

By Senator Richter

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1 A bill to be entitled
2 An act relating to unclaimed property; amending s.
3 45.034, F.S.; revising qualifications for a surplus
4 trustee; amending s. 717.101, F.S.; revising and
5 providing definitions; creating s. 717.1235, F.S.;
6 providing that certain unclaimed property shall
7 escheat to the state for certain purposes; amending s.
8 717.1243, F.S.; revising the aggregate value that
9 constitutes a small estate account; amending s.
10 717.1333, F.S.; revising requirements for the
11 estimation of certain amounts due; amending s.
12 717.135, F.S.; revising requirements for a power of
13 attorney used in the recovery of unclaimed property;
14 eliminating a maximum fee provision for such recovery;
15 revising applicability; amending s. 717.1351, F.S.;
16 revising requirements for contracts to acquire
17 ownership of or entitlement to property; deleting a
18 provision that allows certain wording on a purchase
19 agreement; repealing s. 717.1381, F.S., relating to
20 void unclaimed property powers of attorney and
21 purchase agreements; amending s. 717.1400, F.S.;
22 removing authority of certain private investigators to
23 obtain social security numbers; revising registration
24 requirements; providing retroactive applicability;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (8) is added to section 45.034,

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30 Florida Statutes, to read:

31 45.034 Qualifications and appointment of a surplus trustee
32 in foreclosure actions.—

33 (8) (a) A surplus trustee must not be an owner, shareholder,
34 officer, member, employee, or participant in more than one
35 surplus trustee company or corporation.

36 (b) Upon a finding by the Department of Financial Services
37 that a surplus trustee has violated this subsection, the surplus
38 trustee's certification shall be suspended for 1 year.

39 Section 2. Subsection (24) of section 717.101, Florida
40 Statutes, is renumbered as subsection (25), a new subsection
41 (24) is added to that section, and subsections (4), (8), and
42 (13) of that section are amended, to read:

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

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

53 (8) "Domicile" means the state of incorporation ~~for, in the~~
54 ~~ease of~~ a corporation incorporated under the laws of a state,
55 ~~and or~~ the state where ~~of~~ the principal place of business is
56 located for unincorporated business associations, ~~in the case of~~
57 ~~a person not incorporated under the laws of a state.~~

58 (13) "Insurance company" means an association, corporation,

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

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

70 Section 3. Section 717.1235, Florida Statutes, is created
71 to read:

72 717.1235 Candidate for public office; escheatment of
73 unclaimed property.-If the apparent owner of unclaimed property
74 is the campaign account of a candidate for public office, the
75 property, after being reported to the department, shall escheat
76 to the state. The proceeds from disposition of the property
77 shall be paid into the State School Fund.

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

80 717.1243 Small estate accounts.-

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

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

87 717.1333 Evidence; estimations; audit reports, examiner's

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88 worksheets, investigative reports, other related documents.—

89 (2) If the records of the holder that are available for the
90 periods subject to this chapter are insufficient to permit the
91 preparation of a report of the unclaimed property due and owing
92 by a holder, or if the holder fails to provide records after
93 being requested to do so, the amount due to the department may
94 be reasonably estimated, regardless of whether the holder is
95 incorporated, formed, or organized in this state.

96 Section 6. Subsection (2) of section 717.135, Florida
97 Statutes, is amended to read:

98 717.135 Power of attorney to recover reported property in
99 the custody of the department.—

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

101 (a) Limit the fees and costs for services to 20 percent per
102 unclaimed property account held by the department. Fees and
103 costs for cash accounts shall be based on the value of the
104 property at the time the power of attorney is signed by the
105 claimant. Fees and costs for accounts containing securities or
106 other intangible ownership interests, which securities or
107 interests are not converted to cash, shall be based on the
108 purchase price of the security as quoted on a national exchange
109 or other market on which the property is regularly traded at the
110 time the securities or other ownership interest is remitted to
111 the claimant or the claimant's representative. Fees and costs
112 for tangible property or safe-deposit box accounts shall be
113 based on the value of the tangible property or contents of the
114 safe-deposit box at the time the ownership interest is
115 transferred or remitted to the claimant. ~~Total fees and costs on~~
116 ~~any single account owned by a natural person residing in this~~

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117 ~~country must not exceed \$1,000; or~~

118 (b) Fully disclose that the property is held by the Bureau
119 of Unclaimed Property of the Department of Financial Services
120 pursuant to this chapter, the mailing address of the bureau, the
121 Internet address of the bureau, the person or name of the entity
122 that held the property prior to the property becoming unclaimed,
123 the date of the holder's last contact with the owner, if known,
124 and the approximate value of the property, and identify which of
125 the following categories of unclaimed property the claimant's
126 representative is seeking to recover, as reported by the holder:

- 127 1. Cash accounts.
- 128 2. Stale dated checks.
- 129 3. Life insurance or annuity contract assets.
- 130 4. Utility deposits.
- 131 5. Securities or other interests in business associations.
- 132 6. Wages.
- 133 7. Accounts receivable.
- 134 8. Contents of safe-deposit boxes.

135

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

140 Section 7. Paragraph (a) of subsection (2) and paragraph
141 (d) of subsection (7) of section 717.1351, Florida Statutes, are
142 amended to read:

143 717.1351 Acquisition of unclaimed property.-

144 (2) All contracts to acquire ownership of or entitlement to
145 unclaimed property from the person or persons entitled to the

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146 unclaimed property must be in 10-point type or greater and must:

147 (a) Have a purchase price that discounts the value of the
148 unclaimed property at the time the agreement is executed by the
149 seller at no greater than 20 percent per account held by the
150 department. ~~An unclaimed property account must not be discounted
151 in excess of \$1,000. However, the \$1,000 discount limitation
152 does not apply if probate proceedings must be initiated on
153 behalf of the seller for an estate that has never been probated
154 or if the seller of the unclaimed property is not a natural
155 person or is a person outside the United States; or~~

156 (7) This section does not prohibit the:

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

160 Section 8. Section 717.1381, Florida Statutes, is repealed.

161 Section 9. Section 717.1400, Florida Statutes, is amended
162 to read:

163 717.1400 Registration.—

164 (1) In order to file claims as a claimant's representative,
165 acquire ownership of or entitlement to unclaimed property,
166 receive a distribution of fees and costs from the department,
167 and obtain unclaimed property dollar amounts and numbers of
168 reported shares of stock, ~~and social security numbers~~ held by
169 the department, a private investigator holding a Class "C"
170 individual license under chapter 493 must register with the
171 department on such form as the department prescribes ~~shall~~
172 ~~prescribe~~ by rule, ~~and~~ must be verified by the applicant. To
173 register with the department, a private investigator must
174 provide:

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175 (a) A legible copy of the applicant's Class "A" business
176 license under chapter 493 or that of the applicant's firm or
177 employer which holds a Class "A" business license under chapter
178 493.

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

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

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

188 (e) Sufficient information to enable the department to
189 disburse funds by electronic funds transfer.

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

193 (2) In order to file claims as a claimant's representative,
194 acquire ownership of or entitlement to unclaimed property,
195 receive a distribution of fees and costs from the department,
196 and obtain unclaimed property dollar amounts and, numbers of
197 reported shares of stock, ~~and social security numbers~~ held by
198 the department, a Florida-certified public accountant must
199 register with the department on such form as the department
200 prescribes ~~shall prescribe~~ by rule, and must be verified by the
201 applicant. To register with the department, a Florida-certified
202 public accountant must provide:

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

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204 (b) A legible copy of the applicant's current driver
205 license showing the full name and current address of such
206 person. If a current driver license is not available, another
207 form of identification showing the full name and current address
208 of such person or persons shall be filed with the department.

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

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

216 (e) Sufficient information to enable the department to
217 disburse funds by electronic funds transfer.

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

220 (3) In order to file claims as a claimant's representative,
221 acquire ownership of or entitlement to unclaimed property,
222 receive a distribution of fees and costs from the department,
223 and obtain unclaimed property dollar amounts and numbers of
224 reported shares of stock, ~~and social security numbers~~ held by
225 the department, an attorney licensed to practice in this state
226 must register with the department on such form as the department
227 prescribes ~~shall prescribe~~ by rule, and must be verified by the
228 applicant. To register with the department, such attorney must
229 provide:

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

231 (b) A legible copy of the applicant's current driver
232 license showing the full name and current address of such

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233 person. If a current driver license is not available, another
234 form of identification showing the full name and current address
235 of such person or persons shall be filed with the department.

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

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

243 (e) Sufficient information to enable the department to
244 disburse funds by electronic funds transfer.

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

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

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

257 (a) If a designated agent or employee ceases to act on
258 behalf of the person who has designated the agent or employee to
259 act on such person's behalf, the designating person must, within
260 30 days, inform the Bureau of Unclaimed Property in writing of
261 the termination of agency or employment.

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262 (b) If a registrant surrenders the registrant's license or
263 the license is suspended or revoked, the registrant must, within
264 30 days, inform the bureau in writing of the surrender,
265 suspension, or revocation.

266 (c) If a private investigator's Class "C" individual
267 license under chapter 493 or a private investigator's employer's
268 Class "A" business license under chapter 493 is renewed, the
269 private investigator must provide a copy of the renewed license
270 to the department within 30 days after the receipt of the
271 renewed license by the private investigator or the private
272 investigator's employer.

273 (6) A registrant's firm or employer may not have a name
274 that might lead another person to conclude that the registrant's
275 firm or employer is affiliated or associated with the United
276 States, or an agency thereof, or a state or an agency or
277 political subdivision of a state. The department shall deny an
278 application for registration or revoke a registration if the
279 applicant's or registrant's firm or employer has a name that
280 might lead another person to conclude that the firm or employer
281 is affiliated or associated with the United States, or an agency
282 thereof, or a state or an agency or political subdivision of a
283 state. Names that might lead another person to conclude that the
284 firm or employer is affiliated or associated with the United
285 States, or an agency thereof, or a state or an agency or
286 political subdivision of a state, include, but are not limited
287 to, the words United States, Florida, state, bureau, division,
288 department, or government.

289 (7) A registrant must submit a \$500 application fee with
290 his or her application for registration and submit a \$250

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291 renewal fee on or before July 1 of each year thereafter. A
292 registrant who fails to pay the renewal fee shall lose
293 privileges afforded by this section until his or her fees are
294 paid. A registrant who fails to renew his or her registration by
295 December 31 must reapply for registration.

296 (8)~~(7)~~ The licensing and other requirements of this section
297 must be maintained as a condition of registration with the
298 department.

299 Section 10. The amendments made by this act to s. 717.1333,
300 Florida Statutes, are remedial in nature and apply retroactively
301 to unclaimed property existing before July 1, 2016.

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