

By Senator Wright

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1 A bill to be entitled
2 An act relating to disposition of unclaimed property;
3 amending s. 717.124, F.S.; requiring specified
4 agreements for certain claims; removing provisions
5 requiring the Department of Financial Services to deny
6 certain unclaimed property claims; increasing the
7 threshold required to use a different method of
8 identity verification for electronic claims;
9 conforming provisions to changes made by the act;
10 amending ss. 717.12404, 717.1315, and 717.1322, F.S.;
11 conforming provisions to changes made by the act;
12 amending s. 717.135, F.S.; requiring the department to
13 adopt forms for a Uniform Unclaimed Property Recovery
14 Agreement and a Uniform Unclaimed Property Purchase
15 Agreement; providing requirements for such agreements;
16 providing that the agreements are the exclusive means
17 for a claimant's representative to file a claim or to
18 recover fees and costs; prohibiting a claimant's
19 representative from using or distributing any other
20 form of agreement; providing administrative and civil
21 penalties; authorizing the department to pay
22 additional accounts under certain circumstances;
23 providing applicability; repealing s. 717.1351, F.S.,
24 relating to unclaimed property claims; providing an
25 effective date.

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

28
29 Section 1. Subsection (1), paragraphs (b) and (c) of

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30 subsection (4), and subsections (7) and (10) of section 717.124,
31 Florida Statutes, are amended to read:

32 717.124 Unclaimed property claims.—

33 (1) Any person, excluding another state, claiming an
34 interest in any property paid or delivered to the department
35 under this chapter may file with the department a claim on a
36 form prescribed by the department and verified by the claimant
37 or the claimant's representative. The claimant's representative
38 must be an attorney licensed to practice law in this state, a
39 licensed Florida-certified public accountant, or a private
40 investigator licensed under chapter 493. The claimant's
41 representative must be registered with the department under this
42 chapter. The claimant, or the claimant's representative, shall
43 provide the department with a legible copy of a valid driver
44 license of the claimant at the time the original claim form is
45 filed. If the claimant has not been issued a valid driver
46 license at the time the original claim form is filed, the
47 department shall be provided with a legible copy of a
48 photographic identification of the claimant issued by the United
49 States, a state or territory of the United States, a foreign
50 nation, or a political subdivision or agency thereof or other
51 evidence deemed acceptable by the department by rule. In lieu of
52 photographic identification, a notarized sworn statement by the
53 claimant may be provided which affirms the claimant's identity
54 and states the claimant's full name and address. The claimant
55 must produce to the notary photographic identification of the
56 claimant issued by the United States, a state or territory of
57 the United States, a foreign nation, or a political subdivision
58 or agency thereof or other evidence deemed acceptable by the

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59 department by rule. The notary shall indicate the notary's full
60 address on the notarized sworn statement. Any claim filed
61 without the required identification or the sworn statement with
62 the original claim form and the original Uniform Unclaimed
63 Property Recovery Agreement or Uniform Unclaimed Property
64 Purchase Agreement ~~power of attorney or purchase agreement~~, if
65 applicable, is void.

66 (a) Within 90 days after receipt of a claim, the department
67 may return any claim that provides for the receipt of fees and
68 costs greater than that permitted under this chapter or that
69 contains any apparent errors or omissions. The department may
70 also request that the claimant or the claimant's representative
71 provide additional information. The department shall retain a
72 copy or electronic image of the claim.

73 (b) ~~A claimant or the claimant's representative shall be~~
74 ~~deemed to have withdrawn a claim~~ is considered to have been
75 withdrawn by a claimant or the claimant's representative if no
76 response to the department does not receive a response to its
77 department's request for additional information is received by
78 ~~the department~~ within 60 days after the notification of any
79 apparent errors or omissions.

80 (c) Within 90 days after receipt of the claim, or the
81 response of the claimant or the claimant's representative to the
82 department's request for additional information, whichever is
83 later, the department shall determine each claim. Such
84 determination shall contain a notice of rights provided by ss.
85 120.569 and 120.57. The 90-day period shall be extended by 60
86 days if the department has good cause to need additional time or
87 if the unclaimed property:

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- 88 1. Is owned by a person who has been a debtor in
89 bankruptcy;
90 2. Was reported with an address outside of the United
91 States;
92 3. Is being claimed by a person outside of the United
93 States; or
94 4. Contains documents filed in support of the claim that
95 are not in the English language and have not been accompanied by
96 an English language translation.

97 ~~(d) The department shall deny any claim under which the~~
98 ~~claimant's representative has refused to authorize the~~
99 ~~department to reduce the fees and costs to the maximum permitted~~
100 ~~under this chapter.~~

101 (4)

102 (b) If an owner authorizes an attorney licensed to practice
103 law in this state, a Florida-certified public accountant, or a
104 private investigator licensed under chapter 493, and registered
105 with the department under this chapter, to claim the unclaimed
106 property on the owner's behalf, the department is authorized to
107 make distribution of the property or money in accordance with
108 the Uniform Unclaimed Property Recovery Agreement or Uniform
109 Unclaimed Property Purchase Agreement under s. 717.135 ~~such~~
110 ~~power of attorney~~. The original Uniform Unclaimed Property
111 Recovery Agreement or Uniform Unclaimed Property Purchase
112 Agreement ~~power of attorney~~ must be executed by the claimant or
113 seller ~~owner~~ and must be filed with the department.

114 (c)1. Payments of approved claims for unclaimed cash
115 accounts must ~~shall~~ be made to the owner after deducting any
116 fees and costs authorized by the claimant under a Uniform

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117 Unclaimed Property Recovery Agreement pursuant to a written
118 ~~power of attorney~~. The contents of a safe-deposit box must ~~shall~~
119 be delivered directly to the claimant ~~notwithstanding any power~~
120 ~~of attorney or agreement to the contrary~~.

121 2. Payments of fees and costs authorized under a Uniform
122 Unclaimed Property Recovery Agreement pursuant to a written
123 ~~power of attorney~~ for approved claims must ~~shall~~ be made or
124 issued to the law firm of the designated attorney licensed to
125 practice law in this state, the public accountancy firm of the
126 licensed Florida-certified public accountant, or the designated
127 employing private investigative agency licensed by this state.
128 Such payments shall be made by electronic funds transfer and may
129 be made on such periodic schedule as the department may define
130 by rule, provided the payment intervals do not exceed 31 days.
131 Payment made to an attorney licensed in this state, a Florida-
132 certified public accountant, or a private investigator licensed
133 under chapter 493, operating individually or as a sole
134 practitioner, must ~~shall~~ be to the attorney, certified public
135 accountant, or private investigator.

136 (7) The department may allow an apparent owner to
137 electronically submit a claim for unclaimed property to the
138 department. If a claim is submitted electronically for \$2,000
139 ~~\$1,000~~ or less, the department may use a method of identity
140 verification other than a copy of a valid driver license, other
141 government-issued photographic identification, or a sworn
142 notarized statement. The department may adopt rules to implement
143 this subsection.

144 (10) Notwithstanding any other provision of this chapter,
145 the department may develop a process by which a ~~registered~~

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146 claimant's representative or a buyer of unclaimed property may
147 electronically submit to the department an electronic image of a
148 completed claim and claims-related documents under ~~pursuant to~~
149 this chapter, including a Uniform Unclaimed Property Recovery
150 Agreement or Uniform Unclaimed Property Purchase Agreement
151 ~~limited power of attorney or purchase agreement~~ that has been
152 manually signed and dated by a claimant or seller under ~~pursuant~~
153 ~~to~~ s. 717.135 ~~or s. 717.1351~~, after the claimant's
154 representative or the buyer of unclaimed property receives the
155 original documents provided by the claimant or the seller for
156 any claim. Each claim filed by a ~~registered~~ claimant's
157 representative or a buyer of unclaimed property must include a
158 statement by the claimant's representative or the buyer of
159 unclaimed property attesting that all documents are true copies
160 of the original documents and that all original documents are
161 physically in the possession of the claimant's representative or
162 the buyer of unclaimed property. All original documents must be
163 kept in the original form, by claim number, under the secure
164 control of the claimant's representative or the buyer of
165 unclaimed property and must be available for inspection by the
166 department in accordance with s. 717.1315. The department may
167 adopt rules to implement this subsection.

168 Section 2. Subsection (2) of section 717.12404, Florida
169 Statutes, is amended to read:

170 717.12404 Claims on behalf of a business entity or trust.—

171 (2) Claims on behalf of a dissolved corporation, a business
172 entity other than an active corporation, or a trust must include
173 a legible copy of a valid driver license of the person acting on
174 behalf of the dissolved corporation, business entity other than

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175 an active corporation, or trust. If the person has not been
176 issued a valid driver license, the department shall be provided
177 with a legible copy of a photographic identification of the
178 person issued by the United States, a foreign nation, or a
179 political subdivision or agency thereof. In lieu of photographic
180 identification, a notarized sworn statement by the person may be
181 provided which affirms the person's identity and states the
182 person's full name and address. The person must produce his or
183 her photographic identification issued by the United States, a
184 state or territory of the United States, a foreign nation, or a
185 political subdivision or agency thereof or other evidence deemed
186 acceptable by the department by rule. The notary shall indicate
187 the notary's full address on the notarized sworn statement. Any
188 claim filed without the required identification or the sworn
189 statement with the original claim form and the original Uniform
190 Unclaimed Property Recovery Agreement or Uniform Unclaimed
191 Property Purchase Agreement ~~power of attorney~~, if applicable, is
192 void.

193 Section 3. Subsection (1) of section 717.1315, Florida
194 Statutes, is amended to read:

195 717.1315 Retention of records by claimant's representatives
196 and buyers of unclaimed property.—

197 (1) Every claimant's representative and buyer of unclaimed
198 property shall keep and use in his or her business such books,
199 accounts, and records of the business conducted under this
200 chapter to enable the department to determine whether such
201 person is complying with this chapter and the rules adopted by
202 the department under this chapter. Every claimant's
203 representative and buyer of unclaimed property shall preserve

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204 such books, accounts, and records, including every Uniform
205 Unclaimed Property Recovery Agreement or Uniform Unclaimed
206 Property Purchase Agreement ~~power of attorney or agreement~~
207 between the owner and such claimant's representative or buyer,
208 for at least 3 years after the date of the initial ~~power of~~
209 ~~attorney or~~ agreement.

210 Section 4. Paragraph (j) of subsection (1) of section
211 717.1322, Florida Statutes, is amended to read:

212 717.1322 Administrative and civil enforcement.—

213 (1) The following acts are violations of this chapter and
214 constitute grounds for an administrative enforcement action by
215 the department in accordance with the requirements of chapter
216 120 and for civil enforcement by the department in a court of
217 competent jurisdiction:

218 (j) Requesting or receiving compensation for notifying a
219 person of his or her unclaimed property or assisting another
220 person in filing a claim for unclaimed property, unless the
221 person is an attorney licensed to practice law in this state, a
222 Florida-certified public accountant, or a private investigator
223 licensed under chapter 493, or entering into, or making a
224 solicitation to enter into, an agreement ~~a power of attorney~~ to
225 file a claim for unclaimed property owned by another, or a
226 contract or agreement to purchase unclaimed property, unless
227 such person is registered with the department under ~~pursuant to~~
228 this chapter and an attorney licensed to practice law in this
229 state in the regular practice of her or his profession, a
230 Florida-certified public accountant who is acting within the
231 scope of the practice of public accounting as defined in chapter
232 473, or a private investigator licensed under chapter 493. This

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233 ~~paragraph subsection~~ does not apply to a person who has been
234 granted a durable power of attorney to convey and receive all of
235 the real and personal property of the owner, is the court-
236 appointed guardian of the owner, has been employed as an
237 attorney or qualified representative to contest the department's
238 denial of a claim, or has been employed as an attorney to
239 probate the estate of the owner or an heir or legatee of the
240 owner.

241 Section 5. Section 717.135, Florida Statutes, is amended to
242 read:

243 (Substantial rewording of section. See
244 s. 717.135, F.S., for present text.)

245 717.135 Recovery agreements and purchase agreements for
246 claims filed by a claimant's representative; fees and costs.-

247 (1) In order to protect the interests of owners of
248 unclaimed property, the department shall adopt by rule a form
249 entitled "Uniform Unclaimed Property Recovery Agreement" and a
250 form entitled "Uniform Unclaimed Property Purchase Agreement."

251 (2) The Uniform Unclaimed Property Recovery Agreement and
252 the Uniform Unclaimed Property Purchase Agreement must include
253 and disclose all of the following:

254 (a) The total dollar amount of unclaimed property accounts
255 claimed or sold.

256 (b) The total percentage of all authorized fees and costs
257 to be paid to the claimant's representative or the percentage of
258 the value of the property to be paid as net gain to the
259 purchasing claimant's representative.

260 (c) The total dollar amount to be deducted and received
261 from the claimant as fees and costs by the claimant's

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262 representative or the total net dollar amount to be received by
263 the purchasing claimant's representative.

264 (d) The net dollar amount to be received by the claimant or
265 the seller.

266 (e) For each account claimed, the unclaimed property
267 account number and name of the apparent owner, as listed in the
268 department's database. For agreements in which multiple accounts
269 bear identically listed apparent owner names in the department's
270 database, the identically listed name of that apparent owner may
271 be listed on the agreement one time for that identical name, but
272 the agreement must include all of the account numbers claimed
273 for that identically listed name of the apparent owner.

274 (f) For the Uniform Unclaimed Property Purchase Agreement,
275 a statement that the amount of the purchase price will be
276 remitted to the seller by the purchaser within 30 days after the
277 execution of the agreement by the seller.

278 (g) The name, address, e-mail address, phone number, and
279 license number of the claimant's representative.

280 (h)1. The manual signature of the claimant or seller and
281 the date signed, affixed on the agreement by the claimant or
282 seller.

283 2. Notwithstanding any other provision of this chapter to
284 the contrary, the department may allow an apparent owner, who is
285 also the claimant, to sign the agreement electronically for
286 claims of \$2,000 or less. All electronic signatures on the
287 Uniform Unclaimed Property Recovery Agreement and the Uniform
288 Unclaimed Property Purchase Agreement must be affixed on the
289 agreement by the claimant or seller using the specific,
290 exclusive eSignature product and protocol authorized by the

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291 department.

292 (i) The social security number or taxpayer identification
293 number of the claimant or seller, if a number has been issued to
294 the claimant or seller.

295 (j) The total fees and costs, or the total discount in the
296 case of a purchase agreement, may not exceed 25 percent of the
297 claimed amount. If the total fees and costs exceed 25 percent,
298 the fee shall be reduced to 25 percent and the net balance shall
299 be remitted directly by the department to the claimant.

300 (3) For a Uniform Unclaimed Property Purchase Agreement
301 form, proof that the seller has received payment must be filed
302 with the department along with the claim. If proof of payment is
303 not provided, the claim is void.

304 (4) A claimant's representative must use the Uniform
305 Unclaimed Property Recovery Agreement or the Uniform Unclaimed
306 Property Purchase Agreement as the exclusive means of engaging
307 with a claimant or seller to file a claim with the department.

308 (5) Fees and costs may be owed or paid to, or received by,
309 a claimant's representative only after a filed claim has been
310 approved and if the claimant's representative used an agreement
311 authorized by this section.

312 (6) A claimant's representative may not use or distribute
313 any other agreement, form, or other media with respect to the
314 claimant or seller which relates, directly or indirectly, to
315 unclaimed property accounts held by the department or the Chief
316 Financial Officer other than the agreements authorized by this
317 section. Any engagement, authorization, recovery, or fee
318 agreement that is not authorized by this section is void. A
319 claimant's representative is subject to administrative and civil

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320 enforcement under s. 717.1322 if he or she uses an agreement
321 that is not authorized by this section.

322 (7) The Uniform Unclaimed Property Recovery Agreement and
323 the Uniform Unclaimed Property Purchase Agreement may not
324 contain language that makes the agreement irrevocable or that
325 creates an assignment of any portion of unclaimed property held
326 by the department.

327 (8) When a claim is approved, the department may pay any
328 additional account that is owned by the claimant but has not
329 been claimed at the time of approval, provided that a subsequent
330 claim has not been filed or is not pending for the claimant at
331 the time of approval.

332 (9) This section does not supersede s. 717.1241.
333 Section 6. Section 717.1351, Florida Statutes, is repealed.
334 Section 7. This act shall take effect upon becoming a law.