

By the Committee on Banking and Insurance; and Senator Wright

597-03593-21

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1 A bill to be entitled
2 An act relating to disposition of unclaimed property;
3 amending s. 717.119, F.S.; requiring the Department of
4 Financial Services to provide copies of wills and
5 trusts included in safe-deposit box contents under
6 certain circumstances; amending s. 717.124, F.S.;
7 requiring specified agreements for certain claims;
8 removing provisions requiring the department to deny
9 certain unclaimed property claims; increasing the
10 threshold required to use a different method of
11 identity verification for electronic claims;
12 conforming provisions to changes made by the act;
13 amending ss. 717.12404, 717.1315, and 717.1322, F.S.;
14 conforming provisions to changes made by the act;
15 amending s. 717.135, F.S.; requiring the department to
16 adopt forms for an Unclaimed Property Recovery
17 Agreement and an Unclaimed Property Purchase
18 Agreement; providing requirements for such agreements;
19 providing that the agreements are the exclusive means
20 for a claimant's representative to file a claim or to
21 recover fees and costs; prohibiting a claimant's
22 representative from using or distributing any other
23 form of agreement; providing administrative and civil
24 penalties; authorizing the department to pay
25 additional accounts under certain circumstances;
26 providing applicability; repealing s. 717.1351, F.S.,
27 relating to unclaimed property claims; providing an
28 effective date.
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597-03593-21

20211434c1

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

31
32 Section 1. Paragraph (e) is added to subsection (5) of
33 section 717.119, Florida Statutes, to read:

34 717.119 Payment or delivery of unclaimed property.—

35 (5) All intangible and tangible property held in a safe-
36 deposit box or any other safekeeping repository reported under
37 s. 717.117 shall not be delivered to the department until 120
38 days after the report due date. The delivery of the property,
39 through the United States mail or any other carrier, shall be
40 insured by the holder at an amount equal to the estimated value
41 of the property. Each package shall be clearly marked on the
42 outside "Deliver Unopened." A holder's safe-deposit box contents
43 shall be delivered to the department in a single shipment. In
44 lieu of a single shipment, holders may provide the department
45 with a single detailed shipping schedule that includes package
46 tracking information for all packages being sent pursuant to
47 this section.

48 (e) If a will or trust instrument is included among the
49 contents of a safe-deposit box or other safekeeping repository
50 delivered to the department, the department must provide a copy
51 of the will, trust, and any codicils or amendments to such will
52 or trust instrument upon request to anyone who provides the
53 department with evidence of the death of the testator or
54 settlor.

55 Section 2. Subsection (1), paragraphs (b) and (c) of
56 subsection (4), and subsections (7) and (10) of section 717.124,
57 Florida Statutes, are amended to read:

58 717.124 Unclaimed property claims.—

597-03593-21

20211434c1

59 (1) Any person, excluding another state, claiming an
60 interest in any property paid or delivered to the department
61 under this chapter may file with the department a claim on a
62 form prescribed by the department and verified by the claimant
63 or the claimant's representative. The claimant's representative
64 must be an attorney licensed to practice law in this state, a
65 licensed Florida-certified public accountant, or a private
66 investigator licensed under chapter 493. The claimant's
67 representative must be registered with the department under this
68 chapter. The claimant, or the claimant's representative, shall
69 provide the department with a legible copy of a valid driver
70 license of the claimant at the time the original claim form is
71 filed. If the claimant has not been issued a valid driver
72 license at the time the original claim form is filed, the
73 department shall be provided with a legible copy of a
74 photographic identification of the claimant issued by the United
75 States, a state or territory of the United States, a foreign
76 nation, or a political subdivision or agency thereof or other
77 evidence deemed acceptable by the department by rule. In lieu of
78 photographic identification, a notarized sworn statement by the
79 claimant may be provided which affirms the claimant's identity
80 and states the claimant's full name and address. The claimant
81 must produce to the notary photographic identification of the
82 claimant issued by the United States, a state or territory of
83 the United States, a foreign nation, or a political subdivision
84 or agency thereof or other evidence deemed acceptable by the
85 department by rule. The notary shall indicate the notary's full
86 address on the notarized sworn statement. Any claim filed
87 without the required identification or the sworn statement with

597-03593-21

20211434c1

88 the original claim form and the original Unclaimed Property
89 Recovery Agreement or Unclaimed Property Purchase Agreement
90 ~~power of attorney or purchase agreement~~, if applicable, is void.

91 (a) Within 90 days after receipt of a claim, the department
92 may return any claim that provides for the receipt of fees and
93 costs greater than that permitted under this chapter or that
94 contains any apparent errors or omissions. The department may
95 also request that the claimant or the claimant's representative
96 provide additional information. The department shall retain a
97 copy or electronic image of the claim.

98 (b) ~~A claimant or the claimant's representative shall be~~
99 ~~deemed to have withdrawn a claim~~ is considered to have been
100 withdrawn by a claimant or the claimant's representative if ~~no~~
101 ~~response to the~~ department does not receive a response to its
102 ~~department's request for additional information is received by~~
103 ~~the department~~ within 60 days after the notification of any
104 apparent errors or omissions.

105 (c) Within 90 days after receipt of the claim, or the
106 response of the claimant or the claimant's representative to the
107 department's request for additional information, whichever is
108 later, the department shall determine each claim. Such
109 determination shall contain a notice of rights provided by ss.
110 120.569 and 120.57. The 90-day period shall be extended by 60
111 days if the department has good cause to need additional time or
112 if the unclaimed property:

113 1. Is owned by a person who has been a debtor in
114 bankruptcy;

115 2. Was reported with an address outside of the United
116 States;

597-03593-21

20211434c1

117 3. Is being claimed by a person outside of the United
118 States; or

119 4. Contains documents filed in support of the claim that
120 are not in the English language and have not been accompanied by
121 an English language translation.

122 ~~(d) The department shall deny any claim under which the~~
123 ~~claimant's representative has refused to authorize the~~
124 ~~department to reduce the fees and costs to the maximum permitted~~
125 ~~under this chapter.~~

126 (4)

127 (b) If an owner authorizes an attorney licensed to practice
128 law in this state, a Florida-certified public accountant, or a
129 private investigator licensed under chapter 493, and registered
130 with the department under this chapter, to claim the unclaimed
131 property on the owner's behalf, the department is authorized to
132 make distribution of the property or money in accordance with
133 the Unclaimed Property Recovery Agreement or Unclaimed Property
134 Purchase Agreement under s. 717.135 ~~such power of attorney~~. The
135 original Unclaimed Property Recovery Agreement or Unclaimed
136 Property Purchase Agreement ~~power of attorney~~ must be executed
137 by the claimant or seller ~~owner~~ and must be filed with the
138 department.

139 (c)1. Payments of approved claims for unclaimed cash
140 accounts must ~~shall~~ be made to the owner after deducting any
141 fees and costs authorized by the claimant under an Unclaimed
142 Property Recovery Agreement ~~pursuant to a written power of~~
143 ~~attorney~~. The contents of a safe-deposit box must ~~shall~~ be
144 delivered directly to the claimant ~~notwithstanding any power of~~
145 ~~attorney or agreement to the contrary~~.

597-03593-21

20211434c1

146 2. Payments of fees and costs authorized under an Unclaimed
147 Property Recovery Agreement ~~pursuant to a written power of~~
148 ~~attorney~~ for approved claims must ~~shall~~ be made or issued to the
149 law firm of the designated attorney licensed to practice law in
150 this state, the public accountancy firm of the licensed Florida-
151 certified public accountant, or the designated employing private
152 investigative agency licensed by this state. Such payments shall
153 be made by electronic funds transfer and may be made on such
154 periodic schedule as the department may define by rule, provided
155 the payment intervals do not exceed 31 days. Payment made to an
156 attorney licensed in this state, a Florida-certified public
157 accountant, or a private investigator licensed under chapter
158 493, operating individually or as a sole practitioner, must
159 ~~shall~~ be to the attorney, certified public accountant, or
160 private investigator.

161 (7) The department may allow an apparent owner to
162 electronically submit a claim for unclaimed property to the
163 department. If a claim is submitted electronically for \$2,000
164 ~~\$1,000~~ or less, the department may use a method of identity
165 verification other than a copy of a valid driver license, other
166 government-issued photographic identification, or a sworn
167 notarized statement. The department may adopt rules to implement
168 this subsection.

169 (10) Notwithstanding any other provision of this chapter,
170 the department may develop a process by which a ~~registered~~
171 claimant's representative or a buyer of unclaimed property may
172 electronically submit to the department an electronic image of a
173 completed claim and claims-related documents under ~~pursuant to~~
174 this chapter, including an Unclaimed Property Recovery Agreement

597-03593-21

20211434c1

175 or Unclaimed Property Purchase Agreement ~~a limited power of~~
176 ~~attorney or purchase agreement~~ that has been manually signed and
177 dated by a claimant or seller under ~~pursuant to~~ s. 717.135 ~~or s.~~
178 ~~717.1351~~, after the claimant's representative or the buyer of
179 unclaimed property receives the original documents provided by
180 the claimant or the seller for any claim. Each claim filed by a
181 ~~registered~~ claimant's representative or a buyer of unclaimed
182 property must include a statement by the claimant's
183 representative or the buyer of unclaimed property attesting that
184 all documents are true copies of the original documents and that
185 all original documents are physically in the possession of the
186 claimant's representative or the buyer of unclaimed property.
187 All original documents must be kept in the original form, by
188 claim number, under the secure control of the claimant's
189 representative or the buyer of unclaimed property and must be
190 available for inspection by the department in accordance with s.
191 717.1315. The department may adopt rules to implement this
192 subsection.

193 Section 3. Subsection (2) of section 717.12404, Florida
194 Statutes, is amended to read:

195 717.12404 Claims on behalf of a business entity or trust.—

196 (2) Claims on behalf of a dissolved corporation, a business
197 entity other than an active corporation, or a trust must include
198 a legible copy of a valid driver license of the person acting on
199 behalf of the dissolved corporation, business entity other than
200 an active corporation, or trust. If the person has not been
201 issued a valid driver license, the department shall be provided
202 with a legible copy of a photographic identification of the
203 person issued by the United States, a foreign nation, or a

597-03593-21

20211434c1

204 political subdivision or agency thereof. In lieu of photographic
205 identification, a notarized sworn statement by the person may be
206 provided which affirms the person's identity and states the
207 person's full name and address. The person must produce his or
208 her photographic identification issued by the United States, a
209 state or territory of the United States, a foreign nation, or a
210 political subdivision or agency thereof or other evidence deemed
211 acceptable by the department by rule. The notary shall indicate
212 the notary's full address on the notarized sworn statement. Any
213 claim filed without the required identification or the sworn
214 statement with the original claim form and the original
215 Unclaimed Property Recovery Agreement or Unclaimed Property
216 Purchase Agreement ~~power of attorney~~, if applicable, is void.

217 Section 4. Subsection (1) of section 717.1315, Florida
218 Statutes, is amended to read:

219 717.1315 Retention of records by claimant's representatives
220 and buyers of unclaimed property.—

221 (1) Every claimant's representative and buyer of unclaimed
222 property shall keep and use in his or her business such books,
223 accounts, and records of the business conducted under this
224 chapter to enable the department to determine whether such
225 person is complying with this chapter and the rules adopted by
226 the department under this chapter. Every claimant's
227 representative and buyer of unclaimed property shall preserve
228 such books, accounts, and records, including every Unclaimed
229 Property Recovery Agreement or Unclaimed Property Purchase
230 Agreement ~~power of attorney or agreement~~ between the owner and
231 such claimant's representative or buyer, for at least 3 years
232 after the date of the initial ~~power of attorney or agreement~~.

597-03593-21

20211434c1

233 Section 5. Paragraph (j) of subsection (1) of section
234 717.1322, Florida Statutes, is amended to read:

235 717.1322 Administrative and civil enforcement.—

236 (1) The following acts are violations of this chapter and
237 constitute grounds for an administrative enforcement action by
238 the department in accordance with the requirements of chapter
239 120 and for civil enforcement by the department in a court of
240 competent jurisdiction:

241 (j) Requesting or receiving compensation for notifying a
242 person of his or her unclaimed property or assisting another
243 person in filing a claim for unclaimed property, unless the
244 person is an attorney licensed to practice law in this state, a
245 Florida-certified public accountant, or a private investigator
246 licensed under chapter 493, or entering into, or making a
247 solicitation to enter into, an agreement ~~a power of attorney~~ to
248 file a claim for unclaimed property owned by another, or a
249 contract or agreement to purchase unclaimed property, unless
250 such person is registered with the department under ~~pursuant to~~
251 this chapter and an attorney licensed to practice law in this
252 state in the regular practice of her or his profession, a
253 Florida-certified public accountant who is acting within the
254 scope of the practice of public accounting as defined in chapter
255 473, or a private investigator licensed under chapter 493. This
256 paragraph ~~subsection~~ does not apply to a person who has been
257 granted a durable power of attorney to convey and receive all of
258 the real and personal property of the owner, is the court-
259 appointed guardian of the owner, has been employed as an
260 attorney or qualified representative to contest the department's
261 denial of a claim, or has been employed as an attorney to

597-03593-21

20211434c1

262 probate the estate of the owner or an heir or legatee of the
263 owner.

264 Section 6. Section 717.135, Florida Statutes, is amended to
265 read:

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

268 717.135 Recovery agreements and purchase agreements for
269 claims filed by a claimant's representative; fees and costs.-

270 (1) In order to protect the interests of owners of
271 unclaimed property, the department shall adopt by rule a form
272 entitled "Unclaimed Property Recovery Agreement" and a form
273 entitled "Unclaimed Property Purchase Agreement."

274 (2) The Unclaimed Property Recovery Agreement and the
275 Unclaimed Property Purchase Agreement must include and disclose
276 all of the following:

277 (a) The total dollar amount of unclaimed property accounts
278 claimed or sold.

279 (b) The total percentage of all authorized fees and costs
280 to be paid to the claimant's representative or the percentage of
281 the value of the property to be paid as net gain to the
282 purchasing claimant's representative.

283 (c) The total dollar amount to be deducted and received
284 from the claimant as fees and costs by the claimant's
285 representative or the total net dollar amount to be received by
286 the purchasing claimant's representative.

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

289 (e) For each account claimed, the unclaimed property
290 account number.

597-03593-21

20211434c1

291 (f) For the Unclaimed Property Purchase Agreement, a
292 statement that the amount of the purchase price will be remitted
293 to the seller by the purchaser within 30 days after the
294 execution of the agreement by the seller.

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

297 (h)1. The manual signature of the claimant or seller and
298 the date signed, affixed on the agreement by the claimant or
299 seller.

300 2. Notwithstanding any other provision of this chapter to
301 the contrary, the department may allow an apparent owner, who is
302 also the claimant, to sign the agreement electronically for
303 claims of \$2,000 or less. All electronic signatures on the
304 Unclaimed Property Recovery Agreement and the Unclaimed Property
305 Purchase Agreement must be affixed on the agreement by the
306 claimant or seller using the specific, exclusive eSignature
307 product and protocol authorized by the department.

308 (i) The social security number or taxpayer identification
309 number of the claimant or seller, if a number has been issued to
310 the claimant or seller.

311 (j) The total fees and costs, or the total discount in the
312 case of a purchase agreement, which may not exceed 30 percent of
313 the claimed amount. If the total fees and costs exceed 30
314 percent, the fee shall be reduced to 30 percent and the net
315 balance shall be remitted directly by the department to the
316 claimant.

317 (3) For an Unclaimed Property Purchase Agreement form,
318 proof that the purchaser has made payment must be filed with the
319 department along with the claim. If proof of payment is not

597-03593-21

20211434c1

320 provided, the claim is void.

321 (4) A claimant's representative must use the Unclaimed
322 Property Recovery Agreement or the Unclaimed Property Purchase
323 Agreement as the exclusive means of engaging with a claimant or
324 seller to file a claim with the department.

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

329 (6) A claimant's representative may not use or distribute
330 any other agreement, form, or other media with respect to the
331 claimant or seller which relates, directly or indirectly, to
332 unclaimed property accounts held by the department or the Chief
333 Financial Officer other than the agreements authorized by this
334 section. Any engagement, authorization, recovery, or fee
335 agreement that is not authorized by this section is void. A
336 claimant's representative is subject to administrative and civil
337 enforcement under s. 717.1322 if he or she uses an agreement
338 that is not authorized by this section.

339 (7) The Unclaimed Property Recovery Agreement and the
340 Unclaimed Property Purchase Agreement may not contain language
341 that makes the agreement irrevocable or that creates an
342 assignment of any portion of unclaimed property held by the
343 department.

344 (8) When a claim is approved, the department may pay any
345 additional account that is owned by the claimant but has not
346 been claimed at the time of approval, provided that a subsequent
347 claim has not been filed or is not pending for the claimant at
348 the time of approval.

597-03593-21

20211434c1

349 (9) This section does not supersede s. 717.1241.
350 Section 7. Section 717.1351, Florida Statutes, is repealed.
351 Section 8. This act shall take effect upon becoming a law.