

1 A bill to be entitled

2 An act relating to unclaimed property; amending s.
3 45.034, F.S.; revising qualifications for a surplus
4 trustee; amending s. 717.101, F.S.; revising and
5 providing definitions; creating s. 717.1235, F.S.;
6 providing that certain unclaimed property shall
7 escheat to the state for certain purposes; amending s.
8 717.1243, F.S.; revising the aggregate value that
9 constitutes a small estate account; amending s.
10 717.1333, F.S.; revising requirements for the
11 estimation of certain amounts due; amending s.
12 717.135, F.S.; revising requirements for a power of
13 attorney used in the recovery of unclaimed property;
14 eliminating a maximum fee provision for such recovery;
15 revising applicability; amending s. 717.1351, F.S.;
16 revising requirements for contracts to acquire
17 ownership of or entitlement to property; deleting a
18 provision that allows certain wording on a purchase
19 agreement; repealing s. 717.1381, F.S., relating to
20 void unclaimed property powers of attorney and
21 purchase agreements; amending s. 717.1400, F.S.;
22 removing authority of certain private investigators to
23 obtain social security numbers; revising registration
24 requirements; providing retroactive applicability;
25 providing an effective date.
26

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

28

29 Section 1. Subsection (8) is added to section 45.034,
30 Florida Statutes, to read:

31 45.034 Qualifications and appointment of a surplus trustee
32 in foreclosure actions.—

33 (8) (a) A surplus trustee must not be an owner,
34 shareholder, officer, member, employee, or participant in more
35 than one surplus trustee company or corporation.

36 (b) Upon a finding by the Department of Financial Services
37 that a surplus trustee has violated this subsection, the surplus
38 trustee's certification shall be suspended for 1 year.

39 Section 2. Subsection (24) of section 717.101, Florida
40 Statutes, is renumbered as subsection (25), a new subsection
41 (24) is added to that section, and subsections (4), (8), and
42 (13) of that section are amended, to read:

43 717.101 Definitions.—As used in this chapter, unless the
44 context otherwise requires:

45 (4) "Business association" means any corporation (other
46 than a public corporation), joint stock company, investment
47 company, business trust, partnership, limited liability company,
48 or association of two or more individuals for business purposes
49 ~~of two or more individuals, whether or not for profit or not for~~
50 ~~profit, including a banking organization, financial~~
51 ~~organization, insurance company, dissolved pension plan, or~~
52 ~~utility.~~

53 (8) "Domicile" means the state of incorporation for, ~~in~~
 54 ~~the case of~~ a corporation incorporated under the laws of a
 55 state, and or the state where ~~of~~ the principal place of business
 56 is located for unincorporated business associations, ~~in the case~~
 57 ~~of a person not incorporated under the laws of a state.~~

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

67 (24) "United States" means any state, district,
 68 commonwealth, territory, insular possession, and any other area
 69 subject to the legislative authority of the United States of
 70 America.

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

73 717.1235 Candidate for public office; escheatment of
 74 unclaimed property.—If the apparent owner of unclaimed property
 75 is the campaign account of a candidate for public office, the
 76 property, after being reported to the department, shall escheat
 77 to the state. The proceeds from disposition of the property
 78 shall be paid into the State School Fund.

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

81 717.1243 Small estate accounts.—

82 (4) This section only applies if all of the unclaimed
 83 property held by the department on behalf of the owner has an
 84 aggregate value of \$10,000 ~~\$5,000~~ or less and no probate
 85 proceeding is pending.

86 Section 5. Subsection (2) of section 717.1333, Florida
 87 Statutes, is amended to read:

88 717.1333 Evidence; estimations; audit reports, examiner's
 89 worksheets, investigative reports, other related documents.—

90 (2) If the records of the holder that are available for
 91 the periods subject to this chapter are insufficient to permit
 92 the preparation of a report of the unclaimed property due and
 93 owing by a holder, or if the holder fails to provide records
 94 after being requested to do so, the amount due to the department
 95 may be reasonably estimated, regardless of whether the holder is
 96 incorporated, formed, or organized in this state.

97 Section 6. Subsection (2) of section 717.135, Florida
 98 Statutes, is amended to read:

99 717.135 Power of attorney to recover reported property in
 100 the custody of the department.—

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

102 (a) Limit the fees and costs for services to 20 percent
 103 per unclaimed property account held by the department. Fees and
 104 costs for cash accounts shall be based on the value of the

105 | property at the time the power of attorney is signed by the
106 | claimant. Fees and costs for accounts containing securities or
107 | other intangible ownership interests, which securities or
108 | interests are not converted to cash, shall be based on the
109 | purchase price of the security as quoted on a national exchange
110 | or other market on which the property is regularly traded at the
111 | time the securities or other ownership interest is remitted to
112 | the claimant or the claimant's representative. Fees and costs
113 | for tangible property or safe-deposit box accounts shall be
114 | based on the value of the tangible property or contents of the
115 | safe-deposit box at the time the ownership interest is
116 | transferred or remitted to the claimant. ~~Total fees and costs on~~
117 | ~~any single account owned by a natural person residing in this~~
118 | ~~country must not exceed \$1,000; or~~

119 | (b) Fully disclose that the property is held by the Bureau
120 | of Unclaimed Property of the Department of Financial Services
121 | pursuant to this chapter, the mailing address of the bureau, the
122 | Internet address of the bureau, the person or name of the entity
123 | that held the property prior to the property becoming unclaimed,
124 | the date of the holder's last contact with the owner, if known,
125 | and the approximate value of the property, and identify which of
126 | the following categories of unclaimed property the claimant's
127 | representative is seeking to recover, as reported by the holder:

- 128 | 1. Cash accounts.
- 129 | 2. Stale dated checks.
- 130 | 3. Life insurance or annuity contract assets.

- 131 4. Utility deposits.
- 132 5. Securities or other interests in business associations.
- 133 6. Wages.
- 134 7. Accounts receivable.
- 135 8. Contents of safe-deposit boxes.

136

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

141 Section 7. Paragraph (a) of subsection (2) and paragraph
 142 (d) of subsection (7) of section 717.1351, Florida Statutes, are
 143 amended to read:

144 717.1351 Acquisition of unclaimed property.—

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

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

157 (7) This section does not prohibit the:

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

161 Section 8. Section 717.1381, Florida Statutes, is
 162 repealed.

163 Section 9. Section 717.1400, Florida Statutes, is amended
 164 to read:

165 717.1400 Registration.—

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

177 (a) A legible copy of the applicant's Class "A" business
 178 license under chapter 493 or that of the applicant's firm or
 179 employer which holds a Class "A" business license under chapter
 180 493.

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

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

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

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

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

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

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

206 (b) A legible copy of the applicant's current driver
 207 license showing the full name and current address of such
 208 person. If a current driver license is not available, another

209 form of identification showing the full name and current address
 210 of such person or persons shall be filed with the department.

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

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

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

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

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

232 (a) The applicant's Florida Bar number.

233 (b) A legible copy of the applicant's current driver
 234 license showing the full name and current address of such

235 person. If a current driver license is not available, another
236 form of identification showing the full name and current address
237 of such person or persons shall be filed with the department.

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

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

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

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

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

252 (5) If a material change in the status of a registration
253 occurs, a registrant must, within 30 days, provide the
254 department with the updated documentation and information in
255 writing. Material changes include, but are not limited to: a
256 designated agent or employee ceasing to act on behalf of the
257 designating person, a surrender, suspension, or revocation of a
258 license, or a license renewal.

259 (a) If a designated agent or employee ceases to act on
260 behalf of the person who has designated the agent or employee to

261 act on such person's behalf, the designating person must, within
262 30 days, inform the Bureau of Unclaimed Property in writing of
263 the termination of agency or employment.

264 (b) If a registrant surrenders the registrant's license or
265 the license is suspended or revoked, the registrant must, within
266 30 days, inform the bureau in writing of the surrender,
267 suspension, or revocation.

268 (c) If a private investigator's Class "C" individual
269 license under chapter 493 or a private investigator's employer's
270 Class "A" business license under chapter 493 is renewed, the
271 private investigator must provide a copy of the renewed license
272 to the department within 30 days after the receipt of the
273 renewed license by the private investigator or the private
274 investigator's employer.

275 (6) A registrant's firm or employer may not have a name
276 that might lead another person to conclude that the registrant's
277 firm or employer is affiliated or associated with the United
278 States, or an agency thereof, or a state or an agency or
279 political subdivision of a state. The department shall deny an
280 application for registration or revoke a registration if the
281 applicant's or registrant's firm or employer has a name that
282 might lead another person to conclude that the firm or employer
283 is affiliated or associated with the United States, or an agency
284 thereof, or a state or an agency or political subdivision of a
285 state. Names that might lead another person to conclude that the
286 firm or employer is affiliated or associated with the United

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287 States, or an agency thereof, or a state or an agency or
288 political subdivision of a state, include, but are not limited
289 to, the words United States, Florida, state, bureau, division,
290 department, or government.

291 (7) A registrant must submit a \$500 application fee with
292 his or her application for registration and submit a \$250
293 renewal fee on or before July 1 of each year thereafter. A
294 registrant who fails to pay the renewal fee shall lose
295 privileges afforded by this section until his or her fees are
296 paid. A registrant who fails to renew his or her registration by
297 December 31 must reapply for registration.

298 (8)-(7) The licensing and other requirements of this
299 section must be maintained as a condition of registration with
300 the department.

301 Section 10. The amendments made by this act to s.
302 717.1333, Florida Statutes, are remedial in nature and apply
303 retroactively to unclaimed property existing before July 1,
304 2016.

305 Section 11. This act shall take effect July 1, 2016.