

CHAPTER 2021-144

Committee Substitute for House Bill No. 425

An act relating to disposition of unclaimed property; amending s. 717.119, F.S.; requiring the Department of Financial Services to provide copies of certain wills and trusts, and any codicils or amendments of such wills and trusts, to certain persons upon request; amending s. 717.124, F.S.; requiring specified agreements for certain claims; removing provisions requiring the department to deny certain unclaimed property claims; increasing the threshold required to use a different method of identity verification for electronic claims; conforming provisions to changes made by the act; amending ss. 717.12404, 717.1315, and 717.1322, F.S.; conforming provisions to changes made by the act; amending s. 717.135, F.S.; requiring the department to adopt forms for an Unclaimed Property Recovery Agreement and an Unclaimed Property Purchase Agreement; providing requirements for such agreements; providing that the agreements are the exclusive means for a claimant's representative to file a claim or to recover fees and costs; prohibiting a claimant's representative from using or distributing any other form of agreement; providing administrative and civil penalties; authorizing the department to pay additional accounts under certain circumstances; providing applicability; repealing s. 717.1351, F.S., relating to unclaimed property claims; providing an effective date.

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

Section 1. Paragraph (e) is added to subsection (5) of section 717.119, Florida Statutes, to read:

717.119 Payment or delivery of unclaimed property.—

(5) 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. The delivery of the property, through the United States mail or any other carrier, shall be insured by the holder at an amount equal to the estimated value of the property. Each package shall be clearly marked on the outside "Deliver Unopened." A holder's safe-deposit box contents shall be delivered to the department in a single shipment. In lieu of a single shipment, holders may provide the department with a single detailed shipping schedule that includes package tracking information for all packages being sent pursuant to this section.

(e) If a will or trust instrument is included among the contents of a safe-deposit box or other safekeeping repository delivered to the department, the department must provide a copy of the will, trust, and any codicils or amendments to such will or trust instrument, upon request, to anyone who provides the department with evidence of the death of the testator or settlor.

Section 2. Subsection (1), paragraphs (b) and (c) of subsection (4), and subsections (7) and (10) of section 717.124, Florida Statutes, are amended to read:

717.124 Unclaimed property claims.—

(1) Any person, excluding another state, claiming an interest in any property paid or delivered to the department under this chapter may file with the department a claim on a form prescribed by the department and verified by the claimant or the claimant's representative. The claimant's representative must be an attorney licensed to practice law in this state, a licensed Florida-certified public accountant, or a private investigator licensed under chapter 493. The claimant's representative must be registered with the department under this chapter. The claimant, or the claimant's representative, shall provide the department with a legible copy of a valid driver license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver license at the time the original claim form is filed, the department shall be provided with a legible copy of a photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. In lieu of photographic identification, a notarized sworn statement by the claimant may be provided which affirms the claimant's identity and states the claimant's full name and address. The claimant must produce to the notary photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. The notary shall indicate the notary's full address on the notarized sworn statement. Any claim filed without the required identification or the sworn statement with the original claim form and the original Unclaimed Property Recovery Agreement or Unclaimed Property Purchase Agreement ~~power of attorney or purchase agreement~~, if applicable, is void.

(a) Within 90 days after receipt of a claim, the department may return any claim that provides for the receipt of fees and costs greater than that permitted under this chapter or that contains any apparent errors or omissions. The department may also request that the claimant or the claimant's representative provide additional information. The department shall retain a copy or electronic image of the claim.

~~(b) A claimant or the claimant's representative shall be deemed to have withdrawn a claim if no response to the department does not receive a response to its department's request for additional information is received by the department within 60 days after the notification of any apparent errors or omissions.~~
(b) A claim is considered to have been withdrawn by a claimant or the claimant's representative if no response to the department does not receive a response to its department's request for additional information is received by the department within 60 days after the notification of any apparent errors or omissions.

(c) Within 90 days after receipt of the claim, or the response of the claimant or the claimant's representative to the department's request for

additional information, whichever is later, the department shall determine each claim. Such determination shall contain a notice of rights provided by ss. 120.569 and 120.57. The 90-day period shall be extended by 60 days if the department has good cause to need additional time or if the unclaimed property:

1. Is owned by a person who has been a debtor in bankruptcy;
2. Was reported with an address outside of the United States;
3. Is being claimed by a person outside of the United States; or
4. Contains documents filed in support of the claim that are not in the English language and have not been accompanied by an English language translation.

~~(d) The department shall deny any claim under which the claimant's representative has refused to authorize the department to reduce the fees and costs to the maximum permitted under this chapter.~~

(4)

(b) If an owner authorizes an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, and registered with the department under this chapter, to claim the unclaimed property on the owner's behalf, the department is authorized to make distribution of the property or money in accordance with the Unclaimed Property Recovery Agreement or Unclaimed Property Purchase Agreement under s. 717.135 such power of attorney. The original Unclaimed Property Recovery Agreement or Unclaimed Property Purchase Agreement power of attorney must be executed by the claimant or seller owner and must be filed with the department.

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

2. Payments of fees and costs authorized under an Unclaimed Property Recovery Agreement pursuant to a written power of attorney for approved claims must shall be made or issued to the law firm of the designated attorney licensed to practice law in this state, the public accountancy firm of the licensed Florida-certified public accountant, or the designated employing private investigative agency licensed by this state. Such payments shall 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. Payment made to an attorney licensed in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, operating individually or as a sole practitioner,

must shall be to the attorney, certified public accountant, or private investigator.

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

(10) Notwithstanding any other provision of this chapter, the department may develop a process by which a ~~registered~~ claimant's representative or a buyer of unclaimed property may electronically submit to the department an electronic image of a completed claim and claims-related documents ~~under pursuant to~~ this chapter, including an Unclaimed Property Recovery Agreement or Unclaimed Property Purchase Agreement a limited power of attorney or purchase agreement that has been manually signed and dated by a claimant or seller ~~under pursuant to~~ s. 717.135 or s. ~~717.1351~~, after the claimant's representative or the buyer of unclaimed property receives the original documents provided by the claimant or the seller for any claim. Each claim filed by a ~~registered~~ claimant's representative or a buyer of unclaimed property must include a statement by the claimant's representative or the buyer of unclaimed property attesting that all documents are true copies of the original documents and that all original documents are physically in the possession of the claimant's representative or the buyer of unclaimed property. All original documents must be kept in the original form, by claim number, under the secure control of the claimant's representative or the buyer of unclaimed property and must be available for inspection by the department in accordance with s. 717.1315. The department may adopt rules to implement this subsection.

Section 3. Subsection (2) of section 717.12404, Florida Statutes, is amended to read:

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

(2) Claims on behalf of a dissolved corporation, a business entity other than an active corporation, or a trust must include a legible copy of a valid driver license of the person acting on behalf of the dissolved corporation, business entity other than an active corporation, or trust. If the person has not been issued a valid driver license, the department shall be provided with a legible copy of a photographic identification of the person issued by the United States, a foreign nation, or a political subdivision or agency thereof. In lieu of photographic identification, a notarized sworn statement by the person may be provided which affirms the person's identity and states the person's full name and address. The person must produce his or her photographic identification issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. The notary shall indicate the notary's full address on the notarized sworn

statement. Any claim filed without the required identification or the sworn statement with the original claim form and the original Unclaimed Property Recovery Agreement or Unclaimed Property Purchase Agreement ~~power of attorney~~, if applicable, is void.

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

717.1315 Retention of records by claimant’s representatives and buyers of unclaimed property.—

(1) Every claimant’s representative and buyer of unclaimed property 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 person is complying with this chapter and the rules adopted by the department under this chapter. Every claimant’s representative and buyer of unclaimed property shall preserve such books, accounts, and records, including every Unclaimed Property Recovery Agreement or Unclaimed Property Purchase Agreement ~~power of attorney or agreement~~ between the owner and such claimant’s representative or buyer, for at least 3 years after the date of the initial ~~power of attorney or agreement~~.

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

717.1322 Administrative and civil enforcement.—

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

(j) Requesting or receiving compensation for notifying a person of his or her unclaimed property or assisting another person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement ~~a power of attorney~~ to file a claim for unclaimed property owned by another, or a contract or agreement to purchase unclaimed property, unless such person is registered with the department under ~~pursuant to~~ this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This paragraph ~~subsection~~ does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department’s denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor June 21, 2021.

Filed in Office Secretary of State June 21, 2021.