

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Clemons offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

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

7 717.119 Payment or delivery of unclaimed property.—

8 (5) All intangible and tangible property held in a safe-
9 deposit box or any other safekeeping repository reported under
10 s. 717.117 shall not be delivered to the department until 120
11 days after the report due date. The delivery of the property,
12 through the United States mail or any other carrier, shall be
13 insured by the holder at an amount equal to the estimated value

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14 of the property. Each package shall be clearly marked on the
15 outside "Deliver Unopened." A holder's safe-deposit box contents
16 shall be delivered to the department in a single shipment. In
17 lieu of a single shipment, holders may provide the department
18 with a single detailed shipping schedule that includes package
19 tracking information for all packages being sent pursuant to
20 this section.

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

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

31 717.124 Unclaimed property claims.—

32 (1) Any person, excluding another state, claiming an
33 interest in any property paid or delivered to the department
34 under this chapter may file with the department a claim on a
35 form prescribed by the department and verified by the claimant
36 or the claimant's representative. The claimant's representative
37 must be an attorney licensed to practice law in this state, a
38 licensed Florida-certified public accountant, or a private

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39 investigator licensed under chapter 493. The claimant's
40 representative must be registered with the department under this
41 chapter. The claimant, or the claimant's representative, shall
42 provide the department with a legible copy of a valid driver
43 license of the claimant at the time the original claim form is
44 filed. If the claimant has not been issued a valid driver
45 license at the time the original claim form is filed, the
46 department shall be provided with a legible copy of a
47 photographic identification of the claimant issued by the United
48 States, a state or territory of the United States, a foreign
49 nation, or a political subdivision or agency thereof or other
50 evidence deemed acceptable by the department by rule. In lieu of
51 photographic identification, a notarized sworn statement by the
52 claimant may be provided which affirms the claimant's identity
53 and states the claimant's full name and address. The claimant
54 must produce to the notary photographic identification of the
55 claimant issued by the United States, a state or territory of
56 the United States, a foreign nation, or a political subdivision
57 or agency thereof or other evidence deemed acceptable by the
58 department by rule. The notary shall indicate the notary's full
59 address on the notarized sworn statement. Any claim filed
60 without the required identification or the sworn statement with
61 the original claim form and the original Unclaimed Property
62 Recovery Agreement or Unclaimed Property Purchase Agreement
63 ~~power of attorney or purchase agreement~~, if applicable, is void.

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

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

78 (c) Within 90 days after receipt of the claim, or the
79 response of the claimant or the claimant's representative to the
80 department's request for additional information, whichever is
81 later, the department shall determine each claim. Such
82 determination shall contain a notice of rights provided by ss.
83 120.569 and 120.57. The 90-day period shall be extended by 60
84 days if the department has good cause to need additional time or
85 if the unclaimed property:

86 1. Is owned by a person who has been a debtor in
87 bankruptcy;

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88 2. Was reported with an address outside of the United
89 States;

90 3. Is being claimed by a person outside of the United
91 States; or

92 4. Contains documents filed in support of the claim that
93 are not in the English language and have not been accompanied by
94 an English language translation.

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

99 (4)

100 (b) If an owner authorizes an attorney licensed to
101 practice law in this state, a Florida-certified public
102 accountant, or a private investigator licensed under chapter
103 493, and registered with the department under this chapter, to
104 claim the unclaimed property on the owner's behalf, the
105 department is authorized to make distribution of the property or
106 money in accordance with the Unclaimed Property Recovery
107 Agreement or Unclaimed Property Purchase Agreement under s.
108 717.135 ~~such power of attorney~~. The original Unclaimed Property
109 Recovery Agreement or Unclaimed Property Purchase Agreement
110 ~~power of attorney~~ must be executed by the claimant or seller
111 ~~owner~~ and must be filed with the department.

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

119 2. Payments of fees and costs authorized under an
120 Unclaimed Property Recovery Agreement ~~pursuant to a written~~
121 ~~power of attorney~~ for approved claims must ~~shall~~ be made or
122 issued to the law firm of the designated attorney licensed to
123 practice law in this state, the public accountancy firm of the
124 licensed Florida-certified public accountant, or the designated
125 employing private investigative agency licensed by this state.
126 Such payments shall be made by electronic funds transfer and may
127 be made on such periodic schedule as the department may define
128 by rule, provided the payment intervals do not exceed 31 days.
129 Payment made to an attorney licensed in this state, a Florida-
130 certified public accountant, or a private investigator licensed
131 under chapter 493, operating individually or as a sole
132 practitioner, must ~~shall~~ be to the attorney, certified public
133 accountant, or private investigator.

134 (7) The department may allow an apparent owner to
135 electronically submit a claim for unclaimed property to the
136 department. If a claim is submitted electronically for \$2,000

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137 | ~~\$1,000~~ or less, the department may use a method of identity
138 | verification other than a copy of a valid driver license, other
139 | government-issued photographic identification, or a sworn
140 | notarized statement. The department may adopt rules to implement
141 | this subsection.

142 | (10) Notwithstanding any other provision of this chapter,
143 | the department may develop a process by which a ~~registered~~
144 | claimant's representative or a buyer of unclaimed property may
145 | electronically submit to the department an electronic image of a
146 | completed claim and claims-related documents under ~~pursuant to~~
147 | this chapter, including an Unclaimed Property Recovery Agreement
148 | or Unclaimed Property Purchase Agreement ~~a limited power of~~
149 | ~~attorney or purchase agreement~~ that has been manually signed and
150 | dated by a claimant or seller under ~~pursuant to~~ s. 717.135 ~~or s.~~
151 | ~~717.1351~~, after the claimant's representative or the buyer of
152 | unclaimed property receives the original documents provided by
153 | the claimant or the seller for any claim. Each claim filed by a
154 | ~~registered~~ claimant's representative or a buyer of unclaimed
155 | property must include a statement by the claimant's
156 | representative or the buyer of unclaimed property attesting that
157 | all documents are true copies of the original documents and that
158 | all original documents are physically in the possession of the
159 | claimant's representative or the buyer of unclaimed property.
160 | All original documents must be kept in the original form, by
161 | claim number, under the secure control of the claimant's

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162 representative or the buyer of unclaimed property and must be
163 available for inspection by the department in accordance with s.
164 717.1315. The department may adopt rules to implement this
165 subsection.

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

168 717.12404 Claims on behalf of a business entity or trust.—

169 (2) Claims on behalf of a dissolved corporation, a
170 business entity other than an active corporation, or a trust
171 must include a legible copy of a valid driver license of the
172 person acting on behalf of the dissolved corporation, business
173 entity other than an active corporation, or trust. If the person
174 has not been issued a valid driver license, the department shall
175 be provided with a legible copy of a photographic identification
176 of the person issued by the United States, a foreign nation, or
177 a political subdivision or agency thereof. In lieu of
178 photographic identification, a notarized sworn statement by the
179 person may be provided which affirms the person's identity and
180 states the person's full name and address. The person must
181 produce his or her photographic identification issued by the
182 United States, a state or territory of the United States, a
183 foreign nation, or a political subdivision or agency thereof or
184 other evidence deemed acceptable by the department by rule. The
185 notary shall indicate the notary's full address on the notarized
186 sworn statement. Any claim filed without the required

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187 identification or the sworn statement with the original claim
188 form and the original Unclaimed Property Recovery Agreement or
189 Unclaimed Property Purchase Agreement ~~power of attorney~~, if
190 applicable, is void.

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

193 717.1315 Retention of records by claimant's
194 representatives and buyers of unclaimed property.-

195 (1) Every claimant's representative and buyer of unclaimed
196 property shall keep and use in his or her business such books,
197 accounts, and records of the business conducted under this
198 chapter to enable the department to determine whether such
199 person is complying with this chapter and the rules adopted by
200 the department under this chapter. Every claimant's
201 representative and buyer of unclaimed property shall preserve
202 such books, accounts, and records, including every Unclaimed
203 Property Recovery Agreement or Unclaimed Property Purchase
204 Agreement ~~power of attorney or agreement~~ between the owner and
205 such claimant's representative or buyer, for at least 3 years
206 after the date of the initial ~~power of attorney or agreement~~.

207 Section 5. Paragraph (j) of subsection (1) of section
208 717.1322, Florida Statutes, is amended to read:

209 717.1322 Administrative and civil enforcement.-

210 (1) The following acts are violations of this chapter and
211 constitute grounds for an administrative enforcement action by

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212 the department in accordance with the requirements of chapter
213 120 and for civil enforcement by the department in a court of
214 competent jurisdiction:

215 (j) Requesting or receiving compensation for notifying a
216 person of his or her unclaimed property or assisting another
217 person in filing a claim for unclaimed property, unless the
218 person is an attorney licensed to practice law in this state, a
219 Florida-certified public accountant, or a private investigator
220 licensed under chapter 493, or entering into, or making a
221 solicitation to enter into, an agreement ~~a power of attorney~~ to
222 file a claim for unclaimed property owned by another, or a
223 contract or agreement to purchase unclaimed property, unless
224 such person is registered with the department under ~~pursuant to~~
225 this chapter and an attorney licensed to practice law in this
226 state in the regular practice of her or his profession, a
227 Florida-certified public accountant who is acting within the
228 scope of the practice of public accounting as defined in chapter
229 473, or a private investigator licensed under chapter 493. This
230 paragraph subsection does not apply to a person who has been
231 granted a durable power of attorney to convey and receive all of
232 the real and personal property of the owner, is the court-
233 appointed guardian of the owner, has been employed as an
234 attorney or qualified representative to contest the department's
235 denial of a claim, or has been employed as an attorney to

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236 probate the estate of the owner or an heir or legatee of the
237 owner.

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

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

242 717.135 Recovery agreements and purchase agreements for
243 claims filed by a claimant's representative; fees and costs.-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

303 (6) A claimant's representative may not use or distribute
304 any other agreement, form, or other media with respect to the
305 claimant or seller which relates, directly or indirectly, to
306 unclaimed property accounts held by the department or the Chief
307 Financial Officer other than the agreements authorized by this
308 section. Any engagement, authorization, recovery, or fee
309 agreement that is not authorized by this section is void. A

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310 claimant's representative is subject to administrative and civil
311 enforcement under s. 717.1322 if he or she uses an agreement
312 that is not authorized by this section.

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

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

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

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

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

327

328

329 **T I T L E A M E N D M E N T**

330 Remove everything before the enacting clause and insert:

331 A bill to be entitled

332 An act relating to disposition of unclaimed property;
333 amending s. 717.119, F.S.; requiring the Department of
334 Financial Services to provide copies of certain wills

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335 and trusts, and any codicils or amendments of such
336 wills and trusts, to certain persons upon request;
337 amending s. 717.124, F.S.; requiring specified
338 agreements for certain claims; removing provisions
339 requiring the department to deny certain unclaimed
340 property claims; increasing the threshold required to
341 use a different method of identity verification for
342 electronic claims; conforming provisions to changes
343 made by the act; amending ss. 717.12404, 717.1315, and
344 717.1322, F.S.; conforming provisions to changes made
345 by the act; amending s. 717.135, F.S.; requiring the
346 department to adopt forms for an Unclaimed Property
347 Recovery Agreement and an Unclaimed Property Purchase
348 Agreement; providing requirements for such agreements;
349 providing that the agreements are the exclusive means
350 for a claimant's representative to file a claim or to
351 recover fees and costs; prohibiting a claimant's
352 representative from using or distributing any other
353 form of agreement; providing administrative and civil
354 penalties; authorizing the department to pay
355 additional accounts under certain circumstances;
356 providing applicability; repealing s. 717.1351, F.S.,
357 relating to unclaimed property claims; providing an
358 effective date.

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