

CHAPTER 2016-90

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 783

An act relating to unclaimed property; amending s. 717.101, F.S.; revising and providing definitions; amending s. 717.117, F.S.; providing an exception to unclaimed property reporting requirements; creating s. 717.1235, F.S.; requiring certain unclaimed funds to be deposited with the Chief Financial Officer for certain purposes; amending s. 717.1243, F.S.; revising the aggregate value that constitutes a small estate account; amending s. 717.1262, F.S.; requiring a copy of certain pleadings to be filed with the Department of Financial Services; amending s. 717.1333, F.S.; revising requirements for the estimation of certain amounts due to the department; amending s. 717.135, F.S.; revising requirements for a power of attorney used in the recovery of unclaimed property; revising applicability; requiring separate acknowledgement of a certain disclosure; deleting a provision that allows deletion of certain wording from a power of attorney; prohibiting a fee for the recovery of unclaimed property from exceeding a specified amount; providing an exception; amending s. 717.1351, F.S.; revising requirements for contracts to acquire ownership of or entitlement to unclaimed property; requiring separate acknowledgement of a certain disclosure; providing that certain claims are void; deleting a provision that allows deletion of certain wording from a purchase agreement; prohibiting a fee for the recovery of unclaimed property from exceeding a specified amount; providing an exception; repealing s. 717.1381, F.S., relating to void unclaimed property powers of attorney and purchase agreements; amending s. 717.139, F.S.; providing a statement of public policy; amending s. 717.1400, F.S.; removing authority of certain private investigators, accountants, and attorneys to obtain social security numbers; providing an effective date.

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

Section 1. Subsection (24) of section 717.101, Florida Statutes, is renumbered as subsection (25), subsections (4), (8), and (13) of that section are amended, and a new subsection (24) is added to that section, to read:

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

(4) “Business association” means any corporation (other than a public corporation), joint stock company, investment company, business trust, partnership, limited liability company, or association of two or more individuals for business purposes of two or more individuals, whether or not for profit or not for profit, including a banking organization, financial organization, insurance company, dissolved pension plan, or utility.

(8) “Domicile” means the state of incorporation ~~for, in the case of a~~ corporation incorporated under the laws of a state, ~~and or, for an~~ unincorporated business association, the state where of the principal place of business association is organized, ~~in the case of a person not incorporated under the laws of a state.~~

(13) “Insurance company” means an association, corporation, or fraternal or mutual benefit organization, whether ~~or not for profit or not for profit~~, which is engaged in providing insurance coverage, ~~including, by way of illustration and not limitation, accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.~~

(24) “United States” means any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

Section 2. Paragraph (a) of subsection (7) of section 717.117, Florida Statutes, is amended to read:

717.117 Report of unclaimed property.—

(7)(a) This section does not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425 ~~or that are exempt from ad valorem taxation pursuant to s. 196.2002.~~

Section 3. Section 717.1235, Florida Statutes, is created to read:

717.1235 Dormant campaign accounts; report of unclaimed property.— Unclaimed funds reported in the name of a campaign for public office, for any campaign that must dispose of surplus funds in its campaign account pursuant to s. 106.141, after being reported to the department, shall be deposited with the Chief Financial Officer to the credit of the State School Fund.

Section 4. Subsection (4) of section 717.1243, Florida Statutes, is amended to read:

717.1243 Small estate accounts.—

(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 ~~\$10,000~~ \$5,000 or less and no probate proceeding is pending.

Section 5. Section 717.1262, Florida Statutes, is amended to read:

717.1262 Court documents.—Any person who claims entitlement to unclaimed property by reason of a court document shall file a certified copy of the court document with the department. A certified copy of each pleading

filed with the court to obtain a court document establishing entitlement, filed within 180 days before the date the claim form was signed by the claimant or claimant's representative, must also be filed with the department.

Section 6. Subsection (2) of section 717.1333, Florida Statutes, is amended to read:

717.1333 Evidence; estimations; audit reports, examiner's worksheets, investigative reports, other related documents.—

(2) If the records of the holder that are available for the periods subject to this chapter are insufficient to permit the preparation of a report of the unclaimed property due and owing by a holder, or if the holder fails to provide records after being requested to do so, the amount due to the department may be reasonably estimated.

Section 7. Subsections (5) and (6) of section 717.135, Florida Statutes, are renumbered as subsections (6) and (7), respectively, subsections (2) and (3) and paragraph (g) of subsection (4) of that section are amended, and a new subsection (5) is added to that section, to read:

717.135 Power of attorney to recover reported property in the custody of the department.—

(2) A power of attorney described in subsection (1) must:

(a) Limit the fees and costs for services to 20 percent per unclaimed property account held by the department. Fees and costs for cash accounts shall be based on the value of the property at the time the power of attorney is signed by the claimant. Fees and costs 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 property is regularly traded at the time the securities or other ownership interest is remitted to the claimant or the claimant's representative. Fees and costs 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 claimant. Total fees and costs on any single account owned by a natural person residing in this country must not exceed \$1,000; or

(b) Fully disclose that the property is held by the Bureau of Unclaimed Property of the Department of Financial Services pursuant to this chapter, the mailing address of the bureau, the Internet address of the bureau, the person or name of the entity that held the property ~~before~~ ~~prior to~~ the property became 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 claimant's representative is seeking to recover, as reported by the holder:

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.

~~This subsection shall not apply if probate proceedings must be initiated on behalf of the claimant for an estate that has never been probated or if the unclaimed property is being claimed by a person outside of the United States.~~

(3)(a) Before executing a power of attorney described in paragraph (2)(b), the claimant's representative must obtain a signed acknowledgement from the claimant that states must state in 12-point type or greater in the order indicated with the blank spaces accurately completed:

FULL DISCLOSURE STATEMENT

The property is currently held by the State of Florida Department of Financial Services, Bureau of Unclaimed Property, pursuant to chapter 717, Florida Statutes. The mailing address of the Bureau of Unclaimed Property is The Internet address of the Bureau of Unclaimed Property is

The property was Remitted by:

Date of last contact:

Property category:

(b) The acknowledgement required by paragraph (a) must be on a document separate from the power of attorney described in paragraph (2)(b).

~~(c)(b)~~ Immediately above the signature line for the claimant, an acknowledgement ~~a power of attorney~~ described in paragraph (a) ~~(2)(b)~~ must state in 12-point type or greater:

Claimant agrees, by signing below, that the FULL DISCLOSURE STATEMENT has been read and fully understood.

(4)(g) This section does not prohibit the:

1. Use of bolding, italics, print of different colors, and text borders as a means of highlighting or stressing certain selected items within the text.

2. Placement of the name, address, and telephone number of the representative’s firm or company in the top margin above the words “POWER OF ATTORNEY.” No additional writing of any kind may be placed in the top margin including, but not limited to, logos, license numbers, Internet addresses, or slogans.

3. Placement of the word “pending” prior to the words “NET AMOUNT TO BE PAID TO CLAIMANT,” if it is not yet possible to determine the percentage interest of an heir or legatee prior to a determination on the issue by the probate court.

4. Deletion of the words “Number of Shares of Stock (If Applicable)” if the agreement does not relate to the recovery of securities.

~~5. Deletion of the words “Percent to Be Paid as Compensation to Claimant’s Representative” if the power of attorney provides for a flat fee to be paid as compensation to the claimant’s representative.~~

(5) A fee for the recovery of unclaimed property may not exceed the amount allowed under paragraph (2)(a) unless the full disclosure statement specified in paragraphs (2)(b) and (3)(a) is provided to and signed by the claimant on the face of the initial agreement of representation. Any other agreement or authorization that predates the limited power of attorney authorized by this chapter and that is not submitted with the original claim is void.

Section 8. Subsections (2) and (4), paragraph (d) of subsection (7), and subsection (8) of section 717.1351, Florida Statutes, are amended to read:

717.1351 Acquisition of unclaimed property.—

(2) All contracts to acquire ownership of or entitlement to unclaimed property from the person or persons entitled to the unclaimed property must be in 10-point type or greater and must:

(a) Have a purchase price that discounts the value of the unclaimed property at the time the agreement is executed by the seller at no greater than 20 percent per account held by the department. The amount paid to the seller for an unclaimed property account must not be discounted in excess of \$1,000. ~~However, the \$1,000 discount limitation does not apply if probate proceedings must be initiated on behalf of the seller for an estate that has never been probated or if the seller of the unclaimed property is not a natural person or is a person outside the United States; or~~

(b) Fully disclose that the property is held by the Bureau of Unclaimed Property of the Department of Financial Services pursuant to this chapter,

the mailing address of the bureau, the Internet address of the bureau, 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 buyer is seeking to purchase as reported by the holder:

- 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.

(c) Before executing the purchase agreement described in this paragraph (b), the purchaser must obtain a signed acknowledgement from the seller that states must state in 12-point type or greater in the order indicated with the blank spaces accurately completed:

FULL DISCLOSURE STATEMENT

The property is currently held by the State of Florida Department of Financial Services, Bureau of Unclaimed Property, pursuant to chapter 717, Florida Statutes. The mailing address of the Bureau of Unclaimed Property is The Internet address of the Bureau of Unclaimed Property is

The property was remitted by:

Date of last contact:

Property category:

The acknowledgement required by this paragraph must be on a document separate from the purchase agreement described in this subsection. Immediately above the signature line for the seller, an acknowledgement the purchase agreement described in this paragraph must state in 12-point type or greater:

Seller agrees, by signing below, that the FULL DISCLOSURE STATEMENT has been read and fully understood.

(4) Any contract to acquire ownership of or entitlement to unclaimed property from the person or persons entitled to the unclaimed property must provide for the purchase price to be remitted to the seller or sellers within 30 ~~10~~ days after the execution of the contract by the seller or sellers. The contract must specify the unclaimed property account number, the name of the holder who reported the property to the department, the category of unclaimed property, the value of the unclaimed property account, and the number of shares of stock, if applicable. Proof that the seller has received of payment by check must be filed with the department with the claim. If proof of payment is not provided, the claim is void.

(7) This section does not prohibit the:

(d) ~~Deletion of the words “Percent of Property to be Paid to Buyer,” if the purchase agreement provides for a flat fee to be paid as compensation to the buyer.~~

(8)(a) A purchase price for the sale of the right to recovery of unclaimed property may not be reduced by any amount that exceeds the amount allowed under paragraph (2)(a) unless the full disclosure statement specified in paragraphs (2)(b) and (2)(c) is provided to and signed by the claimant on the face of the initial agreement of representation or sale. Any other agreement or authorization that predates the purchase agreement as required by this chapter and that is not submitted with the original claim is void.

(b) This section does not supersede the licensing requirements of chapter 493.

Section 9. Section 717.1381, Florida Statutes, is repealed.

Section 10. Section 717.139, Florida Statutes, is amended to read:

717.139 Uniformity of application and construction.—

(1) It is the public policy of the state to protect the interests of owners of unclaimed property. It is declared to be in the best interests of owners of unclaimed property that such owners receive the full amount of any unclaimed property without any fee.

(2) This chapter shall be applied and construed as to effectuate its general purpose of protecting the interest of missing owners of property, while providing that the benefit of all unclaimed and abandoned property shall go to all the people of the state, and to make uniform the law with respect to the subject of this chapter among states enacting it.

Section 11. Subsections (1) through (4) of section 717.1400, Florida Statutes, are amended to read:

717.1400 Registration.—

(1) In order to file claims as a claimant's representative, acquire ownership of or entitlement to unclaimed property, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and, numbers of reported shares of stock, ~~and social security numbers~~ held by the department, a private investigator holding a Class "C" individual license under chapter 493 must register with the department on such form as the department prescribes ~~shall prescribe~~ by rule, and must be verified by the applicant. To register with the department, a private investigator must provide:

(a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's firm or employer which holds a Class "A" business license under chapter 493.

(b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.

(c) The business address and telephone number of the applicant's private investigative firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the private investigator's firm or employer which holds a Class "A" business license under chapter 493.

(2) In order to file claims as a claimant's representative, acquire ownership of or entitlement to unclaimed property, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and, numbers of reported shares of stock, ~~and social security numbers~~ held by the department, a Florida-certified public accountant must register with the department on such form as the department prescribes ~~shall prescribe~~ by rule, and must be verified by the applicant. To register with the department, a Florida-certified public accountant must provide:

(a) The applicant's Florida Board of Accountancy number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's public accounting firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the Florida-certified public accountant, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the accountant's public accounting firm employer.

(3) In order to file claims as a claimant's representative, acquire ownership of or entitlement to unclaimed property, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and, numbers of reported shares of stock, ~~and social security numbers~~ held by the department, an attorney licensed to practice in this state must register with the department on such form as the department prescribes ~~shall prescribe~~ by rule, and must be verified by the applicant. To register with the department, such attorney must provide:

(a) The applicant's Florida Bar number.

(b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.

(c) The business address and telephone number of the applicant's firm or employer.

(d) The names of agents or employees, if any, who are designated to act on behalf of the attorney, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the attorney's firm or employer.

(4) Information and documents already on file with the department before ~~prior to~~ the effective date of this provision need not be resubmitted in order to complete the registration.

Section 12. This act shall take effect July 1, 2016.

Approved by the Governor March 24, 2016.

Filed in Office Secretary of State March 24, 2016.