

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) For a Uniform Unclaimed Property Purchase Agreement
302 form, proof that the seller has received payment must be filed
303 with the department along with the claim. If proof of payment is
304 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.