

Committee Substitute for
Committee Substitute for House Bill No. 107

An act relating to unclaimed property; revising provisions of ch. 717, F.S., to refer to property considered abandoned as unclaimed property; amending s. 717.101, F.S.; revising certain definitions; amending ss. 717.102, 717.103, 717.1035, 717.104, 717.105, 717.107, 717.108, 717.109, 717.1101, 717.111, 717.113, 717.115, 717.116, 717.1201, 717.122, 717.125, 717.129, F.S.; changing references to property from being abandoned to being unclaimed; amending s. 717.106, F.S., to conform; providing an additional criterion for certain property in financial organizations being presumed unclaimed; amending s. 717.112, F.S., to conform; providing a presumption that certain intangible property is unclaimed under certain circumstances; amending s. 717.117, F.S., to conform; deleting a report verification requirement; revising unclaimed property report requirements; revising search and notification requirements for inactive accounts; amending s. 717.118, F.S., to conform; revising certain notification procedures; amending s. 717.119, F.S., to conform; authorizing payment of unclaimed funds by electronic transfer; deleting an authorization to deduct reasonable fees from certain sale proceeds; providing valuation and remission of contents of safe-deposit boxes; amending s. 717.122, F.S., to conform; authorizing the department to dispose of certain property under certain circumstances; amending s. 717.123, F.S.; revising the disposition of funds held by the Department of Banking and Finance relating to unclaimed property; amending s. 717.124, F.S.; revising certain procedures for filing claims by owner's representatives and receiving and making payments to an owner or owner's representative; amending s. 717.1241; revising resolution of conflicting ownership claims between certain persons; amending s. 717.1243, F.S.; revising provisions for disposition of claims from small estate accounts; creating s. 717.1315, F.S.; providing for retention of certain records by an owner's representative; providing requirements; amending s. 717.132, F.S.; providing for deposit of administrative fines into the Unclaimed Property Trust Fund; amending s. 717.135, F.S.; revising provisions relating to unenforceability of certain agreements to locate reported property; requiring disclosure of certain information; limiting certain recovery fees; specifying agreement requirements; amending s. 717.138, F.S.; authorizing the Department of Banking and Finance to adopt rules for certain electronic filings; amending s. 732.107, F.S.; revising provisions relating to escheat of certain property to the state; revising provisions relating to entitlement to, procedures for payment or assignment of, or distributions of certain proceeds; amending s. 215.965, F.S., to conform; amending s. 493.6101, F.S., to conform; amending s. 493.6102, F.S.; specifying nonapplication to certain persons; repealing s. 717.137, F.S., relating to effect and application of certain provisions; providing an effective date.

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

Section 1. Subsections (8) through (18) of section 717.101, Florida Statutes, are renumbered as subsections (9) through (19), respectively, a new subsection (8) is added to said section, and renumbered subsections (13) and (15) are amended, to read:

717.101 Definitions.—As used in this chapter, unless the context otherwise requires:

(8) “Due diligence” means the use of reasonable and prudent methods under particular circumstances to locate apparent owners of inactive accounts using the taxpayer identification number or social security number, if known, which may include, but are not limited to, using a nationwide database, cross-indexing with other records of the holder, mailing to the last known address unless the last known address is known to be inaccurate, or engaging a licensed agency or company capable of conducting such search and providing updated addresses.

(13)(12) “Last known address” means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail. For the purposes of identifying, reporting, and remitting property to the department which is presumed to be unclaimed, “last known address” includes any partial description of the location of the apparent owner sufficient to establish the apparent owner was a resident of this state at the time of last contact with the apparent owner or at the time the property became due and payable.

(15)(14) “Owner” means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, a claimant, or a payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his or her legal representative.

Section 2. Subsection (1) of section 717.102, Florida Statutes, is amended to read:

717.102 Property presumed unclaimed ~~abandoned~~; general rule.—

(1) All intangible property, including any income or increment thereon less any lawful charges, that is held, issued, or owing in the ordinary course of the holder's business and ~~has remained unclaimed by the owner~~ fails to claim such property for more than 5 years after the property it becomes payable or distributable is presumed unclaimed ~~abandoned~~, except as otherwise provided by this chapter.

Section 3. Section 717.103, Florida Statutes, is amended to read:

717.103 General rules for taking custody of intangible unclaimed property.—Unless otherwise provided in this chapter or by other statute of this state, intangible property is subject to the custody of the department as unclaimed property if the conditions leading to a presumption that the property is unclaimed ~~of abandonment~~ as described in ss. 717.102 and 717.105-717.116 are satisfied and:

(1) The last known address, as shown on the records of the holder, of the apparent owner is in this state;

(2) The records of the holder do not reflect the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in this state;

(3) The records of the holder do not reflect the last known address of the apparent owner, and it is established that:

(a) The last known address of the person entitled to the property is in this state; or

(b) The holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last known address of the apparent owner or other person entitled to the property;

(4) The last known address, as shown on the records of the holder, of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property, and the holder is a domiciliary or a government or governmental subdivision or agency of this state;

(5) The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state; or

(6) The transaction out of which the property arose occurred in this state, and;

(a)1. The last known address of the apparent owner or other person entitled to the property is unknown; or

2. The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property; and

(b) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property.

Section 4. Section 717.1035, Florida Statutes, is amended to read:

717.1035 Property originated or issued by this state, any political subdivision of this state, or any entity incorporated, organized, created, or otherwise located in the state.—

(1) All intangible property, including, but not limited to, any interest, dividend, or other earnings thereon, less any lawful charges, held by a business association, federal, state, or local government or governmental subdivision, agency, or entity, or any other person or entity, regardless of

where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within 3 years after the date prescribed for payment or delivery, is presumed to be unclaimed property ~~abandoned~~ and subject to the custody of this state as such unclaimed property ~~if~~:

(a) The last known address of the owner is unknown; and

(b) The person or entity originating or issuing the intangible property is this state or any political subdivision of this state, or the person or entity is incorporated, organized, created, or otherwise located in this state.

(2) The provisions of subsection (1) shall not apply to property which is or may be presumed unclaimed ~~abandoned~~ and subject to the custody of this state pursuant to any other provision of law containing a dormancy period different than that prescribed in subsection (1).

(3) The provisions of subsection (1) shall apply to all property held at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively unclaimed ~~abandoned~~.

Section 5. Subsections (1), (2), and (5) of section 717.104, Florida Statutes, are amended to read:

717.104 Traveler's checks and money orders.—

(1) Subject to subsection (4), any sum payable on a traveler's check that has been outstanding for more than 15 years after its issuance is presumed unclaimed ~~abandoned~~ unless the owner, within 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file with ~~prepared by an employee of~~ the issuer.

(2) Subject to subsection (4), any sum payable on a money order or similar written instrument, other than a third party bank check, that has been outstanding for more than 7 years after its issuance is presumed unclaimed ~~abandoned~~ unless the owner, within 7 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file with ~~prepared by an employee of~~ the issuer.

(5) Notwithstanding any other provision of this chapter, subsection (4) applies to sums payable on traveler's checks, money orders, and similar written instruments presumed unclaimed ~~abandoned~~ on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

Section 6. Subsection (1) of section 717.105, Florida Statutes, is amended to read:

717.105 Checks, drafts, and similar instruments issued or certified by banking and financial organizations.—

(1) Any sum payable on a check, draft, or similar instrument, except those subject to ss. 717.104 and 717.115, on which a banking or financial

organization is directly liable, including, but not limited to by way of illustration and not limitation, a cashier's check ~~or and~~ a certified check, which has been outstanding for more than 5 years after it was payable or after its issuance if payable on demand, is presumed unclaimed ~~abandoned~~ unless the owner, within 5 years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file with ~~prepared by an employee of~~ the banking or financial organization.

Section 7. Subsections (1) and (5) of section 717.106, Florida Statutes, are amended to read:

717.106 Bank deposits and funds in financial organizations.—

(1) Any demand, savings, or matured time deposit with a banking or financial organization, including deposits that are automatically renewable, and any funds paid toward the purchase of shares, a mutual investment certificate, or any other interest in a banking or financial organization is presumed unclaimed ~~abandoned~~ unless the owner has, within 5 years:

(a) ~~In the case of a deposit,~~ Increased or decreased the amount of the deposit or presented the passbook or other similar evidence of the deposit for the crediting of interest;

(b) Communicated in writing with the banking or financial organization concerning the property;

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file with ~~prepared by an employee of~~ the banking or financial organization;

(d) Owned other property to which paragraph (a), paragraph (b), or paragraph (c) is applicable and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed unclaimed ~~abandoned~~ under this subsection at the address to which communications regarding the other property regularly are sent; ~~or~~

(e) Had another relationship with the banking or financial organization concerning which the owner has:

1. Communicated in writing with the banking or financial organization;
or

2. Otherwise indicated an interest as evidenced by a memorandum or other record on file with ~~prepared by an employee of~~ the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be unclaimed ~~abandoned~~ under this subsection at the address to which communications regarding the other relationship regularly are sent; ~~or~~.

(f) Received first class mail from the banking or financial organization or a subsidiary of such banking or financial organization, which was not re-

turned as undeliverable, in the ordinary course of business at the address reflected in the banking or financial organization's records.

(5) If the documents establishing a deposit described in subsection (1) state the address of a beneficiary of the deposit, and the account has a value of at least \$50, notice shall be given to the beneficiary as provided for notice to the apparent owner under s. 717.117(4)(5). This subsection shall apply to accounts opened on or after October 1, 1990.

Section 8. Subsection (1) of section 717.107, Florida Statutes, is amended to read:

717.107 Funds owing under life insurance policies.—

(1) Funds held or owing under any life or endowment insurance policy or annuity contract which has matured or terminated are presumed unclaimed ~~abandoned~~ if unclaimed for more than 5 years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in paragraph (3)(b) is presumed unclaimed ~~abandoned~~ if such property is not claimed ~~unclaimed~~ for more than 2 years.

Section 9. Section 717.108, Florida Statutes, is amended to read:

717.108 Deposits held by utilities.—Any deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, less any lawful charges, that remains unclaimed by the owner for more than 1 year after termination of the services for which the deposit or advance payment was made is presumed unclaimed ~~abandoned~~.

Section 10. Section 717.109, Florida Statutes, is amended to read:

717.109 Refunds held by business associations.—Except to the extent otherwise ordered by the court or administrative agency, any sum that a business association has been ordered to refund by a court or administrative agency which has not been claimed ~~remained unclaimed~~ by the owner for more than 1 year after it became payable in accordance with the final determination or order providing for the refund, regardless of whether the final determination or order requires any person entitled to a refund to make a claim for it, is presumed unclaimed ~~abandoned~~.

Section 11. Subsections (1), (2), (3), and (4) of section 717.1101, Florida Statutes, are amended to read:

717.1101 Stock and other intangible interests in business associations.—

(1) Except as provided in subsections (2) and (5), any stock or other intangible ownership interest in a business association, the existence of which is evidenced by record available to the association, is presumed unclaimed ~~abandoned~~ and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest is not claimed ~~has for 5 years remained unclaimed~~ by the owner and the owner has not within 5 years:

(a) Communicated in writing with the association or its agent regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or

(b) Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association or its agent ~~prepared by an employee of the association or its agent.~~

(2) At the expiration of a 5-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest shall not be presumed unclaimed ~~abandoned~~ unless there have been at least five dividends, distributions, or other sums paid during the period, none of which has been claimed. If five dividends, distributions, or other sums are paid during the 5-year period, the period leading to a presumption that the interest is unclaimed ~~of abandonment~~ commences on the date payment of the first such unclaimed dividend, distribution, or other sum became due and payable. If five dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been five consecutive dividends, distributions, or other sums that have not been claimed by the owner.

(3) The running of such the 5-year period of ~~abandonment~~ ceases immediately upon the occurrence of one or more of the conditions referred to in subsection (1). If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period in which the property is presumed unclaimed ~~of abandonment~~ commences and relates back only to the time a subsequent dividend, distribution, or other sum became due and payable.

(4) At the same time any interest is presumed unclaimed ~~abandoned~~ under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, ~~and not previously presumed abandoned,~~ is presumed unclaimed ~~abandoned~~.

Section 12. Section 717.111, Florida Statutes, is amended to read:

717.111 Property of business associations held in course of dissolution.— All intangible property distributable in the course of a voluntary or involuntary dissolution of a business association which is not claimed ~~remains unclaimed~~ by the owner for more than 6 months after the date specified for final distribution is presumed unclaimed ~~abandoned~~.

Section 13. Subsection (1) of section 717.112, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

717.112 Property held by agents and fiduciaries.—

(1) All intangible property and any income or increment thereon held in a fiduciary capacity for the benefit of another person is presumed unclaimed ~~abandoned~~ unless the owner has within 5 years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise

indicated an interest as evidenced by a memorandum or other record on file ~~with prepared by the fiduciary or an employee of the fiduciary.~~

(5) All intangible property, and any income or increment thereon, issued by a government or governmental subdivision or agency, public corporation, or public authority and held in an agency capacity for the governmental subdivision, agency, public corporation, or public authority for the benefit of the owner of record, is presumed unclaimed unless the owner has, within 1 year after such property has become payable or distributable, increased or decreased the principal, accepted payment of the principal or income, communicated concerning the property, or otherwise indicated an interest in the property as evidenced by a memorandum or other record on file with the fiduciary.

Section 14. Section 717.113, Florida Statutes, is amended to read:

717.113 Property held by courts and public agencies.—All intangible property held for the owner by any court, government or governmental subdivision or agency, public corporation, or public authority that has ~~not been claimed~~ remained unclaimed by the owner for more than 1 year after it became payable or distributable is presumed ~~unclaimed abandoned~~. Notwithstanding the provisions of this section, funds deposited in the Minerals Trust Fund pursuant to s. 377.247 are presumed ~~unclaimed abandoned~~ only if the funds have ~~not been claimed~~ remained unclaimed by the owner for more than 5 years ~~after~~ from the date of first production from the well.

Section 15. Section 717.115, Florida Statutes, is amended to read:

717.115 Wages.—Unpaid wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business that have ~~not been claimed~~ remained unclaimed by the owner for more than 1 year after becoming payable are presumed ~~unclaimed abandoned~~.

Section 16. Section 717.116, Florida Statutes, is amended to read:

717.116 Contents of safe-deposit box or other safekeeping repository.—All tangible and intangible property held in a safe-deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business, and proceeds resulting from the sale of the property permitted by law, that ~~has not been claimed~~ remain unclaimed by the owner for more than 3 years after the lease or rental period on the box or other repository has expired are presumed ~~unclaimed abandoned~~.

Section 17. Section 717.117, Florida Statutes, is amended to read:

717.117 Report of ~~unclaimed~~ abandoned property.—

(1) Every person holding funds or other property, tangible or intangible, presumed ~~unclaimed~~ abandoned and subject to custody as unclaimed property under this chapter shall report to the department on such forms as the department may prescribe by rule ~~with respect to the property as provided in this section.~~ In lieu of forms, the holder may submit the required information via electronic medium as the department may prescribe by rule.

~~(2) The report shall be verified. Verification of a private corporation or unincorporated association shall be made by an officer; of a partnership, by a partner; and of a public corporation, by its chief fiscal officer. The report must include:~~

(a) ~~Except for with respect to traveler's checks and money orders, the name, and social security number or taxpayer federal employer identification number, and date of birth, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed and which has of a value of \$50 or more presumed abandoned under this chapter.~~

(b) ~~For In the case of unclaimed funds which have a value of \$50 or more held or owing under any life or endowment insurance policy or annuity contract, the full name, taxpayer social security number, or federal employer identification number or social security number, date of birth, if known, and last known address of the insured or annuitant and of the beneficiary according to records of the insurance company holding or owing the funds.~~

(c) ~~For all tangible property held in the case of the contents of a safe-deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where the property it is held and may be inspected by the department, and any amounts owing to the holder. Contents of a safe-deposit box or other safekeeping repository which consist of documents or writings of a private nature and which have little or no apparent value shall not be presumed unclaimed abandoned.~~

(d) ~~The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but Items of value under \$50 each may be reported in the aggregate.~~

(e) ~~The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.~~

(f) ~~Any person or business entity holding funds presumed unclaimed and having abandoned of a total value of \$10 or less may file a zero balance negative or nothing owed report for that reporting period. The balance brought forward to the new reporting period is zero.~~

(g) ~~Such other information as which the department may prescribe prescribes by rule as necessary for the administration of this chapter.~~

(h) ~~Credit balances, customer overpayments, security deposits, and refunds having a value of less than \$10 shall not be presumed unclaimed abandoned.~~

~~(2)(3) If the holder of person holding property presumed unclaimed abandoned and subject to custody as unclaimed property is a successor holder to other persons who previously held the property for the apparent owner or if the holder has changed the holder's his or her name while in possession of holding the property, the holder he or she shall file with the holder's his or her report all known names and addresses of each prior previous holder~~

of the property. Compliance with this subsection means the holder exercises reasonable and prudent efforts to determine the names of all prior holders.

(3)(4) The report must be filed before May 1 of each year. Such report shall apply to the preceding calendar year. If such report is not filed on or before the applicable filing date, the holder shall pay to the department a penalty of \$10 per day for each day the report is delinquent, but such penalty shall not exceed \$500. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. On written request by any person required to file a report, the department may postpone the reporting date.

(4)(5) ~~Holders of inactive accounts shall use due diligence to locate apparent owners. Not more than 120 days prior to filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at his or her last known address informing him or her that the holder is in possession of property subject to this chapter if:~~

(a) When an owner's account becomes inactive, the holder shall conduct at least one search for the apparent owner using due diligence. For purposes of this section, except for banks, credit unions, and state or federal savings associations, an account is inactive if 2 years have transpired after the last owner-initiated account activity, if 2 years have transpired after the expiration date on the instrument or contract, or if 2 years have transpired since first-class mail has been returned as undeliverable. With respect to banks, credit unions, and state or federal savings associations, an account is inactive if 2 years have transpired after the last owner-initiated account activity and first-class mail has been returned as undeliverable or 2 years after the expiration date on the instrument or contract and first-class mail has been returned as undeliverable.

1. Within 180 days after an account becomes inactive, the holder shall conduct a search to locate the apparent owner of the property. The holder may satisfy such requirement by conducting one annual search for the owners of all accounts which have become inactive during the prior year.

2. Within 30 days after receiving updated address information, the holder shall provide notice by telephone or first-class mail to the current address notifying the apparent owner that the holder is in possession of property which is presumed unclaimed and may be remitted to the department. The notice shall also provide the apparent owner with the address or the telephone number of an office where the apparent owner may claim the property or reestablish the inactive account. The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate.

(b) The claim of the apparent owner is not barred by the statute of limitations.

(5)(6) Any holder of intangible property may file with the department a petition for determination that the property is unclaimed ~~abandoned~~ requesting the department to accept custody of the property. The petition shall

state any special circumstances that exist, contain the information required by subsection (2), and show that a diligent search has been made to locate the owner. If the department finds that the proof of diligent search is satisfactory, it shall give notice as provided in s. 717.118 and accept custody of the property.

~~(6)(7)~~ Upon ~~On~~ written request by any entity or person required to file a report, stating such entity's or person's ~~their~~ justification for such action, the department may place that entity or person in an inactive status as an unclaimed abandoned property "holder."

~~(7)(8)~~ This section shall not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425.

Section 18. Section 717.118, Florida Statutes, is amended to read:

717.118 Notice and publication of lists of unclaimed abandoned property.—

(1) It is specifically recognized that the state has an obligation to make an effort to notify owners of unclaimed abandoned property in a cost-effective manner. In order to provide all the citizens of this state an effective and efficient program for the recovery of unclaimed abandoned property, the department shall use cost-effective means to make at least one active a single attempt to notify owners of the existence of unclaimed abandoned property held by the department. Such active attempt to locate apparent owners shall include any attempt by the department to directly contact the owner. Other ~~The~~ means of notification, such as publication of the names of owners in the newspaper, on television, on the Internet, or through other promotional efforts and items in which the department does not directly attempt to contact the owner are expressly declared to be passive attempts. Nothing in this subsection precludes other agencies or entities of state government from notifying owners of the existence of unclaimed property or attempting to locate apparent owners of unclaimed property. may include post, print, visual, telecommunications, or electronic media. Publication of the names of owners on the Internet is not an attempt to notify owners under this subsection. The department shall implement such notification within 13 months following the receipt of the report required by s. 717.117.

(2) The following notification requirements shall apply:

(a) Notifications that are published or televised may shall consist of the names of apparent owners of unclaimed abandoned property, listed in alphabetical order, and information regarding recovery of unclaimed abandoned property from the department. Such notification may shall be televised or published in the county in which the last known address of the apparent owner is located or, if the address is unknown, in the county in which the holder has its principal place of business. Published notifications may must be in accordance with s. 50.011.

(b) Notification provided directly to individual apparent owners shall consist of a description of the property and information regarding recovery of unclaimed abandoned property from the department.

(3) The department may ~~shall~~ publish in the notice any items of more than \$100.

(4) This section is not applicable to sums payable on traveler's checks, money orders, and other written instruments presumed unclaimed ~~abandoned~~ under s. 717.104.

Section 19. Section 717.119, Florida Statutes, is amended to read:

717.119 Payment or delivery of unclaimed ~~abandoned~~ property.—

(1) Every person who is required to file a report under s. 717.117 shall simultaneously pay or deliver to the department all unclaimed ~~abandoned~~ property required to be reported. Such payment or delivery shall accompany the report as required in this chapter for the preceding calendar year.

(2) Payment of unclaimed funds may be made to the department by electronic funds transfer.

(3)(2) If the owner establishes the right to receive the unclaimed ~~abandoned~~ property to the satisfaction of the holder before the property has been delivered to the department or it appears that for some other reason the presumption that the property is unclaimed of abandonment is erroneous, the holder need not pay or deliver the property to the department, ~~which will no longer be presumed abandoned,~~ but In lieu of delivery, the holder thereof shall file a verified written explanation of the proof of claim or of the error in the presumption that the property was unclaimed of abandonment.

(4)(3) All stock or other intangible ownership interest reported under this chapter on the annual report filing required in s. 717.117 shall be ~~sold and the proceeds~~ remitted to the department with the report. ~~Reasonable fees within the industry's standards may be deducted from the proceeds for the costs of selling the stock or other intangible ownership interest.~~ Upon delivery of the stock or other intangible ownership interest ~~net proceeds~~ to the department, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every person for any losses or damages resulting to the person by the ~~sale and~~ delivery to the department of the stock or other intangible ownership interest net proceeds.

(5)(4) All intangible and tangible property held in a safe-deposit box or any other safekeeping repository reported under s. 717.117 shall not be delivered to the department until 120 days after the report due date. Holders may remit the value of cash and coins found in unclaimed safe-deposit boxes to the department by cashier's check or by electronic funds transfer, unless the cash or coins have a value above face value. The department shall identify by rule those cash and coin items having a numismatic value. Cash and coin items identified as having a numismatic value shall be remitted to the department in their original form.

(a) If such property is not paid or delivered to the department filed on or before the applicable payment or delivery filing date, the holder shall pay to the department a penalty of \$10 for each safe-deposit box received late,

but such penalty shall not exceed \$1,000. ~~As necessary for proper administration of this chapter,~~

(b) The department may waive any penalty due with appropriate justification, as provided by rule.

(c) ~~Upon~~ On written request by any person required to deliver safe-deposit box contents, the department may postpone the delivery.

~~(6)(5)~~ Any holder may request an extension in writing of up to 60 days for the delivery of property if extenuating circumstances exist for the late delivery of the property. Any such extension, ~~and the department may grant~~ shall be such an extension in writing.

Section 20. Subsection (6) of section 717.1201, Florida Statutes, is amended to read:

717.1201 Custody by state; holder relieved from liability; reimbursement of holder paying claim; reclaiming for owner; defense of holder; payment of safe-deposit box or repository charges.—

(6) For the purposes of this section, “good faith” means that:

(a) Payment or delivery was made in a reasonable attempt to comply with this chapter.

(b) The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to that person, that the property was unclaimed ~~abandoned~~ for the purposes of this chapter.

(c) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

Section 21. Subsections (1), (2), and (3) of section 717.122, Florida Statutes, are amended to read:

717.122 Public sale of unclaimed ~~abandoned~~ property.—

(1) Except as provided in subsection (2), the department after the receipt of unclaimed ~~abandoned~~ property shall sell it to the highest bidder at public sale wherever in whatever city in the state affords in the judgment of the department the most favorable market for the property involved exists. The department may decline the highest bid and reoffer the property for sale if in the judgment of the department the bid is insufficient. The department shall have the discretion to withhold from sale any unclaimed ~~abandoned~~ property that the department deems to be of benefit to the people of the state. If in the judgment of the department the probable cost of sale exceeds the value of the property, it need not be offered for sale and may be disposed of as the department determines appropriate. Any sale held under this section must be preceded by a single publication of notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(2) Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the department deems advisable. The department may authorize the agent or broker acting on behalf of the department to deduct fees from the proceeds of these sales at a rate agreed upon in advance by the agent or broker and the department. The department shall reimburse owners accounts for these brokerage fees from the State School Fund unless the securities are sold at the owner's request.

(3) Unless the department deems it to be in the public interest to do otherwise, all securities presumed unclaimed abandoned and delivered to the department may be sold upon receipt. Any person making a claim pursuant to this chapter is entitled to receive either the securities delivered to the department by the holder, if they still remain in the hands of the department, or the proceeds received from sale, less any amounts deducted pursuant to subsection (2) s. 717.123, but no person has any claim under this chapter against the state, the holder, any transfer agent, any registrar, or any other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the state.

Section 22. Section 717.123, Florida Statutes, is amended to read:

717.123 Deposit of funds.—

(1) All funds received under this chapter, including the proceeds from the sale of unclaimed abandoned property under s. 717.122, shall forthwith be deposited by the department in the Unclaimed Property Trust State School Fund, ~~except that~~ The department shall retain, from funds received under this chapter, in a separate account an amount not exceeding \$8 \$3 million from which the department it shall make prompt payment of claims allowed by the department and shall pay the it. costs incurred by the department in administering and enforcing this chapter. All remaining funds received by the department under this chapter shall be deposited by the department into the shall be reimbursed from the State School Fund.

(2) The department shall record the name and last known address of each person appearing from the holder's reports to be entitled to the unclaimed abandoned property in the total amounts of \$5 or greater; the name and the last known address of each insured person or annuitant; and with respect to each policy or contract listed in the report of an insurance corporation, its number, the name of the corporation, and the amount due.

Section 23. Subsection (5) of section 717.124, Florida Statutes, is amended to read:

717.124 Filing of claim with department.—

(5)(a) If an owner authorizes a claimant assigns his or her rights to receive payment to an attorney, Florida-certified public accountant, or private investigative agency which is duly licensed to do business in this state to claim the unclaimed property on the owner's behalf pursuant to a written

~~agreement with such claimant~~, the department is authorized to make distribution of the property or money in accordance with such power of attorney assignment.

(b)1. Payments of approved claims for unclaimed cash accounts shall be made to the owner after deducting any fees authorized pursuant to a written power of attorney.

2. Payments of fees authorized pursuant to a written power of attorney for approved cash claims shall be forwarded to the designated attorney, Florida-certified public accountant, or private investigative agency. Such payments may be made by electronic funds transfer and may be made on such periodic schedule as the department may define by rule, provided the payment intervals do not exceed 31 days.

3. Payments of approved claims for unclaimed securities and other intangible ownership interests made to an attorney, Florida-certified public accountant, or private investigative agency shall be promptly deposited into a trust or escrow account which is regularly maintained by the attorney, Florida-certified public accountant, or the private investigative agency in a financial institution authorized to accept such deposits and located in this state.

(c) Distribution of unclaimed property by the attorney, Florida-certified public accountant, or private investigative agency to the claimant shall be made within 10 days following final credit of the deposit into the trust or escrow account at the financial institution, unless a party to the agreement protests in writing such distribution before it is made.

~~(6)(d)~~ The department shall not be civilly or criminally liable for any property or funds distributed pursuant to this section subsection, provided such distribution is made in good faith.

Section 24. Subsection (1) of section 717.1241, Florida Statutes, is amended to read:

717.1241 Conflicting claims.—

(1) When ownership has been established but conflicting claims have been received by filed, the department, ~~shall remit the property shall be remitted to the:~~

(a) Person submitting the first claim received by the department;

(b) Owner if an owner's claim and an owner's representative's claim are received by the department on the same day; or

(c) Owner's representative who has the earliest dated contract with the owner if claims by two or more owner's representatives are received by the department on the same day as follows:

~~(a) If both the owner and the owner's representative file claims for the same property;~~

1. ~~To the owner, if the owner has appointed the owner's representative as the owner's attorney in fact but has not irrevocably assigned the unclaimed property in whole or in part to the owner's representative; or~~

2. ~~To the owner's representative pursuant to s. 717.124 if the owner has irrevocably assigned the unclaimed property in whole or in part to the owner's representative.~~

(b) ~~To the owner's representative who first executed a contract with the owner more than 12 months after the property has been reported to the department, unless paragraph (a) applies;~~

(c) ~~To the owner's representative who first executed a contract with the owner within 12 months after the property has been reported to the department, unless paragraph (a) or paragraph (b) applies.~~

Section 25. Section 717.1243, Florida Statutes, is amended to read:

717.1243 Small estate accounts ~~Transfer of unclaimed property by operation of law.~~—When A claim for unclaimed property is made by a beneficiary, as defined in s. 731.201, an heir of a deceased an owner who died intestate need, it shall not be accompanied by necessary to accompany the claim with an order of a probate court if the claimant files with the department an affidavit, signed by all beneficiaries, stating that all the beneficiaries heirs have amicably agreed among themselves upon a division of the estate, that the assets of the estate of the owner, excluding the unclaimed property, are sufficient to pay all just claims, and that all funeral expenses, expenses of the last illness, and any other lawful claims have been paid no probate proceedings have been instituted upon the estate. If the owner died dies testate but the will is not probated, the claim shall be accompanied by a certified copy of the will and an affidavit stating that the assets of the estate of the owner, excluding the unclaimed property, are sufficient to pay all just claims and that no probate proceedings have been instituted upon the estate.

(2) Each person receiving property under this section shall be personally liable for all lawful claims against the estate of the owner, but only to the extent of the value of the property received by such person under this section, exclusive of the property exempt from claims of creditors under the constitution and laws of this state.

(3) Any heir or devisee of the owner, who was lawfully entitled to share in the property but did not receive his or her share of the property, may enforce his or her rights in appropriate proceedings against those who received the property and shall be awarded taxable costs as in chancery actions, including attorney's fees.

(4) This section only applies if all of the unclaimed property held by the department on behalf of the owner has an aggregate value of \$5,000 ~~\$1,000~~ or less and no probate proceeding is pending.

Section 26. Subsections (1) and (2) of section 717.125, Florida Statutes, are amended to read:

717.125 Claim of another state to recover property; procedure.—

(1) At any time after property has been paid or delivered to the department under this chapter, another state may recover the property if:

(a) The property was subjected to custody by this state because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed unclaimed ~~abandoned~~ under this chapter, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment or being unclaimed by that state;

(b) The last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state;

(c) The records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and under laws of that state the property escheated to or was subject to a claim of abandonment by that state;

(d) The property was subject to custody by this state under s. 717.103(6) and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or

(e) The property is the sum payable on a traveler's check, money order, or other similar instrument that was subjected to custody by this state under s. 717.104, and the instrument was purchased in the other state, and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.

(2) The claim of another state to recover escheated or unclaimed ~~abandoned~~ property under this section must be presented in a form prescribed by the department, and the department shall determine the claim within 90 days after it is presented. Such determination shall contain a notice of rights provided by ss. 120.569 and 120.57.

Section 27. Subsection (1) of section 717.129, Florida Statutes, is amended to read:

717.129 Periods of limitation.—

(1) The expiration before or after July 1, 1987, of any period of time specified by contract, statute, or court order, during which a claim for money or property may be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property, does not prevent the money or property from being presumed unclaimed ~~abandoned~~ or affect any duty to file a report or to pay or deliver unclaimed ~~abandoned~~ property to the department as required by this chapter.

Section 28. Section 717.1315, Florida Statutes, is created to read:

717.1315 Retention of records by owner's representative.—

(1) Every owner's representative shall keep and use in his or her business such books, accounts, and records of the business conducted under this chapter to enable the department to determine whether such owner's representative is complying with this chapter and the rules adopted by the department under this chapter. Every owner's representative shall preserve such books, accounts, and records, including every agreement between the owner and such owner's representative, for at least 3 years after the date of the initial agreement.

(2) An owner's representative, operating at two or more places of business in this state, may maintain the books, accounts, and records of all such offices at any one of such offices, or at any other office maintained by such owner's representative, upon the filing of a written notice with the department designating in the written notice the office at which such records are maintained. However, the owner's representative shall make all books, accounts, and records available at a convenient location in this state upon request of the department.

Section 29. Subsection (3) of section 717.132, Florida Statutes, is amended to read:

717.132 Enforcement; cease and desist orders; administrative fines.—

(3) In addition to any other powers conferred upon it to enforce and administer the provisions of this chapter, the department may impose and collect an administrative fine against any person found to have violated any provision of this chapter, any rule or order promulgated under this chapter, or any written agreement entered into with the department in an amount not to exceed \$2,000 for each violation. All fines collected under this subsection shall be deposited as received in the Unclaimed Property Trust Fund.

Section 30. Section 717.135, Florida Statutes, is amended to read:

717.135 Agreement to locate reported property.—

(1) All agreements between an owner's representative and an owner for ~~to pay~~ compensation to recover or assist in the recovery of property reported to the department under s. 717.117 shall either:

(a) Limit the fees for services for each owner contract to \$25 for all contracts relating to unclaimed property with a dollar value below \$250. For all contracts relating to unclaimed property with a dollar value of \$250 and above, fees shall be limited to 15 percent on property held by the department for 24 months or less and 25 percent on property held by the department for more than 24 months. Fees for cash accounts shall be based on the value of the property at the time the agreement for recovery is signed by the apparent owner. Fees for accounts containing securities or other intangible ownership interests, which securities or interests are not converted to cash, shall be based on the purchase price of the security as quoted on a national

exchange or other market on which the ownership interest is regularly traded at the time the securities or other ownership interest is remitted to the owner or the owner's representative. Fees for tangible property or safe-deposit box accounts shall be based on the value of the tangible property or contents of the safe-deposit box at the time the ownership interest is transferred or remitted to the owner or the owner's representative; or

(b) Disclose that the property is held by the Department of Banking and Finance pursuant to chapter 717, the person or name of the entity that held the property prior to the property becoming unclaimed, the date of the holder's last contact with the owner, if known, and the approximate value of the property, and identify which of the following categories of unclaimed property the owner's representative is seeking to recover:

1. Cash accounts.
2. Stale dated checks.
3. Life insurance or annuity contract assets.
4. Utility deposits.
5. Securities or other interests in business associations.
6. Wages.
7. Accounts receivable.
8. Contents of safe-deposit boxes

~~be unenforceable if made within 90 days after attempted notification by the department or within 12 months after such property is reported, whichever occurs first. However, this section shall not apply to contracts made in connection with guardianship proceedings or the probate of an estate.~~

(2)(a) Agreements for recovery of cash accounts shall state the dollar value of the unclaimed property account to be paid to the owner and shall also state the dollar value of compensation to be paid to the owner's representative.

(b) Agreements for recovery of accounts containing securities, safe-deposit box accounts, other intangible or tangible ownership interests, or other types of accounts, except cash accounts, shall state the approximate value of the unclaimed property and the percentage value of compensation to be paid to the owner's representative.

(c) All agreements shall include the name, address, and professional license number of the owner's representative, and, if available, the taxpayer identification number or social security number and telephone number of the owner. All such agreements to pay compensation shall be signed by the owner of the property and shall be filed by the owner's representative with the claim form. All agreements and/or powers of attorney entered into pursuant to subsection (1) shall contain the following statement directly above

~~the signature in no less than 6-point bold type: "THIS AGREEMENT TO PAY COMPENSATION TO RECOVER ABANDONED PROPERTY REPORTED TO THE STATE OF FLORIDA IS UNENFORCEABLE IF MADE WITHIN 90 DAYS AFTER THE ATTEMPTED NOTIFICATION OR WITHIN 12 MONTHS AFTER SUCH PROPERTY IS REPORTED, WHICHEVER OCCURS FIRST." Any agreement which does not contain this statement shall be unenforceable.~~

Section 31. Section 717.138, Florida Statutes, is amended to read:

717.138 Rulemaking authority.—The Department of Banking and Finance shall administer and provide for the enforcement of this chapter. The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. The department may adopt rules to allow for electronic filing of fees, forms, and reports required by this chapter.

Section 32. Section 732.107, Florida Statutes, is amended to read:

732.107 Escheat.—

(1) When a person dies, leaving an estate ~~dies~~ without being survived by any person entitled to a part of it, such part ~~the property~~ shall escheat to the state.

~~(2)(a) In this event, or when doubt exists about the existence of any person entitled to the estate, the personal representative shall institute a proceeding for the determination of beneficiaries, as provided in this code, within 1 year after letters have been issued to him or her, and notice shall be served on the Department of Legal Affairs. If the personal representative fails to institute the proceeding within the time fixed, it may be instituted by the Department of Legal Affairs.~~

~~(b) On or before January 15 of each year, each court shall furnish to the department a list of all estates being administered in which no person appears to be entitled to the property and the personal representative has not instituted a proceeding for the determination of beneficiaries.~~

~~(3) If the court determines that there is no person entitled to the estate and that the estate escheats, the Property that escheats shall be sold as provided in the Florida Probate Rules and the proceeds paid to the Treasurer of the state and deposited by him or her in the State School Fund within a reasonable time to be fixed by the court.~~

~~(3)(4) At any time within 10 years after the payment to the Treasurer granting of letters, a person claiming to be entitled to the proceeds estate of the decedent may petition to reopen the administration to and assert entitlement his or her rights to the proceeds escheated property. If the claimant is entitled to any of the estate of the decedent, the court shall fix the amount to which he or she is entitled, and it shall be repaid to him or her with interest at the legal rate by the officials charged with the disbursement of state school funds. If no claim is timely asserted within the time fixed, the state's rights title of the state to the property and the proceeds shall become absolute.~~

(4)(5) The Department of Legal Affairs shall represent the state in all proceedings concerning escheated estates.

(5)(6)(a) If a person entitled to the proceeds funds assigns the his or her rights to receive payment to an attorney, Florida-certified public accountant, or private investigative agency which is duly licensed to do business in this state pursuant to a written agreement with such person, the Department of Banking and Finance is authorized to make distribution in accordance with such assignment.

(b) Payments made to an attorney, Florida-certified public accountant, or private investigative agency shall be promptly deposited into a trust or escrow account which is regularly maintained by the attorney, Florida-certified public accountant, or private investigative agency in a financial institution authorized to accept such deposits and located in this state.

(c) Distribution by the attorney, Florida-certified public accountant, or private investigative agency to the person entitled to the proceeds funds shall be made within 10 days following final credit of the deposit into the trust or escrow account at the financial institution, unless a party to the agreement protests the in writing such distribution in writing before it is made.

(d) The department shall not be civilly or criminally liable for any proceeds funds distributed pursuant to this subsection, provided such distribution is made in good faith.

~~(7) Except as herein provided, escheated estates shall be administered as other estates.~~

Section 33. Section 215.965, Florida Statutes, is amended to read:

215.965 Disbursement of state moneys.—Except as provided in s. 17.076, s. 253.025(14), s. 259.041(18), s. 717.124(5), s. 732.107(5)(6), or s. 733.816(5), all moneys in the State Treasury shall be disbursed by state warrant, drawn by the Comptroller upon the State Treasury and payable to the ultimate beneficiary. This authorization shall include electronic disbursement.

Section 34. Paragraph (d) of subsection (17) of section 493.6101, Florida Statutes, is amended to read:

493.6101 Definitions.—

(17) “Private investigation” means the investigation by a person or persons for the purpose of obtaining information with reference to any of the following matters:

(d) The whereabouts of missing persons, owners of unclaimed abandoned property or escheated property, or heirs to estates.

Section 35. Subsection (15) is added to section 493.6102, Florida Statutes, to read:

493.6102 Inapplicability of parts I through IV of this chapter.—This chapter shall not apply to:

(15) Any licensed Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473.

Section 36. Section 717.137, Florida Statutes, is repealed.

Section 37. This act shall take effect October 1, 2001.

Approved by the Governor April 30, 2001.

Filed in Office Secretary of State April 30, 2001.