



The Escheatment Process and Other Misunderstandings

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Misunderstandings for Discussion

- Ch. 717, F.S. – Disposition of Unclaimed Property
- Who Can Sign Policies and Commitments
- Permitted Entities and Names for Title Companies and Law Firms
- Use of Payment Apps for Receipt and Disbursement of Funds
- Opening a New Trust or Escrow Account

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Escheating Unclaimed Property

Misunderstanding #1

- Escheating Unclaimed Property is a Tax and money benefits the State

Reality

- All funds are deposited into Unclaimed Property Trust Fund
- Property is held in perpetuity for the owner
- Division of Unclaimed Property tries to locate rightful owner and return the property

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Escheating Unclaimed Property

Misunderstanding #2

- Escheating Unclaimed Property is Optional

Reality

- Holder – Person or entity in possession of property belonging to another (Sec. 717.101(12)).
- All Holders are obligated to report Unclaimed Property

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Escheating Unclaimed Property

Misunderstanding #3

- Escheating Unclaimed Property Does Not Benefit Me

Reality

- Transfers custody and liability to the State
- Indemnifies the entity transferring custody

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Escheating Unclaimed Property

The Process

1. Identify Unclaimed Property
2. Due Diligence
3. Create and File Unclaimed Property Report

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Escheating Unclaimed Property

1. Identify potential unclaimed property

- ✓ Review trial balance report
- ✓ Balances 5 years old or older
- ✓ No contact from the owner of funds

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Escheating Unclaimed Property

2. Due Diligence

- ✓ Verify that owner has not made contact regarding the property
- ✓ Send written notice to the owner at last known address by
first class mail
- ✓ Allow time for a response

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Escheating Unclaimed Property

3. Create and File Unclaimed Property Report

- ✓ Electronic Reporting required in Florida
- ✓ Report by April 30 for previous year
- ✓ Funds must be remitted with report

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Escheating Unclaimed Property

3. Create and File Unclaimed Property Report

- ✓ Register to use the Holder Reporting system at
www.FLTreasureHunt.gov
- ✓ Obtain Unclaimed Property Identification Number (UPID)

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Escheating Unclaimed Property

Options for Reporting

- Manual on website (fewer than 25 properties)
- Use DFS reporting template
- Free reporting software (up to 200 properties free)
- Purchase reporting software
- Use Unclaimed Property service provider

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Escheating Unclaimed Property

Options for Payment

- Pay online
- Wire Transfer
- Check

Comprehensive manual available in Fund Assembly Materials or on website www.FLTreasureHunt.gov.

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Signing Commitments and Policies

Misunderstanding

- Any attorney in a Fund Member's office is authorized to sign Old Republic Commitments and Policies

Reality

- Only attorneys who have applied to be signatories, and have been approved by The Fund, are authorized to sign Old Republic Commitments and Policies

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Entity Choices and Firm Names

Misunderstanding #1

- Law firms may use LLC, Corp., and other entity designations

Reality

- Law firms are Professional Services Entities and must use PLLC, PA, and other designations provided in Ch. 612, F.S., and Florida Bar Rule 4-8.6.

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Entity Choices and Firm Names

Misunderstanding #2

- Law firms may use a d/b/a name that sounds more like a title company than a law firm.

Reality

- Florida Bar Rule 4-7.21 prohibits the use of a firm name that is misleading or that implies the firm is anything other than a law firm.

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Entity Choices and Firm Names

Misunderstanding #3

- I can call my law firm a title company without being licensed by the Florida Department of Financial Services (DFS)

Reality

- All title companies must be licensed by DFS and are subject to its rules and obligations

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Online Payment Platforms

Misunderstanding

- Use of Online Payment Platforms is permitted for both receiving and disbursing funds from trust accounts

Reality

- Florida Bar Ethics Opinion 21.2 addresses receiving funds but does not address disbursing funds via Online Payment Platforms

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Opening a New Trust Account

Misunderstanding

- Funds from old trust account should be deposited into new trust account in one lump sum

Reality

- Best to open new trust account and use for new transactions only
- Let old trust account wind down to \$0, correcting errors as they are found

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Current Trust Account



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New Trust Account



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Don't Put Dirty Water in your New Clean Pool!



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Thank you

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