probate proceedings must be~~
 150 ~~initiated on behalf of the claimant for an estate that has never~~
 151 ~~been probated or if the unclaimed property is being claimed by a~~
 152 ~~person outside of the United States.~~

153 (4) (g) This section does not prohibit the:
 154 1. Use of bolding, italics, print of different colors, and
 155 text borders as a means of highlighting or stressing certain
 156 selected items within the text.

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

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

166 4. Deletion of the words "Number of Shares of Stock (If
167 Applicable)" if the agreement does not relate to the recovery of
168 securities.

169 ~~5. Deletion of the words "Percent to Be Paid as~~
170 ~~Compensation to Claimant's Representative" if the power of~~
171 ~~attorney provides for a flat fee to be paid as compensation to~~
172 ~~the claimant's representative.~~

173 (5) (a) Any other authorization or agreement to recover
174 unclaimed property executed by or between a claimant's
175 representative and the claimant must be signed and personally
176 dated by the claimant. The date affixed on any such
177 authorization or agreement by the claimant may not be earlier
178 than the date personally affixed by the claimant on the original
179 limited power of attorney as provided by this chapter. A copy of
180 the authorization or agreement must be filed with the original
181 claim submitted to the department, along with the original power
182 of attorney, as provided by this chapter.

183 (b) If the claimant's representative's fee for a document
184 described in this subsection exceeds 20 percent on any given
185 claim, s. 717.124(1)(d) applies.

186 Section 7. Paragraph (a) of subsection (2), subsection
187 (4), and paragraph (d) of subsection (7) of section 717.1351,
188 Florida Statutes, are amended, subsection (8) is renumbered as
189 subsection (9), and a new subsection (8) is added to that
190 section, to read:

191 717.1351 Acquisition of unclaimed property.—

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

195 (a) Have a purchase price that discounts the value of the
196 unclaimed property at the time the agreement is executed by the
197 seller at no greater than 20 percent per account held by the
198 department. ~~An unclaimed property account must not be discounted~~
199 ~~in excess of \$1,000. However, the \$1,000 discount limitation~~
200 ~~does not apply if probate proceedings must be initiated on~~
201 ~~behalf of the seller for an estate that has never been probated~~
202 ~~or if the seller of the unclaimed property is not a natural~~
203 ~~person or is a person outside the United States; or~~

204 (4) Any contract to acquire ownership of or entitlement to
205 unclaimed property from the person or persons entitled to the
206 unclaimed property must provide for the purchase price to be
207 remitted to the seller or sellers within 30 ~~10~~ days after the
208 execution of the contract by the seller or sellers. The contract

209 must specify the unclaimed property account number, the name of
210 the holder who reported the property to the department, the
211 category of unclaimed property, the value of the unclaimed
212 property account, and the number of shares of stock, if
213 applicable. Proof that the seller has received ~~of~~ payment by
214 check must be filed with the department with the claim. If proof
215 of payment is not provided, the claim is void.

216 (7) This section does not prohibit the:

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

220 (8) (a) Any other authorization or agreement to purchase
221 unclaimed property executed by or between a registrant and a
222 seller must be signed and personally dated by the seller. The
223 date affixed on any such authorization or agreement by the
224 seller may not be earlier than the date personally affixed by
225 the seller on the original purchase agreement as provided by
226 this chapter. A copy of the authorization or agreement must be
227 filed with the original claim submitted to the department, along
228 with the original purchase agreement, as provided by this
229 chapter.

230 (b) If the registrant's purchase fee for a document
231 described in this subsection reduces the seller's purchase price
232 amount by more than 20 percent on any given claim, s.
233 717.124(1)(d) applies.

234 Section 8. Section 717.1381, Florida Statutes, is

235 repealed.

236 Section 9. Section 717.139, Florida Statutes, is amended
237 to read:

238 717.139 Uniformity of application and construction.—

239 (1) It is the public policy of the state to protect the
240 interests of owners of unclaimed property. It is declared to be
241 in the best interests of owners of unclaimed property that such
242 owners receive the full amount of any unclaimed property without
243 any fee.

244 (2) This chapter shall be applied and construed as to
245 effectuate its general purpose of protecting the interest of
246 missing owners of property, while providing that the benefit of
247 all unclaimed and abandoned property shall go to all the people
248 of the state, and to make uniform the law with respect to the
249 subject of this chapter among states enacting it.

250 Section 10. Subsections (1) through (4) of section
251 717.1400, Florida Statutes, are amended to read:

252 717.1400 Registration.—

253 (1) In order to file claims as a claimant's
254 representative, acquire ownership of or entitlement to unclaimed
255 property, receive a distribution of fees and costs from the
256 department, and obtain unclaimed property dollar amounts and,
257 numbers of reported shares of stock, ~~and social security numbers~~
258 held by the department, a private investigator holding a Class
259 "C" individual license under chapter 493 must register with the
260 department on such form as the department prescribes ~~shall~~

261 ~~prescribe~~ by rule, and must be verified by the applicant. To
 262 register with the department, a private investigator must
 263 provide:

264 (a) A legible copy of the applicant's Class "A" business
 265 license under chapter 493 or that of the applicant's firm or
 266 employer which holds a Class "A" business license under chapter
 267 493.

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

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

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

277 (e) Sufficient information to enable the department to
 278 disburse funds by electronic funds transfer.

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

282 (2) In order to file claims as a claimant's
 283 representative, acquire ownership of or entitlement to unclaimed
 284 property, receive a distribution of fees and costs from the
 285 department, and obtain unclaimed property dollar amounts and,
 286 numbers of reported shares of stock, ~~and social security numbers~~

287 held by the department, a Florida-certified public accountant
 288 must register with the department on such form as the department
 289 prescribes ~~shall prescribe~~ by rule, and must be verified by the
 290 applicant. To register with the department, a Florida-certified
 291 public accountant must provide:

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

293 (b) A legible copy of the applicant's current driver
 294 license showing the full name and current address of such
 295 person. If a current driver license is not available, another
 296 form of identification showing the full name and current address
 297 of such person or persons shall be filed with the department.

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

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

305 (e) Sufficient information to enable the department to
 306 disburse funds by electronic funds transfer.

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

309 (3) In order to file claims as a claimant's
 310 representative, acquire ownership of or entitlement to unclaimed
 311 property, receive a distribution of fees and costs from the
 312 department, and obtain unclaimed property dollar amounts and

313 numbers of reported shares of stock, ~~and social security numbers~~
314 held by the department, an attorney licensed to practice in this
315 state must register with the department on such form as the
316 department prescribes ~~shall prescribe~~ by rule, and must be
317 verified by the applicant. To register with the department, such
318 attorney must provide:

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

320 (b) A legible copy of the applicant's current driver
321 license showing the full name and current address of such
322 person. If a current driver license is not available, another
323 form of identification showing the full name and current address
324 of such person or persons shall be filed with the department.

325 (c) The business address and telephone number of the
326 applicant's firm or employer.

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

332 (e) Sufficient information to enable the department to
333 disburse funds by electronic funds transfer.

334 (f) The tax identification number of the attorney's firm
335 or employer.

336 (4) Information and documents already on file with the
337 department before ~~prior to~~ the effective date of this provision
338 need not be resubmitted in order to complete the registration.

CS/CS/HB 783

2016

339

Section 11. This act shall take effect July 1, 2016.