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2016 Legislature

1
2 An act relating to unclaimed property; amending s.
3 717.101, F.S.; revising and providing definitions;
4 amending s. 717.117, F.S.; providing an exception to
5 unclaimed property reporting requirements; creating s.
6 717.1235, F.S.; requiring certain unclaimed funds to
7 be deposited with the Chief Financial Officer for
8 certain purposes; amending s. 717.1243, F.S.; revising
9 the aggregate value that constitutes a small estate
10 account; amending s. 717.1262, F.S.; requiring a copy
11 of certain pleadings to be filed with the Department
12 of Financial Services; amending s. 717.1333, F.S.;
13 revising requirements for the estimation of certain
14 amounts due to the department; amending s. 717.135,
15 F.S.; revising requirements for a power of attorney
16 used in the recovery of unclaimed property; revising
17 applicability; requiring separate acknowledgement of a
18 certain disclosure; deleting a provision that allows
19 deletion of certain wording from a power of attorney;
20 prohibiting a fee for the recovery of unclaimed
21 property from exceeding a specified amount; providing
22 an exception; amending s. 717.1351, F.S.; revising
23 requirements for contracts to acquire ownership of or
24 entitlement to unclaimed property; requiring separate
25 acknowledgement of a certain disclosure; providing
26 that certain claims are void; deleting a provision

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27 that allows deletion of certain wording from a
 28 purchase agreement; prohibiting a fee for the recovery
 29 of unclaimed property from exceeding a specified
 30 amount; providing an exception; repealing s.
 31 717.1381, F.S., relating to void unclaimed property
 32 powers of attorney and purchase agreements; amending
 33 s. 717.139, F.S.; providing a statement of public
 34 policy; amending s. 717.1400, F.S.; removing authority
 35 of certain private investigators, accountants, and
 36 attorneys to obtain social security numbers; providing
 37 an effective date.

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Subsection (24) of section 717.101, Florida
 42 Statutes, is renumbered as subsection (25), subsections (4),
 43 (8), and (13) of that section are amended, and a new subsection
 44 (24) is added to that section, to read:

45 717.101 Definitions.—As used in this chapter, unless the
 46 context otherwise requires:

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

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53 ~~organization, insurance company, dissolved pension plan, or~~
 54 ~~utility.~~

55 (8) "Domicile" means the state of incorporation for, in
 56 ~~the case of~~ a corporation incorporated under the laws of a
 57 state, ~~and~~ or, for an unincorporated business association, the
 58 state where ~~of the principal place of business association is~~
 59 organized, ~~in the case of a person not incorporated under the~~
 60 ~~laws of a state.~~

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

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

74 Section 2. Paragraph (a) of subsection (7) of section
 75 717.117, Florida Statutes, is amended to read:

76 717.117 Report of unclaimed property.—

77 (7) (a) This section does not apply to the unclaimed
 78 patronage refunds as provided for by contract or through bylaw

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79 provisions of entities organized under chapter 425 or that are
 80 exempt from ad valorem taxation pursuant to s. 196.2002.

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

83 717.1235 Dormant campaign accounts; report of unclaimed
 84 property.—Unclaimed funds reported in the name of a campaign for
 85 public office, for any campaign that must dispose of surplus
 86 funds in its campaign account pursuant to s. 106.141, after
 87 being reported to the department, shall be deposited with the
 88 Chief Financial Officer to the credit of the State School Fund.

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

91 717.1243 Small estate accounts.—

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

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

98 717.1262 Court documents.—Any person who claims
 99 entitlement to unclaimed property by reason of a court document
 100 shall file a certified copy of the court document with the
 101 department. A certified copy of each pleading filed with the
 102 court to obtain a court document establishing entitlement, filed
 103 within 180 days before the date the claim form was signed by the
 104 claimant or claimant's representative, must also be filed with

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105 the department.

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

108 717.1333 Evidence; estimations; audit reports, examiner's
109 worksheets, investigative reports, other related documents.—

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

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

121 717.135 Power of attorney to recover reported property in
122 the custody of the department.—

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

124 (a) Limit the fees and costs for services to 20 percent
125 per unclaimed property account held by the department. Fees and
126 costs for cash accounts shall be based on the value of the
127 property at the time the power of attorney is signed by the
128 claimant. Fees and costs for accounts containing securities or
129 other intangible ownership interests, which securities or
130 interests are not converted to cash, shall be based on the

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131 purchase price of the security as quoted on a national exchange
 132 or other market on which the property is regularly traded at the
 133 time the securities or other ownership interest is remitted to
 134 the claimant or the claimant's representative. Fees and costs
 135 for tangible property or safe-deposit box accounts shall be
 136 based on the value of the tangible property or contents of the
 137 safe-deposit box at the time the ownership interest is
 138 transferred or remitted to the claimant. Total fees and costs on
 139 any single account owned by a natural person residing in this
 140 country must not exceed \$1,000; or

141 (b) Fully disclose that the property is held by the Bureau
 142 of Unclaimed Property of the Department of Financial Services
 143 pursuant to this chapter, the mailing address of the bureau, the
 144 Internet address of the bureau, the person or name of the entity
 145 that held the property before ~~prior to~~ the property became
 146 ~~becoming~~ unclaimed, the date of the holder's last contact with
 147 the owner, if known, and the approximate value of the property,
 148 and identify which of the following categories of unclaimed
 149 property the claimant's representative is seeking to recover, as
 150 reported by the holder:

- 151 1. Cash accounts.
- 152 2. Stale dated checks.
- 153 3. Life insurance or annuity contract assets.
- 154 4. Utility deposits.
- 155 5. Securities or other interests in business associations.
- 156 6. Wages.

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- 157 7. Accounts receivable.
- 158 8. Contents of safe-deposit boxes.

159
 160 ~~This subsection shall not apply if probate proceedings must be~~
 161 ~~initiated on behalf of the claimant for an estate that has never~~
 162 ~~been probated or if the unclaimed property is being claimed by a~~
 163 ~~person outside of the United States.~~

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

169 FULL DISCLOSURE STATEMENT

170 The property is currently held by the State of Florida
 171 Department of Financial Services, Bureau of Unclaimed Property,
 172 pursuant to chapter 717, Florida Statutes. The mailing address
 173 of the Bureau of Unclaimed Property is The
 174 Internet address of the Bureau of Unclaimed Property is
 175

176 The property was Remitted by:

177 Date of last contact:

178 Property category:

179 (b) The acknowledgement required by paragraph (a) must be

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180 on a document separate from the power of attorney described in
 181 paragraph (2) (b).

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

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

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

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

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

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

200 4. Deletion of the words "Number of Shares of Stock (If
 201 Applicable)" if the agreement does not relate to the recovery of
 202 securities.

203 ~~5. Deletion of the words "Percent to Be Paid as~~
 204 ~~Compensation to Claimant's Representative" if the power of~~

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205 ~~attorney provides for a flat fee to be paid as compensation to~~
 206 ~~the claimant's representative.~~

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

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

218 717.1351 Acquisition of unclaimed property.—

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

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

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231 ~~outside the United States; or~~

232 (b) Fully disclose that the property is held by the Bureau
 233 of Unclaimed Property of the Department of Financial Services
 234 pursuant to this chapter, the mailing address of the bureau, the
 235 Internet address of the bureau, the person or name of the entity
 236 that held the property prior to the property becoming unclaimed,
 237 the date of the holder's last contact with the owner, if known,
 238 and the approximate value of the property, and identify which of
 239 the following categories of unclaimed property the buyer is
 240 seeking to purchase as reported by the holder:

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

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

254 FULL DISCLOSURE STATEMENT

255 The property is currently held by the State of Florida

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256 Department of Financial Services, Bureau of Unclaimed Property,
 257 pursuant to chapter 717, Florida Statutes. The mailing address
 258 of the Bureau of Unclaimed Property is The
 259 Internet address of the Bureau of Unclaimed Property is
 260

261 The property was remitted by:

262 Date of last contact:

263 Property category:

264
 265 The acknowledgement required by this paragraph must be on a
 266 document separate from the purchase agreement described in this
 267 subsection. Immediately above the signature line for the seller,
 268 an acknowledgement ~~the purchase agreement~~ described in this
 269 paragraph must state in 12-point type or greater:

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

272 (4) Any contract to acquire ownership of or entitlement to
 273 unclaimed property from the person or persons entitled to the
 274 unclaimed property must provide for the purchase price to be
 275 remitted to the seller or sellers within 30 ~~40~~ days after the
 276 execution of the contract by the seller or sellers. The contract
 277 must specify the unclaimed property account number, the name of
 278 the holder who reported the property to the department, the

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279 category of unclaimed property, the value of the unclaimed
 280 property account, and the number of shares of stock, if
 281 applicable. Proof that the seller has received ~~of~~ payment by
 282 check must be filed with the department with the claim. If proof
 283 of payment is not provided, the claim is void.

284 (7) This section does not prohibit the:

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

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

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

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

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

303 717.139 Uniformity of application and construction.—

304 (1) It is the public policy of the state to protect the

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305 interests of owners of unclaimed property. It is declared to be
 306 in the best interests of owners of unclaimed property that such
 307 owners receive the full amount of any unclaimed property without
 308 any fee.

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

315 Section 11. Subsections (1) through (4) of section
 316 717.1400, Florida Statutes, are amended to read:

317 717.1400 Registration.—

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

329 (a) A legible copy of the applicant's Class "A" business
 330 license under chapter 493 or that of the applicant's firm or

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331 employer which holds a Class "A" business license under chapter
332 493.

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

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

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

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

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

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

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

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

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

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

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

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

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

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383 attorney must provide:

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

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

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

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

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

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

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

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