

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 certain wills
5 and trusts, and any codicils or amendments of such
6 wills and trusts, to certain persons upon request;
7 amending s. 717.124, F.S.; requiring specified
8 agreements for certain claims; removing provisions
9 requiring the department to deny certain unclaimed
10 property claims; increasing the threshold required to
11 use a different method of identity verification for
12 electronic claims; conforming provisions to changes
13 made by the act; amending ss. 717.12404, 717.1315, and
14 717.1322, F.S.; conforming provisions to changes made
15 by the act; amending s. 717.135, F.S.; requiring the
16 department to adopt forms for an Unclaimed Property
17 Recovery 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.

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

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.—

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
 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
 92 department may return any claim that provides for the receipt of
 93 fees and costs greater than that permitted under this chapter or
 94 that contains any apparent errors or omissions. The department
 95 may also request that the claimant or the claimant's
 96 representative provide additional information. The department
 97 shall retain a 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 ne

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;

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

146 2. Payments of fees and costs authorized under an
147 Unclaimed Property Recovery Agreement ~~pursuant to a written~~
148 ~~power of attorney~~ for approved claims must ~~shall~~ be made or
149 issued to the law firm of the designated attorney licensed to
150 practice law in this state, the public accountancy firm of the

151 licensed Florida-certified public accountant, or the designated
152 employing private investigative agency licensed by this state.
153 Such payments shall be made by electronic funds transfer and may
154 be made on such periodic schedule as the department may define
155 by rule, provided the payment intervals do not exceed 31 days.
156 Payment made to an attorney licensed in this state, a Florida-
157 certified public accountant, or a private investigator licensed
158 under chapter 493, operating individually or as a sole
159 practitioner, must ~~shall~~ be to the attorney, certified public
160 accountant, or 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
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
197 business entity other than an active corporation, or a trust
198 must include a legible copy of a valid driver license of the
199 person acting on behalf of the dissolved corporation, business
200 entity other than an active corporation, or trust. If the person

201 has not been issued a valid driver license, the department shall
 202 be provided with a legible copy of a photographic identification
 203 of the person issued by the United States, a foreign nation, or
 204 a political subdivision or agency thereof. In lieu of
 205 photographic identification, a notarized sworn statement by the
 206 person may be provided which affirms the person's identity and
 207 states the person's full name and address. The person must
 208 produce his or her photographic identification issued by the
 209 United States, a state or territory of the United States, a
 210 foreign nation, or a political subdivision or agency thereof or
 211 other evidence deemed acceptable by the department by rule. The
 212 notary shall indicate the notary's full address on the notarized
 213 sworn statement. Any claim filed without the required
 214 identification or the sworn statement with the original claim
 215 form and the original Unclaimed Property Recovery Agreement or
 216 Unclaimed Property Purchase Agreement ~~power of attorney~~, if
 217 applicable, is void.

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

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

222 (1) Every claimant's representative and buyer of unclaimed
 223 property shall keep and use in his or her business such books,
 224 accounts, and records of the business conducted under this
 225 chapter to enable the department to determine whether such

226 person is complying with this chapter and the rules adopted by
227 the department under this chapter. Every claimant's
228 representative and buyer of unclaimed property shall preserve
229 such books, accounts, and records, including every Unclaimed
230 Property Recovery Agreement or Unclaimed Property Purchase
231 Agreement ~~power of attorney or agreement~~ between the owner and
232 such claimant's representative or buyer, for at least 3 years
233 after the date of the initial ~~power of attorney or agreement~~.

234 Section 5. Paragraph (j) of subsection (1) of section
235 717.1322, Florida Statutes, is amended to read:

236 717.1322 Administrative and civil enforcement.—

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

242 (j) Requesting or receiving compensation for notifying a
243 person of his or her unclaimed property or assisting another
244 person in filing a claim for unclaimed property, unless the
245 person is an attorney licensed to practice law in this state, a
246 Florida-certified public accountant, or a private investigator
247 licensed under chapter 493, or entering into, or making a
248 solicitation to enter into, an agreement ~~a power of attorney~~ to
249 file a claim for unclaimed property owned by another, or a
250 contract or agreement to purchase unclaimed property, unless

251 such person is registered with the department under ~~pursuant to~~
252 this chapter and an attorney licensed to practice law in this
253 state in the regular practice of her or his profession, a
254 Florida-certified public accountant who is acting within the
255 scope of the practice of public accounting as defined in chapter
256 473, or a private investigator licensed under chapter 493. This
257 paragraph ~~subsection~~ does not apply to a person who has been
258 granted a durable power of attorney to convey and receive all of
259 the real and personal property of the owner, is the court-
260 appointed guardian of the owner, has been employed as an
261 attorney or qualified representative to contest the department's
262 denial of a claim, or has been employed as an attorney to
263 probate the estate of the owner or an heir or legatee of the
264 owner.

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

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

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

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

275 (2) The Unclaimed Property Recovery Agreement and the

276 Unclaimed Property Purchase Agreement must include and disclose
277 all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

351 Section 7. Section 717.1351, Florida Statutes, is
352 repealed.

353 Section 8. This act shall take effect upon becoming a law.