

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 of 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 application; repealing s. 717.1351, F.S.,  
24          relating to unclaimed property claims; providing an  
25          effective date.

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

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

717.124 Unclaimed property claims.—

(1) Any person, excluding another state, claiming an interest in any property paid or delivered to the department under this chapter may file with the department a claim on a form prescribed by the department and verified by the claimant or the claimant's representative. The claimant's representative must be an attorney licensed to practice law in this state, a licensed Florida-certified public accountant, or a private investigator licensed under chapter 493. The claimant's representative must be registered with the department under this chapter. The claimant, or the claimant's representative, shall provide the department with a legible copy of a valid driver license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver license at the time the original claim form is filed, the department shall be provided with a legible copy of a photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign 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  
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  
67 department may return any claim that provides for the receipt of  
68 fees and costs greater than that permitted under this chapter or  
69 that contains any apparent errors or omissions. The department  
70 may also request that the claimant or the claimant's  
71 representative provide additional information. The department  
72 shall retain a 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:

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

115 (c)1. Payments of approved claims for unclaimed cash  
116 accounts must ~~shall~~ be made to the owner after deducting any  
117 fees and costs authorized by the claimant under a Uniform  
118 Unclaimed Property Recovery Agreement ~~pursuant to a written~~  
119 ~~power of attorney~~. The contents of a safe-deposit box must ~~shall~~  
120 be delivered directly to the claimant ~~notwithstanding any power~~  
121 ~~of attorney or agreement to the contrary~~.

122 2. Payments of fees and costs authorized under a Uniform  
123 Unclaimed Property Recovery Agreement ~~pursuant to a written~~  
124 ~~power of attorney~~ for approved claims must ~~shall~~ be made or  
125 issued to the law firm of the designated attorney licensed to

126 practice law in this state, the public accountancy firm of the  
127 licensed Florida-certified public accountant, or the designated  
128 employing private investigative agency licensed by this state.  
129 Such payments shall be made by electronic funds transfer and may  
130 be made on such periodic schedule as the department may define  
131 by rule, provided the payment intervals do not exceed 31 days.  
132 Payment made to an attorney licensed in this state, a Florida-  
133 certified public accountant, or a private investigator licensed  
134 under chapter 493, operating individually or as a sole  
135 practitioner, must ~~shall~~ be to the attorney, certified public  
136 accountant, or private investigator.

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

145 (10) Notwithstanding any other provision of this chapter,  
146 the department may develop a process by which a ~~registered~~  
147 claimant's representative or a buyer of unclaimed property may  
148 electronically submit to the department an electronic image of a  
149 completed claim and claims-related documents under ~~pursuant to~~  
150 this chapter, including a Uniform Unclaimed Property Recovery

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

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

171 717.12404 Claims on behalf of a business entity or trust.—

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

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

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

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

198 (1) Every claimant's representative and buyer of unclaimed  
199 property shall keep and use in his or her business such books,  
200 accounts, and records of the business conducted under this



201 chapter to enable the department to determine whether such  
 202 person is complying with this chapter and the rules adopted by  
 203 the department under this chapter. Every claimant's  
 204 representative and buyer of unclaimed property shall preserve  
 205 such books, accounts, and records, including every Uniform  
 206 Unclaimed Property Recovery Agreement or Uniform Unclaimed  
 207 Property Purchase Agreement ~~power of attorney or agreement~~  
 208 between the owner and such claimant's representative or buyer,  
 209 for at least 3 years after the date of the initial ~~power of~~  
 210 ~~attorney or agreement~~.

211 Section 4. Paragraph (j) of subsection (1) of section  
 212 717.1322, Florida Statutes, is amended to read:

213 717.1322 Administrative and civil enforcement.—

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

219 (j) Requesting or receiving compensation for notifying a  
 220 person of his or her unclaimed property or assisting another  
 221 person in filing a claim for unclaimed property, unless the  
 222 person is an attorney licensed to practice law in this state, a  
 223 Florida-certified public accountant, or a private investigator  
 224 licensed under chapter 493, or entering into, or making a  
 225 solicitation to enter into, an agreement ~~a power of attorney~~ to

226 file a claim for unclaimed property owned by another, or a  
227 contract or agreement to purchase unclaimed property, unless  
228 such person is registered with the department under ~~pursuant to~~  
229 this chapter and an attorney licensed to practice law in this  
230 state in the regular practice of her or his profession, a  
231 Florida-certified public accountant who is acting within the  
232 scope of the practice of public accounting as defined in chapter  
233 473, or a private investigator licensed under chapter 493. This  
234 paragraph ~~subsection~~ does not apply to a person who has been  
235 granted a durable power of attorney to convey and receive all of  
236 the real and personal property of the owner, is the court-  
237 appointed guardian of the owner, has been employed as an  
238 attorney or qualified representative to contest the department's  
239 denial of a claim, or has been employed as an attorney to  
240 probate the estate of the owner or an heir or legatee of the  
241 owner.

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

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

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

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

251 form entitled "Uniform Unclaimed Property Purchase Agreement."

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

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

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

261 (c) The total dollar amount to be deducted and received  
262 from the claimant as fees and costs by the claimant's  
263 representative or the total net dollar amount to be received by  
264 the purchasing claimant's representative.

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

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

275 (f) For the Uniform Unclaimed Property Purchase Agreement,

276 a statement that the amount of the purchase price will be  
277 remitted to the seller by the purchaser within 30 days after the  
278 execution of the agreement by the seller.

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

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

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

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

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

301       (3) When using a Uniform Unclaimed Property Purchase  
302 Agreement, a seller must provide proof that he or she received  
303 payment when the seller files a claim with the department. If  
304 proof of payment is not provided, the claim is void.

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

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

313       (6) A claimant's representative may not use or distribute  
314 any other agreement, form, or other media with respect to the  
315 claimant or seller which relates, directly or indirectly, to  
316 unclaimed property accounts held by the department or the Chief  
317 Financial Officer other than the agreements authorized by this  
318 section. Any engagement, authorization, recovery, or fee  
319 agreement that is not authorized by this section is void. A  
320 claimant's representative is subject to administrative and civil  
321 enforcement under s. 717.1322 if he or she uses an agreement  
322 that is not authorized by this section.

323       (7) The Uniform Unclaimed Property Recovery Agreement and  
324 Uniform Unclaimed Property Purchase Agreement may not contain  
325 language that makes the agreement irrevocable or that creates an

326 assignment of any portion of unclaimed property held by the  
327 department.

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

333 (9) This section does not supersede s. 717.1241.

334 Section 6. Section 717.1351, Florida Statutes, is  
335 repealed.

336 Section 7. This act shall take effect upon becoming a law.