

The Escheatment Process and Other Misunderstandings

Fund Assembly 2025

Margaret A. (Peggy) Williams
Sr. Manager, Risk Analysis and Member Compliance

Misunderstanding Number One – Unclaimed Funds

- Incorrect - Escheating unclaimed funds is optional
- Correct – Escheatment process must be followed by any holder of unclaimed funds.
 - Requirements are contained in:
 - Ch. 717, F. S.
 - Rule 69G – 20, F.A.C.
 - Instructions for the process to deal with unclaimed funds:
 - Reporting Instructions Manual
 - Frequently Asked Questions

Misunderstanding Number Two – Who Can Sign Policies

- Incorrect - Anyone in a Fund Member firm's office who is licensed to practice law in Florida is authorized to sign Old Republic Commitments and Policies issued through The Fund
- Correct – Attorneys and Licensed Title Agents who wish to be authorized to sign Old Republic Commitments and Policies issued through The Fund must apply, be vetted, and approved as a signatory by The Fund

Misunderstanding Number Three – Use of D/B/A

- Incorrect – Law Firms can use a d/b/a in order to appear that they are a licensed title agency and not a law firm.
- Correct – Law Firms may use a d/b/a, but the name used must not be misleading and must not imply that the law firm is any other type of business.
 - Florida Bar Rule 4-7.21

Misunderstanding Number Four – Use of LLC

- Incorrect – Law Firms are permitted to use LLC, Corp, Inc., etc. as entity designations.
- Correct – Law Firms must use P.A., PLLC, and other entity designations permitted for Professional Business Entities.
 - Florida Bar Rule 4-8.6
 - Ch. 612, F.S.

Misunderstanding Number Five – Online Payment Platforms

- Incorrect – Fund Member Attorneys may use online payment platforms to receive and disburse trust account funds.
- Correct – The Florida Bar issued an ethics opinion permitting use of online payment platforms to receive funds. They did not mention using online payment platforms to disburse funds, especially from a trust account.
 - Florida Bar Ethics Opinion 21.2

Misunderstanding Number Six – Opening a New Trust Account

- Incorrect – When opening a new trust account, all funds from the old trust account should be moved to the new trust account in one lump sum.
- Correct – When opening a new trust account, it is best to start from 0 and only put money for new transactions in the new account. Old account should be allowed to wind down to 0 over time (with resolution of all issues as they are found).

Select Year: 2024 ▼ Go

The 2024 Florida Statutes

[Title XL](#)[Chapter 717](#)[View Entire Chapter](#)

REAL AND PERSONAL PROPERTY

DISPOSITION OF UNCLAIMED PROPERTY

CHAPTER 717**DISPOSITION OF UNCLAIMED PROPERTY**

- 717.001 Short title.
- 717.101 Definitions.
- 717.102 Property presumed unclaimed; general rule.
- 717.103 General rules for taking custody of intangible unclaimed property.
- 717.1035 Property originated or issued by this state, any political subdivision of this state, or any entity incorporated, organized, created, or otherwise located in the state.
- 717.104 Traveler's checks and money orders.
- 717.1045 Gift certificates and similar credit items.
- 717.105 Checks, drafts, and similar instruments issued or certified by banking and financial organizations.
- 717.106 Bank deposits and funds in financial organizations.
- 717.1065 Virtual currency.
- 717.107 Funds owing under life insurance policies, annuity contracts, and retained asset accounts; fines, penalties, and interest; United States Social Security Administration Death Master File.
- 717.1071 Lost owners of unclaimed demutualization, rehabilitation, or related reorganization proceeds.
- 717.108 Deposits held by utilities.
- 717.109 Refunds held by business associations.
- 717.1101 Unclaimed equity and debt of business associations.
- 717.111 Property of business associations held in course of dissolution.
- 717.112 Property held by agents and fiduciaries.
- 717.1125 Property held by fiduciaries under trust instruments.
- 717.113 Property held by courts and public agencies.
- 717.115 Wages.
- 717.116 Contents of safe-deposit box or other safekeeping repository.
- 717.117 Report of unclaimed property.
- 717.118 Notification of apparent owners of unclaimed property.
- 717.119 Payment or delivery of unclaimed property.
- 717.1201 Custody by state; holder liability; reimbursement of holder paying claim; reclaiming for owner; payment of safe-deposit box or repository charges.
- 717.121 Crediting of dividends, interest, or increments to owner's account.
- 717.122 Public sale of unclaimed property.
- 717.123 Deposit of funds.
- 717.1235 Dormant campaign accounts; report of unclaimed property.
- 717.124 Unclaimed property claims.
- 717.12403 Unclaimed demand, savings, or checking account in a financial institution held in the name of more than one person.
- 717.12404 Claims on behalf of a business entity or trust.

- 717.12405 Claims by estates.
- 717.12406 Joint ownership of unclaimed securities or dividends.
- 717.1241 Conflicting claims.
- 717.1242 Restatement of jurisdiction of the circuit court sitting in probate and the department.
- 717.1243 Small estate accounts.
- 717.1244 Determinations of unclaimed property claims.
- 717.1245 Garnishment of unclaimed property.
- 717.125 Claim of another state to recover property; procedure.
- 717.126 Administrative hearing; burden of proof; proof of entitlement; venue.
- 717.1261 Death certificates.
- 717.1262 Court documents.
- 717.127 Election to take payment or delivery.
- 717.128 Destruction or disposition of property having insubstantial commercial value; immunity from liability.
- 717.129 Periods of limitation.
- 717.1301 Investigations; examinations; subpoenas.
- 717.1311 Retention of records.
- 717.1315 Retention of records by claimant's representatives and buyers of unclaimed property.
- 717.132 Enforcement; cease and desist orders; fines.
- 717.1322 Administrative and civil enforcement.
- 717.1323 Prohibited practice.
- 717.133 Interstate agreements and cooperation; joint and reciprocal actions with other states.
- 717.1331 Actions against holders.
- 717.1333 Evidence; estimations; audit reports and worksheets, investigator reports and worksheets, other related documents.
- 717.134 Penalties and interest.
- 717.1341 Invalid claims, recovery of property, interest and penalties.
- 717.135 Recovery agreements and purchase agreements for claims filed by a claimant's representative; fees and costs or total net gain.
- 717.1355 Theme park and entertainment complex tickets.
- 717.136 Foreign transactions.
- 717.138 Rulemaking authority.
- 717.1382 United States savings bond; unclaimed property; escheatment; procedure.
- 717.1383 United States savings bond; claim for bond.
- 717.139 Uniformity of application and construction.
- 717.1400 Registration.
- 717.1401 Repeal.

717.001 Short title.— This chapter may be cited as the “Florida Disposition of Unclaimed Property Act.”
History.—s. 1, ch. 87-105.

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

- (1) “Aggregate” means the amounts reported for owners of unclaimed property of less than \$10 or where there is no name for the individual or entity listed on the holder's records, regardless of the amount to be reported.
- (2) “Apparent owner” means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.
- (3) “Audit” means an action or proceeding to examine and verify a person's records, books, accounts, and other documents to ascertain and determine compliance with this chapter.
- (4) “Audit agent” means a person with whom the department enters into a ¹contract to conduct an audit or examination. The term includes an independent contractor of the person and each individual participating in the

audit on behalf of the person or contractor.

(5) “Banking organization” means any and all banks, trust companies, private bankers, savings banks, industrial banks, safe-deposit companies, savings and loan associations, credit unions, and investment companies in this state, organized under or subject to the laws of this state or of the United States, including entities organized under 12 U.S.C. s. 611, but does not include federal reserve banks. The term also includes any corporation, business association, or other organization that:

(a) Is a wholly or partially owned subsidiary of any banking, banking corporation, or bank holding company that performs any or all of the functions of a banking organization; or

(b) Performs functions pursuant to the terms of a contract with any banking organization.

(6) “Business association” means any for-profit or nonprofit corporation other than a public corporation; joint stock company; investment company; unincorporated association or association of two or more individuals for business purposes, whether or not for profit; partnership; joint venture; limited liability company; sole proprietorship; business trust; trust company; land bank; safe-deposit company; safekeeping depository; financial organization; insurance company; federally chartered entity; utility company; or other business entity, whether or not for profit.

(7) “Claimant” means the person on whose behalf a claim is filed.

(8) “Claimant’s representative” means an attorney who is a member in good standing of The Florida Bar, a certified public accountant licensed in this state, or a private investigator who is duly licensed to do business in the state, registered with the department, and authorized by the claimant to claim unclaimed property on the claimant’s behalf. The term does not include a person acting in a representative capacity, such as a personal representative, guardian, trustee, or attorney, whose representation is not contingent upon the discovery or location of unclaimed property; provided, however, that any agreement entered into for the purpose of evading s. 717.135 is invalid and unenforceable.

(9) “Credit balance” means an account balance in the customer’s favor.

(10) “Department” means the Department of Financial Services.

(11) “Domicile” means the state of incorporation for a corporation; the state of filing for a business association, other than a corporation, whose formation or organization requires a filing with a state; the state of organization for a business association, other than a corporation, whose formation or organization does not require a filing with a state; ²or the state of home office for a federally chartered entity.

(12) “Due diligence” means the use of reasonable and prudent methods under particular circumstances to locate apparent owners of inactive accounts using the taxpayer identification number or social security number, if known, which may include, but are not limited to, using a nationwide database, cross-indexing with other records of the holder, mailing to the last known address unless the last known address is known to be inaccurate, providing written notice as described in this chapter by electronic mail if an apparent owner has elected such delivery, or engaging a licensed agency or company capable of conducting such search and providing updated addresses.

(13) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(14) “Financial organization” means a savings association, savings and loan association, savings bank, industrial bank, bank, banking organization, trust company, international bank agency, cooperative bank, building and loan association, or credit union.

(15) “Health care provider” means any state-licensed entity that provides and receives payment for health care services. These entities include, but are not limited to, hospitals, outpatient centers, physician practices, and skilled nursing facilities.

(16) “Holder” means:

(a) A person who is in possession or control or has custody of property or the rights to property belonging to another; is indebted to another on an obligation; or is obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter; or

(b) A trustee in case of a trust.

(17) “Insurance company” means an association, corporation, or fraternal or mutual benefit organization, whether for profit or not for profit, which is engaged in providing insurance coverage.

(18) “Intangible property” includes, by way of illustration and not limitation:

(a) Moneys, checks, virtual currency, drafts, deposits, interest, dividends, and income.

(b) Credit balances, customer overpayments, security deposits and other instruments as defined by chapter 679, refunds, unpaid wages, unused airline tickets, and unidentified remittances.

(c) Stocks, and other intangible ownership interests in business associations.

(d) Moneys deposited to redeem stocks, bonds, bearer bonds, original issue discount bonds, coupons, and other securities, or to make distributions.

(e) Amounts due and payable under the terms of insurance policies.

(f) Amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.

(19) “Last known address” means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail. For the purposes of identifying, reporting, and remitting property to the department which is presumed to be unclaimed, “last known address” includes any partial description of the location of the apparent owner sufficient to establish the apparent owner was a resident of this state at the time of last contact with the apparent owner or at the time the property became due and payable.

(20) “Lawful charges” means charges against dormant accounts that are authorized by statute for the purpose of offsetting the costs of maintaining the dormant account.

(21) “Managed care payor” means a health care plan that has a defined system of selecting and limiting health care providers as evidenced by a managed care contract with the health care providers. These plans include, but are not limited to, managed care health insurance companies and health maintenance organizations.

(22) “Owner” means a person, or the person’s legal representative, entitled to receive or having a legal or equitable interest in or claim against property subject to this chapter; a depositor in the case of a deposit; a beneficiary in the case of a trust or a deposit in trust; or a payee in the case of a negotiable instrument or other intangible property.

(23) “Person” means an individual; estate; business association; corporation; firm; association; joint adventure; partnership; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(24) “Public corporation” means a corporation created by the state, founded and owned in the public interest, supported by public funds, and governed by those deriving their power from the state.

(25) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(26) “Reportable period” means the calendar year ending December 31 of each year.

(27) “State,” when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States.

(28) “Trust instrument” means a trust instrument as defined in s. 736.0103.

(29) “Unclaimed Property Purchase Agreement” means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant’s representative to purchase unclaimed property from an owner.

(30) “Unclaimed Property Recovery Agreement” means the form adopted by the department pursuant to s. 717.135 which must be used, without modification or amendment, by a claimant’s representative to obtain an owner’s consent and authority to recover unclaimed property on the owner’s behalf.

(31) “United States” means any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(32) “Utility” means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(33)(a) “Virtual currency” means digital units of exchange that:

1. Have a centralized repository or administrator;
2. Are decentralized and have no centralized repository or administrator; or
3. May be created or obtained by computing or manufacturing effort.

(b) The term does not include any of the following:

1. Digital units that:
 - a. Are used solely within online gaming platforms;
 - b. Have no market or application outside of the online gaming platforms in sub-subparagraph a.;
 - c. Cannot be converted into, or redeemed for, fiat currency or virtual currency; and
 - d. Can or cannot be redeemed for real-world goods, services, discounts, or purchases.
2. Digital units that can be redeemed for:
 - a. Real-world goods, services, discounts, or purchases as part of a customer affinity or rewards program with the issuer or other designated merchants; or
 - b. Digital units in another customer affinity or rewards program, but cannot be converted into, or redeemed for, fiat currency or virtual currency.
3. Digital units used as part of prepaid cards.

History.—s. 2, ch. 87-105; s. 23, ch. 91-110; s. 1, ch. 96-301; s. 1770, ch. 97-102; s. 1, ch. 2001-36; s. 1, ch. 2003-21; s. 1887, ch. 2003-261; s. 110, ch. 2004-390; s. 1, ch. 2005-163; s. 2, ch. 2013-172; s. 1, ch. 2016-90; s. 39, ch. 2024-140.

¹**Note.**—The word “with” following the word “contract” was deleted by the editors to improve sentence structure.

²**Note.**—The word “or” was inserted by the editors to improve clarity.

717.102 Property presumed unclaimed; general rule.—

(1) All intangible property, including any income or increment thereon less any lawful charges, that is held, issued, or owing in the ordinary course of the holder’s business and the owner fails to claim such property for more than 5 years after the property becomes payable or distributable is presumed unclaimed, except as otherwise provided by this chapter.

(2) Property is payable or distributable for the purpose of this chapter notwithstanding the owner’s failure to make demand or to present any instrument or document required to receive payment.

(3) A presumption that property is unclaimed is rebutted by an apparent owner’s expression of interest in the property. An owner’s expression of interest in property includes:

- (a) A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;
- (b) An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner’s communication;
- (c) Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, with respect to an account, underlying security, or interest in a business association;
- (d) Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;
- (e) A deposit into or withdrawal from an account at a financial organization, excluding an automatic deposit or withdrawal previously authorized by the apparent owner or an automatic reinvestment of dividends or interest, which does not constitute an expression of interest; or
- (f) Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.

(4) If a holder learns or receives confirmation of an apparent owner’s death, the property shall be presumed unclaimed 2 years after the date of death, unless a fiduciary appointed to represent the estate of the apparent owner has made an expression of interest in the property before the expiration of the 2-year period. This subsection may not be construed to extend the otherwise applicable dormancy period prescribed by this chapter.

History.—s. 3, ch. 87-105; s. 2, ch. 2001-36; s. 40, ch. 2024-140.

717.103 General rules for taking custody of intangible unclaimed property.—Unless otherwise provided in this chapter or by other statute of this state, intangible property is subject to the custody of the department as unclaimed property if the conditions leading to a presumption that the property is unclaimed as described in ss. 717.102 and 717.105-717.116 are satisfied and:

- (1) The last known address, as shown on the records of the holder, of the apparent owner is in this state;
- (2) The records of the holder do not reflect the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in this state;
- (3) The records of the holder do not reflect the last known address of the apparent owner, and it is established that:
 - (a) The last known address of the person entitled to the property is in this state; or
 - (b) The holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last known address of the apparent owner or other person entitled to the property;
- (4) The last known address, as shown on the records of the holder, of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property, and the holder is a domiciliary or a government or governmental subdivision or agency of this state;
- (5) The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state; or
- (6) The transaction out of which the property arose occurred in this state, and;
 - (a)1. The last known address of the apparent owner or other person entitled to the property is unknown; or
 2. The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property; and
 - (b) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property.

History.—s. 4, ch. 87-105; s. 3, ch. 2001-36.

717.1035 Property originated or issued by this state, any political subdivision of this state, or any entity incorporated, organized, created, or otherwise located in the state.—

- (1) All intangible property, including, but not limited to, any interest, dividend, or other earnings thereon, less any lawful charges, held by a business association, federal, state, or local government or governmental subdivision, agency, or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within 3 years after the date prescribed for payment or delivery, is presumed to be unclaimed property and subject to the custody of this state as such if:
 - (a) The last known address of the owner is unknown; and
 - (b) The person or entity originating or issuing the intangible property is this state or any political subdivision of this state, or the person or entity is incorporated, organized, created, or otherwise located in this state.
- (2) The provisions of subsection (1) shall not apply to property which is or may be presumed unclaimed and subject to the custody of this state pursuant to any other provision of law containing a dormancy period different than that prescribed in subsection (1).
- (3) The provisions of subsection (1) shall apply to all property held at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively unclaimed.

History.—s. 1, ch. 90-113; s. 2, ch. 92-169; s. 4, ch. 2001-36.

717.104 Traveler's checks and money orders.—

- (1) Subject to subsection (4), any sum payable on a traveler's check that has been outstanding for more than 15 years after its issuance is presumed unclaimed unless the owner, within 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file with the issuer.

(2) Subject to subsection (4), any sum payable on a money order or similar written instrument, other than a third party bank check, that has been outstanding for more than 7 years after its issuance is presumed unclaimed unless the owner, within 7 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file with the issuer.

(3) No holder may deduct from the amount of any traveler's check or money order any charges imposed by reason of the failure to present those instruments for payment unless there is a valid and enforceable written contract between the issuer and the owner of the property pursuant to which the issuer may impose those charges and the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel those charges with respect to the property.

(4) No sum payable on a traveler's check, money order, or similar written instrument, other than a third party bank check, described in subsections (1) and (2) may be subjected to the custody of this state as unclaimed property unless:

(a) The records of the issuer show that the traveler's check, money order, or similar written instrument was purchased in this state;

(b) The issuer has its principal place of business in this state and the records of the issuer do not show the state in which the traveler's check, money order, or similar written instrument was purchased; or

(c) The issuer has its principal place of business in this state; the records of the issuer show the state in which the traveler's check, money order, or similar written instrument was purchased; and the laws of the state of purchase do not provide for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property.

(5) Notwithstanding any other provision of this chapter, subsection (4) applies to sums payable on traveler's checks, money orders, and similar written instruments presumed unclaimed on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

History.—s. 5, ch. 87-105; s. 5, ch. 2001-36.

717.1045 Gift certificates and similar credit items.—Notwithstanding s. 717.117, an unredeemed gift certificate or credit memo as defined in s. 501.95 is not required to be reported as unclaimed property.

(1) The consideration paid for an unredeemed gift certificate or credit memo is the property of the issuer of the unredeemed gift certificate or credit memo.

(2) An unredeemed gift certificate or credit memo is subject only to any rights of a purchaser or owner thereof and is not subject to a claim made by any state acting on behalf of a purchaser or owner.

(3) It is the intent of the Legislature that this section apply to the custodial holding of unredeemed gift certificates and credit memos.

(4) However, a gift certificate or credit memo described in s. 501.95(2)(b) shall be reported as unclaimed property. The consideration paid for such a gift certificate or credit memo is the property of the owner of the gift certificate or credit memo.

History.—s. 2, ch. 2007-256.

717.105 Checks, drafts, and similar instruments issued or certified by banking and financial organizations.—

(1) Any sum payable on a check, draft, or similar instrument, except those subject to ss. 717.104 and 717.115, on which a banking or financial organization is directly liable, including, but not limited to, a cashier's check or a certified check, which has been outstanding for more than 5 years after it was payable or after its issuance if payable on demand, is presumed unclaimed unless the owner, within 5 years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization.

(2) No holder may deduct from the amount of any instrument subject to this section any charges imposed by reason of the failure to present the instrument for encashment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose those charges and does not regularly reverse or otherwise cancel those charges with respect to the instrument.

History.—s. 6, ch. 87-105; s. 2, ch. 96-301; s. 6, ch. 2001-36.

717.106 Bank deposits and funds in financial organizations.—

(1) Any demand, savings, or matured time deposit with a banking or financial organization, including deposits that are automatically renewable, and any funds paid toward the purchase of shares, a mutual investment certificate, or any other interest in a banking or financial organization is presumed unclaimed unless the owner has, within 5 years:

(a) Increased or decreased the amount of the deposit or presented the passbook or other similar evidence of the deposit for the crediting of interest;

(b) Communicated in writing or by documented telephone contact with the banking or financial organization concerning the property;

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file with the banking or financial organization;

(d) Owned other property to which paragraph (a), paragraph (b), or paragraph (c) is applicable and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed unclaimed under this subsection at the address to which communications regarding the other property regularly are sent; or

(e) Had another relationship with the banking or financial organization concerning which the owner has:

1. Communicated in writing with the banking or financial organization; or

2. Otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be unclaimed under this subsection at the address to which communications regarding the other relationship regularly are sent.

(2) For purpose of paragraph (1)(a), property includes any interest or dividends thereon.

(3) No holder may impose with respect to property described in subsection (1) any charges due to dormancy or inactivity or cease payment of interest unless:

(a) There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose those charges or cease payment of interest.

(b) For property in excess of \$2, the holder, no more than 3 months prior to the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges shall be imposed or that interest shall cease, but the notice provided in this section need not be given with respect to charges imposed or interest ceased before July 1, 1987.

(c) The holder regularly imposes those charges or ceases payment of interest and does not regularly reverse or otherwise cancel those charges or retroactively credit interest with respect to such property.

(4) Any property described in subsection (1) that is automatically renewable is matured for purposes of subsection (1) upon the expiration of its initial time period except that, in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in s. 717.119, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

(5) If the documents establishing a deposit described in subsection (1) state the address of a beneficiary of the deposit, and the account has a value of at least \$50, notice shall be given to the beneficiary as provided for notice to the apparent owner under s. 717.117(6). This subsection shall apply to accounts opened on or after October 1, 1990.

History.—s. 7, ch. 87-105; s. 2, ch. 90-113; s. 63, ch. 91-110; s. 3, ch. 96-301; s. 7, ch. 2001-36; s. 111, ch. 2004-390; s. 2, ch. 2005-163; s. 41, ch. 2024-140.

717.1065 Virtual currency.—

(1) Any virtual currency held or owing by a banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity is presumed unclaimed unless the owner, within 5 years, has communicated in writing with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity concerning the virtual currency or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking organization, corporation, custodian, exchange, or other entity engaged in virtual currency business activity.

(2) A holder may not deduct from the amount of any virtual currency subject to this section any charges imposed by reason of the virtual currency unless there is a valid and enforceable written contract between the holder and the owner of the virtual currency pursuant to which the holder may impose those charges and the holder does not regularly reverse or otherwise cancel those charges with respect to the virtual currency.

History.—s. 42, ch. 2024-140.

717.107 Funds owing under life insurance policies, annuity contracts, and retained asset accounts; fines, penalties, and interest; United States Social Security Administration Death Master File.—

(1) Funds held or owing under any life or endowment insurance policy or annuity contract which has matured or terminated are presumed unclaimed if unclaimed for more than 5 years after the date of death of the insured, the annuitant, or the retained asset account holder, but property described in paragraph (3)(d) is presumed unclaimed if such property is not claimed for more than 2 years. The amount presumed unclaimed shall include any amount due and payable under s. 627.4615.

(2) If a person other than the insured, the annuitant, or the retained asset account holder is entitled to the funds and no address of the person is known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured, the annuitant, or the retained asset account holder according to the records of the company.

(3) For purposes of this chapter, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured, the annuitant, or the retained asset account holder according to the records of the company is deemed matured and the proceeds due and payable if any of the following applies:

- (a) The company knows that the insured, the annuitant, or the retained asset account holder has died.
- (b) A presumption of death made in accordance with paragraph (8)(c) has not been rebutted.
- (c) The policy or contract has reached its maturity date.

(d)1. The insured has attained, or would have attained if he or she were living, the limiting age under the mortality table on which the reserve is based;

2. The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph 1.; and

3. Neither the insured nor any other person appearing to have an interest in the policy within the preceding 2 years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy; subjected the policy to a loan; corresponded in writing with the company concerning the policy; or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

(4) For purposes of this chapter, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent the policy from being matured or terminated under subsection (1) if the insured has died or the insured or the beneficiaries of the policy otherwise have become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last known address according to the records of the company is in

this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(6) Notwithstanding any other provision of law, if the company learns of the death of the insured, the annuitant, or the retained asset account holder and the beneficiary has not communicated with the insurer within 4 months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(7) Commencing 2 years after July 1, 1987, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request the following information:

(a) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class.

(b) The address of each beneficiary.

(c) The relationship of each beneficiary to the insured.

(8)(a) Notwithstanding any other provision of law, an insurer shall compare the records of its insureds' life or endowment insurance policies, annuity contracts that provide a death benefit, and retained asset accounts that were in force at any time on or after January 1, 1992, against the United States Social Security Administration Death Master File once to determine whether the death of an insured, an annuitant, or a retained asset account holder is indicated and shall thereafter use the Death Master File update files for future comparisons. The comparisons must use the name and social security number or date of birth of the insured, the annuitant, or the retained asset account holder. The comparisons must be made on at least an annual basis before August 31 of each year. If an insurer performs such comparisons regarding its annuities or other books of business more frequently than once a year, the insurer must also make comparisons regarding its life insurance policies, annuity contracts that provide a death benefit, and retained asset accounts at the same frequency as is made regarding its annuities or other books or lines of business. An insurer may perform the comparisons required by this paragraph using any database or service that the department determines is at least as comprehensive as the United States Social Security Administration Death Master File for the purpose of indicating that a person has died.

(b) However, an insurer that meets one of the following criteria as of June 30, 2016, shall conduct the comparison in paragraph (a) to all in-force policies:

1. The insurer has entered into a regulatory settlement agreement with the Office of Insurance Regulation; or
2. The insurer has received a targeted market conduct examination report issued by the Office of Insurance Regulation regarding claims-handling practices and the use of the Death Master File with no findings of violations of law.

(c) An insured, an annuitant, or a retained asset account holder is presumed deceased if the date of his or her death is indicated by the comparison required under paragraph (a) unless the insurer has in its records competent and substantial evidence that the person is living, including, but not limited to, a contact made by the insurer with such person or his or her legal representative. The insurer shall account for common variations in data and for any partial names, social security numbers, dates of birth, and addresses of the insured, the annuitant, or the retained asset account holder which would otherwise preclude an exact match.

(d) For purposes of this section, a policy, an annuity contract, or a retained asset account is deemed to be in force if it has not lapsed, has not been canceled, or has not been terminated at the time of death of the insured, the annuitant, or the retained asset account holder.

(e) This subsection does not apply to an insurer with respect to benefits payable under:

1. An annuity that is issued in connection with an employment-based plan subject to the Employee Retirement Income Security Act of 1974 or that is issued to fund an employment-based retirement plan, including any deferred compensation plan.
2. A policy of credit life or accidental death insurance.
3. A joint and survivor annuity contract if an annuitant is still living.
4. A policy issued to a group master policy owner for which the insurer does not perform recordkeeping functions. For purposes of this subparagraph, the term "recordkeeping" means those circumstances under which the insurer has agreed through a group policyholder to be responsible for obtaining, maintaining, and

administering, in its own or its agents' systems, information about each individual insured under a group insurance policy or a line of coverage thereunder, including at least the following:

- a. The social security number, or name and date of birth;
- b. Beneficiary designation information;
- c. Coverage eligibility;
- d. The benefit amount; and
- e. Premium payment status.

5. Any policy or certificate of life insurance that is assigned to a person licensed under s. 497.452 to fund a preneed funeral merchandise or service contract.

(9) No later than 120 days after learning of the death of an insured, an annuitant, or a retained asset account holder through a comparison under subsection (8), an insurer shall:

(a) Complete and document an effort to confirm the death of the insured, the annuitant, or the retained asset account holder against other available records and information.

(b) Review its records to determine whether the insured, the annuitant, or the retained asset account holder purchased other products from the insurer.

(c) Determine whether benefits may be due under a policy, an annuity, or a retained asset account.

(d) Complete and document an effort to locate and contact the beneficiary or authorized representative under a policy, an annuity, or a retained asset account if such person has not communicated with the insurer before the expiration of the 120-day period. The effort must include:

1. Sending to the beneficiary or authorized representative information concerning the claim process of the insurer.
2. Notice of any requirement to provide a certified original or copy of the death certificate if applicable under the policy, annuity, or retained asset account.

(10) An insurer may, to the extent permitted by law, disclose the minimum necessary personal information about an insured, an annuitant, a retained asset account owner, or a beneficiary to an individual or entity reasonably believed by the insurer to possess the ability to assist the insurer in locating the beneficiary or any other individual or entity that is entitled to payment of the claim proceeds.

(11) An insurer, or any agent or third party that it engages or that works on its behalf, may not charge insureds, annuitants, retained asset account holders, beneficiaries, or the estates of insureds, annuitants, retained asset account holders, or the beneficiaries of an estate any fees or costs associated with any search, verification, claim, or delivery of funds conducted pursuant to this section.

History.—s. 8, ch. 87-105; s. 849, ch. 97-102; s. 8, ch. 2001-36; s. 112, ch. 2004-390; s. 1, ch. 2016-219.

1717.1071 Lost owners of unclaimed demutualization, rehabilitation, or related reorganization proceeds.—

(1) Property distributable in the course of a demutualization, rehabilitation, or related reorganization of an insurance company is deemed abandoned 2 years after the date the property is first distributable if, at the time of the first distribution, the last known address of the owner on the books and records of the holder is known to be incorrect or the distribution or statements are returned by the post office as undeliverable; and the owner has not communicated in writing with the holder or its agent regarding the interest or otherwise communicated with the holder regarding the interest as evidenced by a memorandum or other record on file with the holder or its agent.

(2) Property distributable in the course of demutualization, rehabilitation, or related reorganization of a mutual insurance company that is not subject to subsection (1) shall be reportable as otherwise provided by this chapter.

(3) Property subject to this section shall be reported and delivered no later than May 1 as of the preceding December 31; however, the initial report under this section shall be filed no later than November 1, 2003, as of December 31, 2002.

History.—s. 2, ch. 2003-21; s. 75, ch. 2003-281.

¹**Note.**—As enacted by s. 75, ch. 2003-281. For a description of multiple acts in the same session affecting a statutory provision, see preface to the *Florida Statutes*, "Statutory Construction." Section 717.1071 was also enacted by s. 2, ch. 2003-21, and that version reads:

717.1071 Unclaimed demutualization proceeds.—Unclaimed property payable or distributable in the course of a demutualization of an insurance company is presumed unclaimed 5 years after the earlier of the date of last contact with the policyholder or the date the property became payable or distributable.

717.108 Deposits held by utilities.—Any deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, less any lawful charges, that remains unclaimed by the owner for more than 1 year after termination of the services for which the deposit or advance payment was made is presumed unclaimed.

History.—s. 9, ch. 87-105; s. 4, ch. 96-301; s. 9, ch. 2001-36.

717.109 Refunds held by business associations.—Except as otherwise provided by law, any sum that a business association has been ordered to refund by a court or administrative agency which has been unclaimed by the owner for more than 1 year after it became payable in accordance with the final determination or order providing for the refund, regardless of whether the final determination or order requires any person entitled to a refund to make a claim for it, is presumed unclaimed.

History.—s. 10, ch. 87-105; s. 10, ch. 2001-36; s. 113, ch. 2004-390.

717.1101 Unclaimed equity and debt of business associations.—

(1)(a) Stock or other equity interest in a business association is presumed unclaimed on the date of the earliest of the following:

1. Three years after the most recent of any owner-generated activity or communication related to the account, as recorded and maintained in the holder's database and records systems sufficient enough to demonstrate the owner's continued awareness or interest in the property;

2. Three years after the date of the death of the owner, as evidenced by:

a. Notice to the holder of the owner's death by an administrator, beneficiary, relative, or trustee, or by a personal representative or other legal representative of the owner's estate;

b. Receipt by the holder of a copy of the death certificate of the owner;

c. Confirmation by the holder of the owner's death through other means; or

d. Other evidence from which the holder may reasonably conclude that the owner is deceased; or

3. One year after the date on which the holder receives notice under subparagraph 2. if the notice is received 2 years or less after the owner's death and the holder lacked knowledge of the owner's death during that period of 2 years or less.

(b) Unmatured or unredeemed debt, other than a bearer bond or an original issue discount bond, is presumed unclaimed 3 years after the date of the most recent interest payment unclaimed by the owner.

(c) Matured or redeemed debt is presumed unclaimed 3 years after the date of maturity or redemption.

(d) At the time property is presumed unclaimed under paragraph (a) or paragraph (b), any other property right accrued or accruing to the owner as a result of the property interest and not previously presumed unclaimed is also presumed unclaimed.

(2) The running of such 3-year period ceases if the person:

(a)1. Communicates in writing with the association or its agent regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or

2. Otherwise communicates with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association or its agent.

(b) Presents an instrument issued to pay interest or a dividend or other cash distribution. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period in which the property is presumed unclaimed commences and relates back only to the time a subsequent dividend, distribution, or other sum became due and payable.

(3) At the same time any interest is presumed unclaimed under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, is presumed unclaimed.

(4) Any dividend, profit, distribution, interest redemption, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificateholder, member, bondholder, or other security holder, who has not claimed such amount or corresponded in writing with the business association concerning such amount, within 3 years after the date prescribed for payment or delivery, is presumed unclaimed.

History.—s. 11, ch. 87-105; s. 5, ch. 96-301; s. 11, ch. 2001-36; s. 3, ch. 2003-21; s. 3, ch. 2005-163; s. 43, ch. 2024-140.

717.111 Property of business associations held in course of dissolution.—All intangible property distributable in the course of a voluntary or involuntary dissolution of a business association which is not claimed by the owner for more than 6 months after the date specified for final distribution is presumed unclaimed.

History.—s. 12, ch. 87-105; s. 12, ch. 2001-36.

717.112 Property held by agents and fiduciaries.—

(1) All intangible property and any income or increment thereon held in a fiduciary capacity for the benefit of another person, including property held by an attorney in fact or an agent, except as provided in ss. 717.1125 and 733.816, is presumed unclaimed unless the owner has within 5 years after it has become payable or distributable increased or decreased the principal, accepted payment of principal or income, communicated in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

(2) Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the Internal Revenue laws of the United States are not payable or distributable within the meaning of subsection (1) unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

(3) For the purpose of this section, a person who holds property as an agent for a business association is deemed to hold the property in a fiduciary capacity for that business association alone, unless the agreement between said person and the business association provides otherwise.

(4) For the purposes of this chapter, a person who is deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

(5) All intangible property, and any income or increment thereon, issued by a government or governmental subdivision or agency, public corporation, or public authority and held in an agency capacity for the governmental subdivision, agency, public corporation, or public authority for the benefit of the owner of record, is presumed unclaimed unless the owner has, within 1 year after such property has become payable or distributable, increased or decreased the principal, accepted payment of the principal or income, communicated concerning the property, or otherwise indicated an interest in the property as evidenced by a memorandum or other record on file with the fiduciary.

(6) This section does not relieve a fiduciary of his or her duties under applicable general law.

History.—s. 13, ch. 87-105; s. 6, ch. 96-301; s. 13, ch. 2001-36; s. 3, ch. 2013-172; s. 44, ch. 2024-140.

717.1125 Property held by fiduciaries under trust instruments.—All intangible property and any income or increment thereon held in a fiduciary capacity for the benefit of another person under a trust instrument is presumed unclaimed unless the owner has, within 2 years after it has become payable or distributable, increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary. This section does not relieve a fiduciary of his or her duties under the Florida Trust Code.

History.—s. 4, ch. 2013-172; s. 45, ch. 2024-140.

717.113 Property held by courts and public agencies.—All intangible property held for the owner by any court, government or governmental subdivision or agency, public corporation, or public authority that has not been claimed by the owner for more than 1 year after it became payable or distributable is presumed unclaimed. Except as provided in s. 45.032(3)(c), money held in the court registry and for which no court order has been issued to

determine an owner does not become payable or distributable and is not subject to reporting under this chapter. Notwithstanding the provisions of this section, funds deposited in the Minerals Trust Fund pursuant to s. 377.247 are presumed unclaimed only if the funds have not been claimed by the owner for more than 5 years after the date of first production from the well.

History.—s. 14, ch. 87-105; s. 4, ch. 94-193; s. 71, ch. 96-321; s. 14, ch. 2001-36; s. 8, ch. 2018-71.

717.115 Wages.—Unpaid wages, including wages represented by unpresented payroll checks, owing in the ordinary course of the holder's business that have not been claimed by the owner for more than 1 year after becoming payable are presumed unclaimed.

History.—s. 16, ch. 87-105; s. 15, ch. 2001-36.

717.116 Contents of safe-deposit box or other safekeeping repository.—All tangible and intangible property held by a banking or financial organization in a safe-deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business, and proceeds resulting from the sale of the property permitted by law, that has not been claimed by the owner for more than 3 years after the lease or rental period on the box or other repository has expired are presumed unclaimed.

History.—s. 17, ch. 87-105; s. 8, ch. 96-301; s. 16, ch. 2001-36; s. 114, ch. 2004-390.

717.117 Report of unclaimed property.—

(1) Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as unclaimed property under this chapter shall report to the department via electronic medium as the department may prescribe by rule. The report must include:

(a) Except for traveler's checks and money orders, the name, social security number or taxpayer identification number, date of birth, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed and which has a value of \$10 or more.

(b) For unclaimed funds that have a value of \$10 or more held or owing under any life or endowment insurance policy or annuity contract, the identifying information provided in paragraph (a) for both the insured or annuitant and the beneficiary according to records of the insurance company holding or owing the funds.

(c) For all tangible property held in a safe-deposit box or other safekeeping repository, a description of the property and the place where the property is held and may be inspected by the department, and any amounts owing to the holder. Contents of a safe-deposit box or other safekeeping repository which consist of documents or writings of a private nature and which have little or no apparent value shall not be presumed unclaimed.

(d) The nature or type of property, any accounting or identifying number associated with the property, a description of the property, and the amount appearing from the records to be due. Items of value of less than \$10 each may be reported in the aggregate.

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Any other information the department may prescribe by rule as necessary for the administration of this chapter.

(2) If the total value of all presumed unclaimed property, whether tangible or intangible, held by a person is less than \$10, a zero balance report may be filed for that reporting period.

(3) Credit balances, customer overpayments, security deposits, and refunds having a value of less than \$10 shall not be presumed unclaimed.

(4) If the holder of property presumed unclaimed and subject to custody as unclaimed property is a successor holder or if the holder has changed the holder's name while in possession of the property, the holder shall file with the holder's report all known names and addresses of each prior holder of the property. Compliance with this subsection means the holder exercises reasonable and prudent efforts to determine the names of all prior holders.

(5) The report must be filed before May 1 of each year. The report applies to the preceding calendar year. Upon written request by any person required to file a report, and upon a showing of good cause, the department may extend the reporting date. The department may impose and collect a penalty of \$10 per day up to a maximum of

\$500 for the failure to timely report, if an extension was not provided or if the holder of the property failed to include in a report information required by this chapter which was in the holder's possession at the time of reporting. The penalty shall be remitted to the department within 30 days after the date of the notification to the holder that the penalty is due and owing. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. The department must provide information contained in a report filed with the department to any person requesting a copy of the report or information contained in a report, to the extent the information requested is not confidential, within 45 days after the department determines that the report is accurate and acceptable and that the reported property is the same as the remitted property.

(6) Holders of inactive accounts having a value of \$50 or more shall use due diligence to locate and notify apparent owners that the entity is holding unclaimed property available for them to recover. Not more than 120 days and not less than 60 days prior to filing the report required by this section, the holder in possession of property presumed unclaimed and subject to custody as unclaimed property under this chapter shall send written notice by first-class United States mail to the apparent owner at the apparent owner's last known address from the holder's records or from other available sources, or via electronic mail if the apparent owner has elected this method of delivery, informing the apparent owner that the holder is in possession of property subject to this chapter, if the holder has in its records a mailing or electronic address for the apparent owner which the holder's records do not disclose to be inaccurate. These two means of contact are not mutually exclusive; if the mailing address is determined to be inaccurate, electronic mail may be used if so elected by the apparent owner.

(7) The written notice to the apparent owner required under this section must:

(a) Contain a heading that reads substantially as follows: "Notice. The State of Florida requires us to notify you that your property may be transferred to the custody of the Florida Department of Financial Services if you do not contact us before _(insert date that is at least 30 days after the date of notice)_."

(b) Identify the type, nature, and, except for property that does not have a fixed value, value of the property that is the subject of the notice.

(c) State that the property will be turned over to the custody of the department as unclaimed property if no response to this letter is received.

(d) State that any property that is not legal tender of the United States may be sold or liquidated by the department.

(e) State that after the property is turned over to the department, an apparent owner seeking return of the property may file a claim with the department.

(f) State that the property is currently with a holder and provide instructions that the apparent owner must follow to prevent the holder from reporting and paying for the property or from delivering the property to the department.

(8) Any holder of intangible property may file with the department a petition for determination that the property is unclaimed requesting the department to accept custody of the property. The petition shall state any special circumstances that exist, contain the information required by subsection (4), and show that a diligent search has been made to locate the owner. If the department finds that the proof of diligent search is satisfactory, it shall give notice as provided in s. 717.118 and accept custody of the property.

(9) Upon written request by any entity or person required to file a report, stating such entity's or person's justification for such action, the department may place that entity or person in an inactive status as an unclaimed property "holder."

(10)(a) This section does not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425 or that are exempt from ad valorem taxation pursuant to s. 196.2002.

(b) This section does not apply to intangible property held, issued, or owing by a business association subject to the jurisdiction of the United States Surface Transportation Board or its successor federal agency if the apparent owner of such intangible property is a business association. The holder of such property does not have any obligation to report, to pay, or to deliver such property to the department.

(c) This section does not apply to credit balances, overpayments, refunds, or outstanding checks owed by a health care provider to a managed care payor with whom the health care provider has a managed care contract, provided that the credit balances, overpayments, refunds, or outstanding checks become due and owing pursuant to the managed care contract.

(11)(a) As used in this subsection, the term “property identifier” means the descriptor used by the holder to identify the unclaimed property.

(b) Social security numbers and property identifiers contained in reports required under this section, held by the department, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) This exemption applies to social security numbers and property identifiers held by the department before, on, or after the effective date of this exemption.

History.—s. 18, ch. 87-105; s. 1, ch. 92-169; s. 30, ch. 92-319; s. 1, ch. 93-280; s. 9, ch. 96-301; s. 1771, ch. 97-102; s. 17, ch. 2001-36; s. 1, ch. 2002-64; s. 1888, ch. 2003-261; s. 115, ch. 2004-390; s. 4, ch. 2005-163; s. 1, ch. 2007-69; s. 1, ch. 2012-227; s. 2, ch. 2016-90; s. 1, ch. 2017-33; s. 46, ch. 2024-140.

717.118 Notification of apparent owners of unclaimed property.—

(1) It is specifically recognized that the state has an obligation to make an effort to notify owners of unclaimed property in a cost-effective manner. In order to provide all the citizens of this state an effective and efficient program for the recovery of unclaimed property, the department shall use cost-effective means to make at least one active attempt to notify owners of unclaimed property accounts valued at more than \$250 with a reported address or taxpayer identification number. Such active attempt to notify apparent owners shall include any attempt by the department to directly contact the owner. Other means of notification, such as publication of the names of owners in the newspaper, on television, on the Internet, or through other promotional efforts and items in which the department does not directly attempt to contact the owner are expressly declared to be passive attempts. Nothing in this subsection precludes other agencies or entities of state government from notifying owners of the existence of unclaimed property or attempting to notify apparent owners of unclaimed property.

(2) Notification provided directly to individual apparent owners shall consist of a description of the property and information regarding recovery of unclaimed property from the department.

(3) This section is not applicable to sums payable on traveler’s checks, money orders, and other written instruments presumed unclaimed under s. 717.104.

History.—s. 19, ch. 87-105; s. 2, ch. 88-256; s. 31, ch. 92-319; s. 2, ch. 93-280; s. 10, ch. 96-301; s. 18, ch. 2001-36; s. 116, ch. 2004-390; s. 5, ch. 2005-163.

717.119 Payment or delivery of unclaimed property.—

(1) Every person who is required to file a report under s. 717.117 shall simultaneously pay or deliver to the department all unclaimed property required to be reported. Such payment or delivery shall accompany the report as required in this chapter for the preceding calendar year.

(2) Payment of unclaimed funds may be made to the department by electronic funds transfer.

(3) If the owner establishes the right to receive the unclaimed property to the satisfaction of the holder before the property has been delivered to the department or it appears that for some other reason the presumption that the property is unclaimed is erroneous, the holder need not pay or deliver the property to the department. In lieu of delivery, the holder shall file a verified written explanation of the proof of claim or of the error in the presumption that the property was unclaimed.

(4) All virtual currency reported under this chapter on the annual report filing required in s. 717.117 shall be remitted to the department with the report. The holder shall liquidate the virtual currency and remit the proceeds to the department. The liquidation must occur within 30 days before the filing of the report. Upon delivery of the virtual currency proceeds to the department, the holder is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every person for any losses or damages resulting to the person by the delivery to the department of the virtual currency proceeds.

(5) All stock or other intangible ownership interest reported under this chapter on the annual report filing required in s. 717.117 shall be remitted to the department with the report. Upon delivery of the stock or other

intangible ownership interest to the department, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder is relieved of all liability of every kind in accordance with the provisions of s. 717.1201 to every person for any losses or damages resulting to the person by the delivery to the department of the stock or other intangible ownership interest.

(6) 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.

(a) Holders may remit the value of cash and coins found in unclaimed safe-deposit boxes to the department by cashier's check or by electronic funds transfer, unless the cash or coins have a value above face value. The department shall identify by rule those cash and coin items having a numismatic value. Cash and coin items identified as having a numismatic value shall be remitted to the department in their original form.

(b) Any firearm or ammunition found in an unclaimed safe-deposit box or any other safekeeping repository shall be delivered by the holder to a law enforcement agency for disposal pursuant to s. 705.103(2)(b) with the balance of the proceeds deposited into the State School Fund if the firearm is sold. However, the department is authorized to make a reasonable attempt to ascertain the historical value to collectors of any firearm that has been delivered to the department. Any firearm appearing to have historical value to collectors may be sold by the department pursuant to s. 717.122 to a person having a federal firearms license. Any firearm which is not sold pursuant to s. 717.122 shall be delivered by the department to a law enforcement agency in this state for disposal pursuant to s. 705.103(2)(b) with the balance of the proceeds deposited into the State School Fund if the firearm is sold. The department shall not be administratively, civilly, or criminally liable for any firearm delivered by the department to a law enforcement agency in this state for disposal.

(c) If such property is not paid or delivered to the department on or before the applicable payment or delivery date, the holder shall pay to the department a penalty for each safe-deposit box shipment received late. The penalty shall be \$100 for a safe-deposit box shipment container that is late 30 days or less. Thereafter, the penalty shall be \$500 for a safe-deposit box shipment container that is late for each additional successive 30-day period. The penalty assessed against a holder for a late safe-deposit box shipment container shall not exceed \$4,000 annually. The penalty shall be remitted to the department within 30 days after the date of the notification to the holder that the penalty is due and owing.

(d) The department may waive any penalty due with appropriate justification, as provided by rule.

(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.

(7) Any holder may request an extension in writing of up to 60 days for the delivery of property if extenuating circumstances exist for the late delivery of the property. Any such extension the department may grant shall be in writing.

(8) A holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with the provisions of this chapter, other than to a parent, subsidiary, or affiliate of the holder.

(a) Unless otherwise agreed to by the parties to a transaction, the holder's successor by merger or consolidation, or any person or entity that acquires all or substantially all of the holder's capital stock or assets, is responsible for fulfilling the holder's obligation to report, pay, or deliver property or to comply with the duties of this chapter regarding the transfer of property owed to the holder's successor and being held for an owner resulting from the merger, consolidation, or acquisition.

(b) This subsection does not prohibit a holder from contracting with a third party for the reporting of unclaimed property, but the holder remains responsible to the department for the complete, accurate, and timely reporting of

the property.

History.—s. 20, ch. 87-105; s. 11, ch. 96-301; s. 19, ch. 2001-36; s. 4, ch. 2003-21; s. 117, ch. 2004-390; s. 6, ch. 2005-163; s. 1, ch. 2021-144; s. 47, ch. 2024-140.

717.1201 Custody by state; holder liability; reimbursement of holder paying claim; reclaiming for owner; payment of safe-deposit box or repository charges.—

(1) Upon the good faith payment or delivery of unclaimed property to the department, the state assumes custody and responsibility for the safekeeping of the property. Any person who pays or delivers unclaimed property to the department in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

(a) A holder's substantial compliance with s. 717.117(6) and good faith payment or delivery of unclaimed property to the department releases the holder from liability that may arise from such payment or delivery, and such delivery and payment may be ¹pleaded as a defense in any suit or action brought by reason of such delivery or payment. This section does not relieve a fiduciary of his or her duties under the Florida Trust Code or Florida Probate Code.

(b) If the holder pays or delivers property to the department in good faith and thereafter any other person claims the property from the holder paying or delivering, or another state claims the money or property under that state's laws relating to escheat or abandoned or unclaimed property, the department, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim, except that a holder may not be indemnified against penalties imposed by another state.

(2) For the purposes of this section, a payment or delivery of unclaimed property is made in good faith if:

- (a) The payment or delivery was made in conjunction with an accurate and acceptable report.
- (b) The payment or delivery was made in a reasonable attempt to comply with this chapter and other applicable general law.

(c) The holder had a reasonable basis for believing, based on the facts then known, that the property was unclaimed and subject to this chapter.

(d) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(3) Any holder who has paid money to the department pursuant to this chapter may make payment to any person appearing to be entitled to payment and, upon filing proof that the payee is entitled thereto, the department shall forthwith repay the holder without deduction of any fee or other charges. If repayment is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be repaid under this subsection upon filing proof that the instrument was duly presented and that the payee is entitled to payment. The holder shall be repaid for payment made under this subsection even if the payment was made to a person whose claim was barred under s. 717.129(1).

(4) Any holder who has delivered property, including a certificate of any interest in a business association, other than money to the department pursuant to this chapter may reclaim the property if still in the possession of the department, without payment of any fee or other charges, upon filing proof that the owner has claimed the property from the holder.

(5) The department may accept an affidavit of the holder stating the facts that entitle the holder to recover money and property under this section as sufficient proof.

(6) Property removed from a safe-deposit box or other safekeeping repository is received by the department subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The department shall make the reimbursement to the holder out of the proceeds remaining after the deduction of the department's selling cost.

(7) If it appears to the satisfaction of the department that, because of some mistake of fact, error in calculation, or erroneous interpretation of a statute, a person has paid or delivered to the department pursuant to any provision of this chapter any money or other property not required by this chapter to be so paid or delivered,

the department may, within 5 years after such erroneous payment or delivery, refund or redeliver such money or other property to the person, provided that such money or property has not been paid or delivered to a claimant or otherwise disposed of in accordance with this chapter.

History.—s. 21, ch. 87-105; s. 20, ch. 2001-36; s. 118, ch. 2004-390; s. 48, ch. 2024-140.

¹**Note.**—The word “pleaded” was substituted for the word “plead” by the editors to conform to context.

717.121 Crediting of dividends, interest, or increments to owner’s account.—Whenever property other than money is paid or delivered to the department under this chapter, the owner is entitled to receive from the department any dividends, interest, or other increments realized or accruing on the property at or before liquidation or conversion thereof into money.

History.—s. 22, ch. 87-105.

717.122 Public sale of unclaimed property.—

(1) Except as provided in paragraph (2)(a), the department after the receipt of unclaimed property shall sell it to the highest bidder at public sale on the Internet or at a specified physical location wherever in the judgment of the department the most favorable market for the property involved exists. The department may decline the highest bid and reoffer the property for sale if in the judgment of the department the bid is insufficient. The department shall have the discretion to withhold from sale any unclaimed property that the department deems to be of benefit to the people of the state. If in the judgment of the department the probable cost of sale exceeds the value of the property, it need not be offered for sale and may be disposed of as the department determines appropriate. Any sale at a specified physical location held under this section must be preceded by a single publication of notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold. The department shall proportionately deduct auction fees, preparation costs, and expenses from the amount posted to the owner’s account when safe-deposit box contents are sold. No action or proceeding may be maintained against the department for or on account of any decision to decline the highest bid or withhold any unclaimed property from sale.

(2)(a) Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the department deems advisable. The department may authorize the agent or broker acting on behalf of the department to deduct fees from the proceeds of these sales at a rate agreed upon in advance by the agent or broker and the department. The department shall reimburse owners’ accounts for these brokerage fees from the State School Fund unless the securities are sold at the owner’s request.

(b) Unless the department deems it to be in the public interest to do otherwise, all securities presumed unclaimed and delivered to the department may be sold upon receipt. Any person making a claim pursuant to this chapter is entitled to receive either the securities delivered to the department by the holder, if they still remain in the hands of the department, or the proceeds received from sale, but no person has any claim under this chapter against the state, the holder, any transfer agent, any registrar, or any other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the state.

(c) Certificates for unclaimed stock or other equity interest of business associations that cannot be canceled and registered in the department’s name or that cannot be readily liquidated and converted into the currency of the United States may be sold for the value of the certificate, if any, in accordance with subsection (1) or may be destroyed in accordance with s. 717.128.

(3) The purchaser of property at any sale conducted by the department pursuant to this chapter is entitled to ownership of the property purchased free from all claims of the owner or previous holder thereof and of all persons claiming through or under them. The department shall execute all documents necessary to complete the transfer of ownership.

(4) The sale of unclaimed tangible personal property is not subject to tax under chapter 212 when such property is sold by or on behalf of the department pursuant to this section.

History.—s. 23, ch. 87-105; s. 3, ch. 90-113; s. 12, ch. 96-301; s. 21, ch. 2001-36; s. 119, ch. 2004-390; s. 7, ch. 2005-163.

717.123 Deposit of funds.—

(1) All funds received under this chapter, including the proceeds from the sale of unclaimed property under s. 717.122, shall forthwith be deposited by the department in the Unclaimed Property Trust Fund. The department shall retain, from funds received under this chapter, an amount not exceeding \$15 million from which the department shall make prompt payment of claims allowed by the department and shall pay the costs incurred by the department in administering and enforcing this chapter. All remaining funds received by the department under this chapter shall be deposited by the department into the State School Fund.

(2) The department shall record the name and last known address of each person appearing from the holder's reports to be entitled to the unclaimed property in the total amounts of \$5 or greater; the name and the last known address of each insured person or annuitant; and with respect to each policy or contract listed in the report of an insurance corporation, its number, the name of the corporation, and the amount due.

(3) Notwithstanding subsection (1), and for the 2022-2023 fiscal year, the department shall retain, from funds received under this chapter, an amount not exceeding \$65 million from which the department shall make prompt payment of claims allowed by the department and shall pay the costs incurred by the department in administering and enforcing this chapter. This subsection expires July 1, 2024.

History.—s. 24, ch. 87-105; s. 13, ch. 96-301; s. 22, ch. 2001-36; s. 120, ch. 2004-390; s. 48, ch. 2023-240.

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

History.—s. 3, ch. 2016-90.

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, 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 claim is considered to have been withdrawn by a claimant or the claimant's representative if the department does not receive a response to its request for additional information 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.

(2) A claim for a cashier's check or a stock certificate without the original instrument may require an indemnity bond equal to the value of the claim to be provided prior to issue of the stock or payment of the claim by the department.

(3) The department may require an affidavit swearing to the authenticity of the claim, lack of documentation, and an agreement to allow the department to provide the name and address of the claimant to subsequent claimants coming forward with substantiated proof to claim the account. This shall apply to claims equal to or less than \$250. The exclusive remedy of a subsequent claimant to the property shall be against the person who received the property from the department.

(4)(a) Except as otherwise provided in this chapter, if a claim is determined in favor of the claimant, the department shall deliver or pay over to the claimant the property or the amount the department actually received or the proceeds if it has been sold by the department, together with any additional amount required by s. 717.121.

(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. The original Unclaimed Property Recovery Agreement or Unclaimed Property Purchase Agreement must be executed by the claimant or seller and must be filed with the department.

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

2. Payments of fees and costs authorized under an Unclaimed Property Recovery Agreement for approved claims must 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 be to the attorney, certified public accountant, or private investigator.

(5) The department shall not be administratively, civilly, or criminally liable for any property or funds distributed pursuant to this section, provided such distribution is made in good faith.

(6) This section does not supersede the licensing requirements of chapter 493.

(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 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.

(8) Notwithstanding any other provision of this chapter, the department may develop and implement an identification verification and disbursement process by which an account valued at \$2,000 or less, after being received by the department and added to the unclaimed property database, may be disbursed to an apparent owner after the department has verified that the apparent owner is living and that the apparent owner's current address is correct. The department shall include with the payment a notification and explanation of the dollar

amount, the source, and the property type of each account included in the disbursement. The department shall adopt rules to implement this subsection.

(9)(a) Notwithstanding any other provision of this chapter, the department may develop and implement a verification and disbursement process by which an account, after being received by the department and added to the unclaimed property database, for which the apparent owner entity is:

1. A state agency in this state or a subdivision or successor agency thereof;
2. A county government in this state or a subdivision thereof;
3. A public school district in this state or a subdivision thereof;
4. A municipality in this state or a subdivision thereof; or
5. A special taxing district or authority in this state,

may be disbursed to the apparent owner entity or successor entity. The department shall include with the payment a notification and explanation of the dollar amount, the source, and the property type of each account included in the disbursement.

(b) 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 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 this chapter, including an Unclaimed Property Recovery Agreement or Unclaimed Property Purchase Agreement that has been signed and dated by a claimant or seller under s. 717.135, 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 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.

(11) This section applies to all unclaimed property reported and remitted to the Chief Financial Officer, including, but not limited to, property reported pursuant to ss. 45.032, 732.107, 733.816, and 744.534.

History.—s. 25, ch. 87-105; s. 3, ch. 89-291; s. 8, ch. 89-299; s. 4, ch. 90-113; s. 14, ch. 96-301; s. 295, ch. 96-410; s. 31, ch. 97-93; s. 1772, ch. 97-102; s. 23, ch. 2001-36; s. 121, ch. 2004-390; s. 8, ch. 2005-163; s. 1, ch. 2013-34; s. 9, ch. 2018-71; s. 34, ch. 2019-140; s. 2, ch. 2021-144.

717.12403 Unclaimed demand, savings, or checking account in a financial institution held in the name of more than one person.—

(1)(a) If an unclaimed demand, savings, or checking account in a financial institution is reported as an “and” account in the name of two or more persons who are not beneficiaries, it is presumed that each person must claim the account in order for the claim to be approved by the department. This presumption may be rebutted by showing that entitlement to the account has been transferred to another person or by clear and convincing evidence demonstrating that the account should have been reported by the financial institution as an “or” account.

(b) If an unclaimed demand, savings, or checking account in a financial institution is reported as an “and” account and one of the persons on the account is deceased, it is presumed that the account is a survivorship account. This presumption may be rebutted by showing that entitlement to the account has been transferred to another person or by clear and convincing evidence demonstrating that the account is not a survivorship account.

(2) If an unclaimed demand, savings, or checking account in a financial institution is reported as an “or” account in the name of two or more persons who are not beneficiaries, it is presumed that either person listed on the account may claim the entire amount held in the account. This presumption may be rebutted by showing that entitlement to the account has been transferred to another person or by clear and convincing evidence demonstrating that the account should have been reported by the financial institution as an “and” account.

(3) If an unclaimed demand, savings, or checking account in a financial institution is reported in the name of two or more persons who are not beneficiaries without identifying whether the account is an “and” account or an “or” account, it is presumed that the account is an “or” account. This presumption may be rebutted by showing that entitlement to the account has been transferred to another person or by clear and convincing evidence demonstrating that the account should have been reported by the financial institution as an “and” account.

(4) The department shall be deemed to have made a distribution in good faith if the department remits funds consistent with this section.

History.—s. 122, ch. 2004-390.

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

(1)(a) Claims on behalf of an active or dissolved corporation, for which the last annual report is not available from the Department of State through the Internet, must be accompanied by a microfiche copy of the records on file with the Department of State or, if the corporation has not made a corporate filing with the Department of State, the claim must be accompanied by a uniform resource locator for the address of a free Internet site operated by the state of incorporation of the corporation that provides access to the last corporate filing identifying the officers and directors of the corporation. If available, the claim must be accompanied by a printout of the officers and directors from the Department of State Internet site or the free Internet site operated by the state of incorporation of the corporation. If the free Internet site is not available, the claim must be accompanied by an authenticated copy of the last corporate filing identifying the officers and directors from the appropriate authorized official of the state of incorporation.

(b) A claim on behalf of a corporation must be made by an officer or director identified on the last corporate filing.

(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, if applicable, is void.

History.—s. 123, ch. 2004-390; s. 9, ch. 2005-163; s. 3, ch. 2021-144.

717.12405 Claims by estates.—An estate or any person representing an estate or acting on behalf of an estate may claim unclaimed property only after the heir or legatee of the decedent entitled to the property has been located. Any estate, or any person representing an estate or acting on behalf of an estate, that receives unclaimed property before the heir or legatee of the decedent entitled to the property has been located, is personally liable for the unclaimed property and must immediately return the full amount of the unclaimed property or the value thereof to the department in accordance with s. 717.1341.

History.—s. 124, ch. 2004-390.

717.12406 Joint ownership of unclaimed securities or dividends.—For the purpose of determining joint ownership of unclaimed securities or dividends, the term:

- (1) “TEN COM” means tenants in common.
- (2) “TEN ENT” means tenants by the entireties.
- (3) “JT TEN” or “JT” means joint tenants with the right of survivorship and not as tenants in common.
- (4) “And” means tenants in common with each person entitled to an equal pro rata share.

(5) “Or” means that each person listed on the account is entitled to all of the funds.

History.—s. 10, ch. 2005-163.

717.1241 Conflicting claims.—

(1) When conflicting claims have been received by the department for the same unclaimed property account or accounts, the property shall be remitted in accordance with the claim filed by the person as follows, notwithstanding the withdrawal of a claim:

(a) To the person submitting the first claim received by the Division of Unclaimed Property of the department that is complete or made complete.

(b) If a claimant’s claim and a claimant’s representative’s claim are received by the Division of Unclaimed Property of the department on the same day and both claims are complete, to the claimant.

(c) If a buyer’s claim and a claimant’s claim or a claimant’s representative’s claim are received by the Division of Unclaimed Property of the department on the same day and the claims are complete, to the buyer.

(d) As between two or more claimant’s representative’s claims received by the Division of Unclaimed Property of the department that are complete or made complete on the same day, to the claimant’s representative who has agreed to receive the lowest fee. If the two or more claimant’s representatives whose claims received by the Division of Unclaimed Property of the department were complete or made complete on the same day are charging the same lowest fee, the fee shall be divided equally between the claimant’s representatives.

(e) If more than one buyer’s claim received by the Division of Unclaimed Property of the department is complete or made complete on the same day, the department shall remit the unclaimed property to the buyer who paid the highest amount to the seller. If the buyers paid the same amount to the seller, the department shall remit the unclaimed property to the buyers divided in equal amounts.

(2) The purpose of this section is solely to provide guidance to the department regarding to whom it should remit the unclaimed property and is not intended to extinguish or affect any private cause of action that any person may have against another person for breach of contract or other statutory or common-law remedy. A buyer’s sole remedy, if any, shall be against the claimant’s representative or the seller, or both. A claimant’s representative’s sole remedy, if any, shall be against the buyer or the seller, or both. A claimant’s or seller’s sole remedy, if any, shall be against the buyer or the claimant’s representative, or both. Nothing in this section forecloses the right of a person to challenge the department’s determination of completeness in a proceeding under ss. 120.569 and 120.57.

(3) A claim is complete when entitlement to the unclaimed property has been established.

History.—s. 15, ch. 96-301; s. 24, ch. 2001-36; s. 125, ch. 2004-390; s. 11, ch. 2005-163; s. 40, ch. 2016-165.

717.1242 Restatement of jurisdiction of the circuit court sitting in probate and the department.—

(1) It is and has been the intent of the Legislature that, pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of proceedings relating to the settlement of the estates of decedents and other jurisdiction usually pertaining to courts of probate. It is and has been the intent of the Legislature that, pursuant to this chapter, the department determines the merits of claims and entitlement to unclaimed property paid or delivered to the department under this chapter. Consistent with this legislative intent, any beneficiary, devisee, heir, personal representative, or other interested person, as those terms are defined in the Florida Probate Code and the Florida Trust Code, of an estate seeking to obtain property paid or delivered to the department under this chapter must file a claim with the department as provided in s. 717.124.

(2) If any estate or heir of an estate seeks or obtains an order from a circuit court sitting in probate directing the department to pay or deliver to any person property paid or delivered to the department under this chapter, the estate or heir shall be ordered to pay the department reasonable costs and attorney’s fees in any proceeding brought by the department to oppose, appeal, or collaterally attack the order if the department is the prevailing party in any such proceeding.

History.—s. 16, ch. 96-301; s. 126, ch. 2004-390; s. 12, ch. 2005-163; s. 49, ch. 2024-140.

717.1243 Small estate accounts.—

(1) A claim for unclaimed property made by a beneficiary, as defined in s. 731.201, of a deceased owner need not be accompanied by an order of a probate court if the claimant files with the department an affidavit, signed by all beneficiaries, stating that all the beneficiaries have amicably agreed among themselves upon a division of the estate and that all funeral expenses, expenses of the last illness, and any other lawful claims have been paid, and any additional information reasonably necessary to make a determination of entitlement. If the owner died testate, the claim shall be accompanied by a copy of the will.

(2) Each person receiving property under this section shall be personally liable for all lawful claims against the estate of the owner, but only to the extent of the value of the property received by such person under this section, exclusive of the property exempt from claims of creditors under the constitution and laws of this state.

(3) Any heir or devisee of the owner, who was lawfully entitled to share in the property but did not receive his or her share of the property, may enforce his or her rights in appropriate proceedings against those who received the property and shall be awarded taxable costs as in chancery actions, including attorney's fees.

(4) This section applies only if all of the unclaimed property held by the department on behalf of the owner has an aggregate value of \$20,000 or less and no probate proceeding is pending.

(5) Nothing in this section shall be interpreted as precluding the use of live testimony in order to establish entitlement.

History.—s. 17, ch. 96-301; s. 25, ch. 2001-36; s. 23, ch. 2003-154; s. 13, ch. 2005-163; s. 4, ch. 2016-90; s. 50, ch. 2024-140.

717.1244 Determinations of unclaimed property claims.—In rendering a determination regarding the merits of an unclaimed property claim, the department shall rely on the applicable statutory, regulatory, common, and case law. Agency statements applying the statutory, regulatory, common, and case law to unclaimed property claims are not agency statements subject to s. 120.56(4).

History.—s. 127, ch. 2004-390.

717.1245 Garnishment of unclaimed property.—If any person files a petition for writ of garnishment seeking to obtain property paid or delivered to the department under this chapter, the petitioner shall be ordered to pay the department reasonable costs and attorney's fees in any proceeding brought by the department to oppose, appeal, or collaterally attack the petition or writ if the department is the prevailing party in any such proceeding.

History.—s. 14, ch. 2005-163.

717.125 Claim of another state to recover property; procedure.—

(1) At any time after property has been paid or delivered to the department under this chapter, another state may recover the property if:

(a) The property was subjected to custody by this state because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed unclaimed under this chapter, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment or being unclaimed by that state;

(b) The last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state;

(c) The records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and under laws of that state the property escheated to or was subject to a claim of abandonment by that state;

(d) The property was subject to custody by this state under s. 717.103(6) and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or

(e) The property is the sum payable on a traveler's check, money order, or other similar instrument that was subjected to custody by this state under s. 717.104, and the instrument was purchased in the other state, and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.

(2) The claim of another state to recover escheated or unclaimed property under this section must be presented in a form prescribed by the department, and the department shall determine the claim within 90 days after it is presented. Such determination shall contain a notice of rights provided by ss. 120.569 and 120.57.

(3) The department shall require a state, prior to recovery of property under this section, to indemnify this state and its officers and employees against any liability on a claim for the property.

History.—s. 26, ch. 87-105; s. 296, ch. 96-410; s. 26, ch. 2001-36.

717.126 Administrative hearing; burden of proof; proof of entitlement; venue.—

(1) Any person aggrieved by a decision of the department may petition for a hearing as provided in ss. 120.569 and 120.57. In any proceeding for determination of a claim to property paid or delivered to the department under this chapter, the burden shall be upon the claimant to establish entitlement to the property by a preponderance of evidence. Having the same name as that reported to the department is not sufficient, in the absence of other evidence, to prove entitlement to unclaimed property.

(2) Unless otherwise agreed by the parties, venue shall be in Tallahassee, Leon County, Florida. However, upon the request of a party, the presiding officer may, in the presiding officer's discretion, conduct the hearing at an alternative remote video location.

History.—s. 27, ch. 87-105; s. 297, ch. 96-410; s. 128, ch. 2004-390.

717.1261 Death certificates.—Any person who claims entitlement to unclaimed property by means of the death of one or more persons shall file a copy of the death certificate of the decedent or decedents that has been certified as being authentic by the issuing governmental agency.

History.—s. 129, ch. 2004-390.

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

History.—s. 130, ch. 2004-390; s. 5, ch. 2016-90.

717.127 Election to take payment or delivery.—The department may decline to receive any property reported under this chapter that the department considers to have a value less than the expense of giving notice and of sale. If the department elects not to receive custody of the property, the holder shall be notified within 120 days after filing the report required under s. 717.117 or remitting the property required under s. 717.119.

History.—s. 28, ch. 87-105; s. 18, ch. 96-301.

717.128 Destruction or disposition of property having insubstantial commercial value; immunity from liability.—If the department after investigation finds that any property delivered under this chapter has insubstantial commercial value, the department may destroy or otherwise dispose of the property. No action or proceeding may be maintained against the state or any officer or against the holder for or on account of any action taken by the department pursuant to this section with respect to the property.

History.—s. 29, ch. 87-105.

717.129 Periods of limitation.—

(1) The expiration before or after July 1, 1987, of any period of time specified by contract, statute, or court order, during which a claim for money or property may be made or during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or to recover property, does not prevent the money or property from being presumed unclaimed or affect any duty to file a report or to pay or deliver unclaimed property to the department as required by this chapter.

(2) The department may not commence an action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property or any other duty of a holder under this chapter more than 10 years after the duty arose. The period of limitation established under this subsection is tolled by the earlier of the department's or audit agent's delivery of a notice that a holder is subject to an audit or examination under s. 717.1301 or the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

History.—s. 30, ch. 87-105; s. 27, ch. 2001-36; s. 51, ch. 2024-140.

717.1301 Investigations; examinations; subpoenas.—

(1) To carry out the chapter's purpose of protecting the interest of missing owners through the safeguarding of their property and to administer and enforce this chapter, the department may:

(a) Investigate, examine, inspect, request, or otherwise gather information or evidence on, claim documents from a claimant or a claimant's representative during its review of a claim.

(b) Audit the records of a person or the records in the possession of an agent, representative, subsidiary, or affiliate of the person subject to this chapter to determine whether the person complied with this chapter. Such records may include information to verify the completeness or accuracy of the records provided, even if such records may not identify property reportable to the department.

(c) Take testimony of a person, including the person's employee, agent, representative, subsidiary, or affiliate, to determine whether the person complied with this chapter.

(d) Issue an administrative subpoena to require that the records specified in paragraph (b) be made available for examination or audit and that the testimony specified in paragraph (c) be provided.

(e) Bring an action in a court of competent jurisdiction seeking enforcement of an administrative subpoena issued under this section, which the court shall consider under procedures that will lead to an expeditious resolution of the action.

(f) Bring an administrative action or an action in a court of competent jurisdiction to enforce this chapter.

(2) If a person is subject to reporting property under this chapter, the department may require the person to file a verified report in a form prescribed by the department. The verified report must:

(a) State whether the person is holding property reportable under this chapter;

(b) Describe the property not previously reported, the property about which the department has inquired, or the property that is in dispute as to whether it is reportable under this chapter; and

(c) State the amount or value of the property.

(3) The department may authorize a compliance review of a report for a specified reporting year. The review must be limited to the contents of the report filed, as required by s. 717.117 and subsection (2), and all supporting documents related to the reports. If the review results in a finding of a deficiency in unclaimed property due and payable to the department, the department shall notify the holder in writing of the amount of deficiency within 1 year after the authorization of the compliance review. If the holder fails to pay the deficiency within 90 days, the department may seek to enforce the assessment under subsection (1). The department is not required to conduct a review under this section before initiating an audit.

(4) Notwithstanding any other provision of law, in a contract providing for the location or collection of unclaimed property, the department may authorize the contractor to deduct its fees and expenses for services provided under the contract from the unclaimed property that the contractor has recovered or collected under the contract. The department shall annually report to the Chief Financial Officer the total amount collected or recovered by each contractor during the previous fiscal year and the total fees and expenses deducted by each contractor.

(5) The material compiled by the department in an investigation or examination under this chapter is confidential until the investigation or examination is complete. If any such material contains a holder's financial or proprietary information, it may not be disclosed or made public by the department after the investigation or audit is completed, except as required by a court of competent jurisdiction in the course of a judicial proceeding in which the state is a party, or pursuant to an agreement with another state allowing joint audits. Such material may be considered a trade secret and exempt from s. 119.07(1) as provided for in s. 119.0715. The records, data, and

information gathered by the department in an investigation or audit under this chapter remain confidential if the department has submitted the material or any part of it to any law enforcement agency or other administrative agency for further investigation or for the filing of a criminal or civil prosecution and such investigation has not been completed or become inactive.

(6) If an investigation or an audit of the records of any person results in the disclosure of property reportable and deliverable under this chapter, the department may assess the cost of the investigation or audit against the holder. The fee for the costs of the investigation or audit shall be remitted to the department within 30 days after the date of the notification that the fee is due and owing. Any person who fails to pay the fee within 30 days after the date of the notification that the fee is due and owing shall pay to the department interest at the rate of 12 percent per annum on such fee from the date of the notification.

History.—s. 31, ch. 87-105; s. 1, ch. 94-262; s. 131, ch. 2004-390; s. 52, ch. 2024-140.

717.1311 Retention of records.—

(1) Every holder required to file a report under s. 717.117 shall maintain a record of the specific type of property, amount, name, and last known address of the owner for 10 years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (2) or by rule of the department.

(2) Any business association that sells in this state its traveler's checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly responsible, or that provides such instruments to others for sale in this state, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for 3 years after the date the property is reportable.

History.—s. 32, ch. 87-105; s. 24, ch. 91-110; s. 19, ch. 96-301; s. 15, ch. 2005-163; s. 53, ch. 2024-140.

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 between the owner and such claimant's representative or buyer, for at least 3 years after the date of the initial agreement.

(2) A claimant's representative or buyer of unclaimed property, operating at two or more places of business in this state, may maintain the books, accounts, and records of all such offices at any one of such offices, or at any other office maintained by such claimant's representative or buyer of unclaimed property, upon the filing of a written notice with the department designating in the written notice the office at which such records are maintained.

(3) A claimant's representative or buyer of unclaimed property shall make all books, accounts, and records available at a convenient location in this state upon request of the department.

History.—s. 28, ch. 2001-36; s. 132, ch. 2004-390; s. 16, ch. 2005-163; s. 4, ch. 2021-144.

717.132 Enforcement; cease and desist orders; fines.—

(1) The department may bring an action in any court of competent jurisdiction to enforce or administer any provision of this chapter, any rule or order promulgated under this chapter, or any written agreement entered into with the department.

(2) In addition to any other powers conferred upon it to enforce and administer the provisions of this chapter, the department may issue and serve upon a person an order to cease and desist and to take corrective action whenever the department finds that such person is violating, has violated, or is about to violate any provision of this chapter, any rule or order promulgated under this chapter, or any written agreement entered into with the department. For purposes of this subsection, the term "corrective action" includes refunding excessive charges, requiring a person to return unclaimed property, requiring a holder to remit unclaimed property, and requiring a

holder to correct a report that contains errors or omissions. Any such order shall contain a notice of rights provided by ss. 120.569 and 120.57.

(3) In addition to any other powers conferred upon it to enforce and administer the provisions of this chapter, the department or a court of competent jurisdiction may impose fines against any person found to have violated any provision of this chapter, any rule or order promulgated under this chapter, or any written agreement entered into with the department in an amount not to exceed \$2,000 for each violation. All fines collected under this subsection shall be deposited as received in the Unclaimed Property Trust Fund.

History.—s. 33, ch. 87-105; s. 4, ch. 93-280; s. 20, ch. 96-301; s. 298, ch. 96-410; s. 29, ch. 2001-36; s. 133, ch. 2004-390; s. 17, ch. 2005-163.

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:

(a) Failure to comply with any provision of this chapter, any rule or order adopted under this chapter, or any written agreement entered into with the department.

(b) Fraud, misrepresentation, deceit, or gross negligence in any matter within the scope of this chapter.

(c) Fraudulent misrepresentation, circumvention, or concealment of any matter required to be stated or furnished to an owner or apparent owner under this chapter, regardless of reliance by or damage to the owner or apparent owner.

(d) Willful imposition of illegal or excessive charges in any unclaimed property transaction.

(e) False, deceptive, or misleading solicitation or advertising within the scope of this chapter.

(f) Failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by this chapter, by any rule or order adopted under this chapter, or by any agreement entered into with the department under this chapter.

(g) Refusal to permit inspection of books and records in an investigation or examination by the department or refusal to comply with a subpoena issued by the department under this chapter.

(h) Criminal conduct in the course of a person's business.

(i) Failure to timely pay any fine imposed or assessed under this chapter or any rule adopted under this chapter.

(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 to file a claim for unclaimed property owned by another, unless such person is registered with the department under 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 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.

(k) Failure to authorize the release of records in the possession of a third party after being requested to do so by the department regarding a pending examination or investigation.

(l) Receipt or solicitation of consideration to be paid in advance of the approval of a claim under this chapter.

(2) Upon a finding by the department that any person has committed any of the acts set forth in subsection (1), the department may enter an order:

(a) Revoking for a minimum of 5 years or suspending for a maximum of 5 years a registration previously granted under this chapter during which time the registrant may not reapply for a registration under this chapter;

- (b) Placing a registrant or an applicant for a registration on probation for a period of time and subject to such conditions as the department may specify;
- (c) Placing permanent restrictions or conditions upon issuance or maintenance of a registration under this chapter;
- (d) Issuing a reprimand;
- (e) Imposing an administrative fine not to exceed \$2,000 for each such act; or
- (f) Prohibiting any person from being a director, officer, agent, employee, or ultimate equitable owner of a 10-percent or greater interest in an employer of a registrant.

(3) A claimant's representative is subject to civil enforcement and the disciplinary actions specified in subsection (2) for violations of subsection (1) by an agent or employee of the registrant's employer if the claimant's representative knew or should have known that such agent or employee was violating any provision of this chapter.

(4)(a) The department shall adopt, by rule, and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the department under this chapter.

(b) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity or repetition of specific offenses, or both. It is the legislative intent that minor violations be distinguished from more serious violations; that such guidelines consider the amount of the claim involved, the complexity of locating the owner, the steps taken to ensure the accuracy of the claim by the person filing the claim, the acts of commission and omission of the ultimate owners in establishing themselves as rightful owners of the funds, the acts of commission or omission of the agent or employee of an employer in the filing of the claim, the actual knowledge of the agent, employee, employer, or owner in the filing of the claim, the departure, if any, by the agent or employee from the internal controls and procedures established by the employer with regard to the filing of a claim, the number of defective claims previously filed by the agent, employee, employer, or owner; that such guidelines provide reasonable and meaningful notice of likely penalties that may be imposed for proscribed conduct; and that such penalties be consistently applied by the department.

(c) A specific finding of mitigating or aggravating circumstances shall allow the department to impose a penalty other than that provided for in such guidelines. The department shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances. Such mitigating and aggravating circumstances shall also provide for consideration of, and be consistent with, the legislative intent expressed in paragraph (b).

(d) In any proceeding brought under this chapter, the administrative law judge, in recommending penalties in any recommended order, shall follow the penalty guidelines established by the department and shall state in writing any mitigating or aggravating circumstances upon which the recommended penalty is based.

(5) The department may seek any appropriate civil legal remedy available to it by filing a civil action in a court of competent jurisdiction against any person who has, directly or through a claimant's representative, wrongfully submitted a claim as the ultimate owner of property and improperly received funds from the department in violation of this chapter.

History.—s. 134, ch. 2004-390; s. 18, ch. 2005-163; s. 5, ch. 2021-144; s. 54, ch. 2024-140.

717.1323 Prohibited practice.—A person may not knowingly enter false information onto the Internet website of the Division of Unclaimed Property.

History.—s. 19, ch. 2005-163; s. 41, ch. 2016-165.

717.133 Interstate agreements and cooperation; joint and reciprocal actions with other states.—

(1) The department may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise determine unclaimed property that it or another state may be entitled to subject to a claim of custody. The department may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

(2) The department may join with other states to seek enforcement of this chapter against any person.

(3) At the request of another state, the department may bring an action in the name of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this

state of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred in bringing the action.

(4) The department may request that the attorney general of another state or any other person bring an action in the name of the department in the other state. The department may pay all expenses including attorneys' fees in any action under this subsection.

(5) As necessary for proper administration of this chapter, the department may enter into contracts for the location or collection of property subject to payment or delivery to the department under this chapter.

History.—s. 34, ch. 87-105.

717.1331 Actions against holders.—The department may initiate, or cause to be initiated, an action against a holder to enforce a subpoena or recover unclaimed property. If the department prevails in a civil or administrative action to enforce a subpoena or recover unclaimed property initiated by or on behalf of the department, the holder shall be ordered to pay the department reasonable costs and attorney's fees.

History.—s. 135, ch. 2004-390; s. 20, ch. 2005-163.

717.1333 Evidence; estimations; audit reports and worksheets, investigator reports and worksheets, other related documents.—

(1) In any proceeding involving a holder under ss. 120.569 and 120.57 in which an audit agent or investigator acting under authority of this chapter is available for cross-examination, any official written report, worksheet, or other related paper, or copy thereof, compiled, prepared, drafted, or otherwise made or received by the audit agent or investigator, after being duly authenticated by the audit agent or investigator, may be admitted as competent evidence upon the oath of the audit agent or investigator that the report, worksheet, or related paper was prepared or received as a result of an audit, examination, or investigation of the books and records of the person audited, examined, or investigated, or the agent thereof.

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

History.—s. 136, ch. 2004-390; s. 21, ch. 2005-163; s. 6, ch. 2016-90; s. 55, ch. 2024-140.

717.134 Penalties and interest.—

(1) For any person who willfully fails to render any report required under this chapter, the department may impose and collect a penalty of \$500 per day up to a maximum of \$5,000 and 25 percent of the value of property not reported until an appropriate report is provided. Upon a holder's showing of good cause, the department may waive said penalty or any portion thereof. If the holder acted in good faith and without negligence, the department shall waive the penalty provided herein.

(2) For any person who willfully refuses to pay or deliver unclaimed property to the department as required under this chapter, the department may impose and collect a penalty of \$500 per day up to a maximum of \$5,000 and 25 percent of the value of property not paid or delivered until the property is paid or delivered.

(3) Any person who willfully or fraudulently conceals, destroys, damages, or makes unlawful disposition of any property or of the books, records, or accounts pertaining to property which is subject to the provisions of this chapter is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) In addition to any damages, penalties, or fines for which a person may be liable under any other provision of law, any person who fails to report or pay or deliver unclaimed property within the time prescribed by this chapter shall pay to the department interest at the rate of 12 percent per annum on such property, or value thereof, from the date such property shall have been paid or delivered. The department may waive any penalty due under this subsection with appropriate justification.

(5) The department may impose and collect a penalty of \$500 per day up to a maximum of \$5,000 and 25 percent of the value of property willfully not reported with all of the information required by this chapter. Upon a holder's showing of good cause, the department may waive the penalty or any portion thereof. If the holder acted in good faith and without negligence, the department shall waive the penalty provided herein.

History.—s. 35, ch. 87-105; s. 21, ch. 96-301; s. 137, ch. 2004-390; s. 56, ch. 2024-140.

717.1341 Invalid claims, recovery of property, interest and penalties.—

(1)(a) No person shall receive unclaimed property that the person is not entitled to receive. Any person who receives, or assists another person to receive, unclaimed property that the person is not entitled to receive is strictly, jointly, personally, and severally liable for the unclaimed property and shall immediately return the property, or the reasonable value of the property if the property has been damaged or disposed of, to the department plus interest at the rate set in accordance with s. 55.03(1). Assisting another person to receive unclaimed property includes executing a claim form on the person's behalf.

(b)1. In the case of stocks or bonds which have been sold, the proceeds from the sale shall be returned to the department plus any dividends or interest received thereon plus an amount equal to the brokerage fee plus interest at a rate set in accordance with s. 55.03(1) on the proceeds from the sale of the stocks or bonds, the dividends or interest received, and the brokerage fee.

2. In the case of stocks or bonds which have not been sold, the stocks or bonds and any dividends or interest received thereon shall be returned to the department, together with interest on the dividends or interest received, at a rate set in accordance with s. 55.03(1) of the value of the property.

(2) The department may maintain a civil or administrative action:

(a) To recover unclaimed property that was paid or remitted to a person who was not entitled to the unclaimed property or to offset amounts owed to the department against amounts owed to an owner representative;

(b) Against a person who assists another person in receiving, or attempting to receive, unclaimed property that the person is not entitled to receive; or

(c) Against a person who attempts to receive unclaimed property that the person is not entitled to receive.

(3) If the department prevails in any proceeding under subsection (2), a fine not to exceed three times the value of the property received or sought to be received may be imposed on any person who knowingly, or with reckless disregard or deliberate ignorance of the truth, violated this section. If the department prevails in a civil or administrative proceeding under subsection (2), the person who violated subsection (1) shall be ordered to pay the department reasonable costs and attorney's fees.

(4) No person shall knowingly file, knowingly conspire to file, or knowingly assist in filing, a claim for unclaimed property the person is not entitled to receive. Any person who violates this subsection regarding unclaimed property of an aggregate value:

(a) Greater than \$50,000, is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084;

(b) Greater than \$10,000 up to \$50,000, is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084;

(c) Greater than \$250 up to \$10,000, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084;

(d) Greater than \$50 up to \$250, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083; or

(e) Up to \$50, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 138, ch. 2004-390; s. 2, ch. 2011-169.

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

(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 or seller, to sign the agreement electronically. 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. In the case of a recovery agreement, 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. In the case of a purchase agreement, if the total net gain of the claimant's representative exceeds 30 percent, the claim will be denied.
- (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 entering into an agreement or a contract 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 of any type, conveyed by any method, 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 and if the agreement is used to apply, directly or indirectly, to unclaimed property held by this state. This subsection does not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.
- (7) The Unclaimed Property Recovery 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.
- (10) This section does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy estate representative or other person or entity authorized pursuant to Title XI of the United States Code or an order of a bankruptcy court to act on behalf or for the benefit of the debtor, its creditors, and its bankruptcy estate.

History.—s. 36, ch. 87-105; s. 1, ch. 91-261; s. 2, ch. 94-191; s. 22, ch. 96-301; s. 30, ch. 2001-36; s. 1889, ch. 2003-261; s. 139, ch. 2004-390; s. 22, ch. 2005-163; s. 7, ch. 2016-90; s. 42, ch. 2016-165; s. 6, ch. 2021-144; s. 71, ch. 2023-144; s. 57, ch. 2024-140.

717.1355 Theme park and entertainment complex tickets.—This chapter does not apply to any tickets for admission to a theme park or entertainment complex as defined in s. 509.013(9), or to any tickets to a permanent exhibition or recreational activity within such theme park or entertainment complex.

History.—s. 23, ch. 96-301.

717.136 Foreign transactions.—This chapter does not apply to any property held, due, and owing in a foreign country and arising out of foreign transaction.

History.—s. 37, ch. 87-105.

717.138 Rulemaking authority.—The department shall administer and provide for the enforcement of this chapter. The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. The department may adopt rules to allow for electronic filing of fees, forms, and reports required by this chapter. The authority to adopt rules pursuant to this chapter applies to all unclaimed property reported and remitted to the Chief Financial Officer, including, but not limited to, property reported and remitted pursuant to ss. 45.032, 732.107, 733.816, and 744.534.

History.—s. 39, ch. 87-105; s. 220, ch. 98-200; s. 31, ch. 2001-36; s. 1890, ch. 2003-261; s. 27, ch. 2016-132; s. 10, ch. 2018-71.

717.1382 United States savings bond; unclaimed property; escheatment; procedure.—

(1) Notwithstanding any other provision of law, a United States savings bond in possession of the department or registered to a person with a last known address in the state, including a bond that is lost, stolen, or destroyed, is presumed abandoned and unclaimed 5 years after the bond reaches maturity and no longer earns interest and shall be reported and remitted to the department by the financial institution or other holder in accordance with ss. 717.117(1) and (5) and 717.119, if the department is not in possession of the bond.

(2)(a) After a United States savings bond is abandoned and unclaimed in accordance with subsection (1), the department may commence a civil action in a court of competent jurisdiction in Leon County for a determination that the bond shall escheat to the state. Upon determination of escheatment, all property rights to the bond or proceeds from the bond, including all rights, powers, and privileges of survivorship of an owner, co-owner, or beneficiary, shall vest solely in the state.

(b) Service of process by publication may be made on a party in a civil action pursuant to this section. A notice of action shall state the name of any known owner of the bond, the nature of the action or proceeding in short and simple terms, the name of the court in which the action or proceeding is instituted, and an abbreviated title of the case.

(c) The notice of action shall require a person claiming an interest in the bond to file a written defense with the clerk of the court and serve a copy of the defense by the date fixed in the notice. The date must not be less than 28 or more than 60 days after the first publication of the notice.

(d) The notice of action shall be published once a week for 4 consecutive weeks in a newspaper of general circulation published in Leon County. Proof of publication shall be placed in the court file.

(e)1. If no person files a claim with the court for the bond and if the department has substantially complied with the provisions of this section, the court shall enter a default judgment that the bond, or proceeds from such bond, has escheated to the state.

2. If a person files a claim for one or more bonds and, after notice and hearing, the court determines that the claimant is not entitled to the bonds claimed by such claimant, the court shall enter a judgment that such bonds, or proceeds from such bonds, have escheated to the state.

3. If a person files a claim for one or more bonds and, after notice and hearing, the court determines that the claimant is entitled to the bonds claimed by such claimant, the court shall enter a judgment in favor of the claimant.

(3) The department may redeem a United States savings bond escheated to the state pursuant to this section or, in the event that the department is not in possession of the bond, seek to obtain the proceeds from such bond.

Proceeds received by the department shall be deposited in accordance with s. 717.123.

History.—s. 1, ch. 2015-152; s. 62, ch. 2024-140.

717.1383 United States savings bond; claim for bond.—A person claiming a United States savings bond escheated to the state under s. 717.1382, or for the proceeds from such bond, may file a claim with the department. The department may approve the claim if the person is able to provide sufficient proof of the validity of the person's claim. Once a bond, or the proceeds from such bond, are remitted to a claimant, no action thereafter may be maintained by any other person against the department, the state, or any officer thereof, for or on account of such funds. The person's sole remedy, if any, shall be against the claimant who received the bond or the proceeds from such bond.

History.—s. 2, ch. 2015-152.

717.139 Uniformity of application and construction.—

(1) It is the public policy of the state to protect the interests of owners of unclaimed property. It is declared to be in the best interests of owners of unclaimed property that such owners receive the full amount of any unclaimed property without any fee.

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

History.—s. 40, ch. 87-105; s. 10, ch. 2016-90.

717.1400 Registration.—

(1) In order to file claims as a claimant's representative, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a private investigator holding a Class "C" individual license under chapter 493 must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a private investigator must provide:

- (a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's firm or employer which holds a Class "A" business license under chapter 493.
- (b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.
- (c) The business address and telephone number of the applicant's private investigative firm or employer.
- (d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.
- (e) Sufficient information to enable the department to disburse funds by electronic funds transfer.
- (f) The tax identification number of the private investigator's firm or employer which holds a Class "A" business license under chapter 493.

(2) In order to file claims as a claimant's representative, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, a Florida-certified public accountant must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, a Florida-certified public accountant must provide:

- (a) The applicant's Florida Board of Accountancy number.
- (b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.
- (c) The business address and telephone number of the applicant's public accounting firm or employer.
- (d) The names of agents or employees, if any, who are designated to act on behalf of the Florida-certified public accountant, together with a legible copy of their photo identification issued by an agency of the United

States, or a state, or a political subdivision thereof.

- (e) Sufficient information to enable the department to disburse funds by electronic funds transfer.
- (f) The tax identification number of the accountant's public accounting firm employer.
- (3) In order to file claims as a claimant's representative, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts and numbers of reported shares of stock held by the department, an attorney licensed to practice in this state must register with the department on such form as the department prescribes by rule and must be verified by the applicant. To register with the department, such attorney must provide:
 - (a) The applicant's Florida Bar number.
 - (b) A legible copy of the applicant's current driver license showing the full name and current address of such person. If a current driver license is not available, another form of identification showing the full name and current address of such person or persons shall be filed with the department.
 - (c) The business address and telephone number of the applicant's firm or employer.
 - (d) The names of agents or employees, if any, who are designated to act on behalf of the attorney, together with a legible copy of their photo identification issued by an agency of the United States, or a state, or a political subdivision thereof.
 - (e) Sufficient information to enable the department to disburse funds by electronic funds transfer.
 - (f) The tax identification number of the attorney's firm or employer.
- (4) Information and documents already on file with the department before the effective date of this provision need not be resubmitted in order to complete the registration.
- (5) If a material change in the status of a registration occurs, a registrant must, within 30 days, provide the department with the updated documentation and information in writing. Material changes include, but are not limited to: a designated agent or employee ceasing to act on behalf of the designating person, a surrender, suspension, or revocation of a license, or a license renewal.
 - (a) If a designated agent or employee ceases to act on behalf of the person who has designated the agent or employee to act on such person's behalf, the designating person must, within 30 days, inform the Division of Unclaimed Property in writing of the termination of agency or employment.
 - (b) If a registrant surrenders the registrant's license or the license is suspended or revoked, the registrant must, within 30 days, inform the division in writing of the surrender, suspension, or revocation.
 - (c) If a private investigator's Class "C" individual license under chapter 493 or a private investigator's employer's Class "A" business license under chapter 493 is renewed, the private investigator must provide a copy of the renewed license to the department within 30 days after the receipt of the renewed license by the private investigator or the private investigator's employer.
- (6) A registrant's firm or employer may not have a name that might lead another person to conclude that the registrant's firm or employer is affiliated or associated with the United States, or an agency thereof, or a state or an agency or political subdivision of a state. The department shall deny an application for registration or revoke a registration if the applicant's or registrant's firm or employer has a name that might lead another person to conclude that the firm or employer is affiliated or associated with the United States, or an agency thereof, or a state or an agency or political subdivision of a state. Names that might lead another person to conclude that the firm or employer is affiliated or associated with the United States, or an agency thereof, or a state or an agency or political subdivision of a state, include, but are not limited to, the words United States, Florida, state, bureau, division, department, or government.
- (7) The licensing and other requirements of this section must be maintained as a condition of registration with the department.

History.—s. 141, ch. 2004-390; s. 133, ch. 2005-2; s. 25, ch. 2005-163; s. 11, ch. 2016-90; s. 44, ch. 2016-165; s. 58, ch. 2024-140.

717.1401 Repeal.—This chapter shall not repeal, but shall be additional and supplemental to the existing provisions of ss. 43.18 and 402.17 and chapter 716.

History.—s. 41, ch. 87-105; s. 62, ch. 92-348; s. 11, ch. 2018-71.

CHAPTER 69G-20 UNCLAIMED PROPERTY

69G-20.001	Registration
69G-20.0011	Full Disclosure Statement (Repealed)
69G-20.0021	Procedures for Filing Claim
69G-20.0022	Proof of Ownership and Entitlement to Unclaimed Property
69G-20.0023	Database Submissions
69G-20.0024	Investigation or Examination Fees
69G-20.0025	Shareholder Affidavit (Repealed)
69G-20.0026	Claimant Affidavit
69G-20.0028	General Principles for Joint Ownership of Property for Accounts that are not Unclaimed Demand, Savings or Checking Accounts Formerly Held by a Financial Institution
69G-20.0029	Survivorship Accounts Reported by a Financial Institution
69G-20.0030	Claims for United State Savings Bonds
69G-20.0037	Reporting and Remitting Abandoned Property by Mail-in Secondhand Precious Metals Dealers
69G-20.030	Definitions
69G-20.034	Report of Unclaimed Property
69G-20.035	Reporting Safe Deposit Box Contents
69G-20.036	Remitting of Safe Deposit Box Contents and Reimbursement of Expenses
69G-20.038	Late Annual Report(s), Late Payment(s), and Late Delivery of Abandoned Property
69G-20.040	Written Notice
69G-20.041	Reporting Instructions Manual for Unclaimed Property
69G-20.050	Voluntary Disclosure Agreements, Examinations, and Audits
69G-20.071	Purpose
69G-20.072	Penalty Guideline Definitions
69G-20.073	Calculating Penalty
69G-20.074	Prosecutorial Discretion
69G-20.075	Stated Penalty Guidelines for Violation of Sections 717.1322 and 717.1341, F.S., by Registrants
69G-20.076	Stated Penalty Guidelines for Violation of Sections 717.1322 and 717.1341, F.S., by Persons Who Are Not Registrants
69G-20.077	Criminal Proceedings
69G-20.078	Aggravating and Mitigating Factors
69G-20.079	Time for Payment of Administrative Fines and Costs
69G-20.080	Minor Violations
69G-20.090	Orders or Settlements Requiring Restitution

69G-20.001 Registration.

In order to file claims as a Claimant's Representative, receive distributions of fees and costs resulting from approved claims, or to purchase unclaimed property accounts from account owners, Florida-Licensed private investigators, Florida-licensed certified public accountants and Florida-licensed attorneys must register with the Department and maintain the applicable professional Florida license. To register:

(1) A Florida-licensed private investigator must complete and submit Form DFS-A4-2010, Application for Registration as an Unclaimed Property Claimant Representative – Florida Private Investigator, effective 10-13-10, www.fltreasurehunt.gov and must provide the information and documentation specified in the form.

(2) A Florida-licensed certified public accountant must complete and submit Form DFS-A4-2009, Application for Registration as an Unclaimed Property Claimant Representative – Florida Certified Public Accountant, effective 10-13-10, www.fltreasurehunt.gov and must provide the information and documentation specified in the form.

(3) A Florida-licensed attorney must complete and submit Form DFS-A4-2008, Application for Registration as an Unclaimed Property Claimant Representative – Florida Attorney, effective 10-13-10, www.fltreasurehunt.gov and must complete and submit

the documents specified in the form.

(4) The forms referred to herein are hereby incorporated by reference and available from the Florida Department of Financial Services, Division of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358, www.fltreasurehunt.gov.

Rulemaking Authority 717.138 FS. Law Implemented 92.525, 717.124, 717.135, 717.1400 FS. History-New 1-3-05, Amended 10-13-10, 6-17-15, Formerly 69I-20.001, Amended 10-20-22.

69G-20.0011 Full Disclosure Statement.

Rulemaking Authority 717.138 FS. Law Implemented 717.135, 717.1351 FS. History-New 4-27-09, Formerly 69I-20.0011, Repealed 1-1-24.

69G-20.0021 Procedures for Filing Claim.

(1) Claims for unclaimed property in the custody of the Department shall be submitted to the Department on the claim forms generated by the Department's Unclaimed Property Management Information System (UPMIS), together with identification and documentation proving the claimant's or seller's identity, ownership, and entitlement to the unclaimed property. All forms referenced in this rule are available from and shall be submitted to www.fltreasurehunt.org or to The Florida Department of Financial Services, Division of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358.

(a) A claim submitted by mail or in person, shall include the correct claim form, fully completed and manually signed and dated by all claimants, proof of the claimant's or seller's identity, ownership, and entitlement, and all supporting documentation as required by this rule, and Rule 69G-20.0022, F.A.C.

(b) A claim submitted electronically via UPMIS, as authorized by Section 717.124(7), F.S., shall include the correct claim form identified in this rule, fully completed and shall include the UPMIS system-generated electronic signature affixed by the claimant.

(c) A claimant or a Claimant's Representative may withdraw a filed, pending claim by making a written request to the Department.

(2) Claims filed by an apparent owner (including business entities and trusts) shall be submitted on Form DFS-UP-106, Claim Filed by Apparent Owner, effective 1-3-05, which is hereby incorporated by reference and available at www.fltreasurehunt.gov.

(a) A Form DFS-UP-106 shall be signed and dated by the claimant and be accompanied by proof of ownership and entitlement and all supporting documentation required in this rule and Rule 69G-20.0022, F.A.C.

(b) A Form DFS-UP-106 submitted via UPMIS as authorized by Section 717.124(7), F.S., shall include an UPMIS system-generated electronic signature affixed by the claimant and be dated by the claimant at the time the claim is created and filed.

(3) Claims filed by persons other than apparent owners (for example, a guardian, personal representative, heir, beneficiary, or purchasing Claimant's Representative), shall be submitted on Form DFS-UP-107, Claim Filed by Other than the Apparent Owner, effective 1-3-05, which is hereby incorporated by reference and available at www.fltreasurehunt.gov.

(a) Form DFS-UP-107 shall be manually signed and dated by the claimant and accompanied by proof of ownership and entitlement and all supporting documentation requirementation required in this rule and Rule 69G-20.0022, F.A.C.

(b) Form DFS-UP-107 claim forms filed by a purchasing Claimant's Representative shall be accompanied by proof of payment to the seller, proof of the seller's identity, ownership and entitlement to the purchased account, all supporting documentation as required by this rule and Rule 69G-20.0022, F.A.C., and the Form DFS-UP-310, Unclaimed Property Purchase Agreement.

1. The Form DFS-UP-310, Unclaimed Property Purchase Agreement, effective 07/22, is hereby incorporated by reference and available at www.fltreasurehunt.gov and <http://www.flrules.org/Gateway/reference.asp?No=Ref-14777>.

2. The Unclaimed Property Purchase Agreement must be manually signed and dated by the seller pursuant to Section 717.135, F.S.

3. For claims of \$2,000 or less, an apparent owner who is also the seller on the DFS-UP-107 may electronically sign and date the Unclaimed Property Purchase Agreement. If the Unclaimed Property Purchase Agreement is to be signed electronically, the electronic signature and date must be affixed by the seller using the DocuSign® Enterprise Pro for Government platform utilizing the DocuSign Identify ID Verification authentication method.

a. A true copy of the executed Unclaimed Property Purchase Agreement and the DocuSign® Certificate of Completion must be provided to the seller upon signing and dating the agreement.

b. A true copy of the executed Unclaimed Property Purchase Agreement, the DocuSign® Certificate of Completion, and a copy of the seller's current, valid personal photographic identification must be included when the purchasing Claimant's Representative's claim is filed with the Department.

(4) Claims filed by a Claimant's Representative shall be submitted on Form DFS-UP-108, Claim Filed by Claimant's Representative on Behalf of the Claimant, effective 1-3-05, which is hereby incorporated by reference and available at www.fltreasurehunt.gov.

(a) Form DFS-UP-108 shall be manually signed or stamped and dated by the Claimant's Representative and accompanied by the Form DFS-UP-309, Unclaimed Property Recovery Agreement.

(b) The Form DFS-UP-309, entitled Unclaimed Property Recovery Agreement, effective 07/22, is hereby incorporated by reference and available at www.fltreasurehunt.gov and <http://www.flrules.org/Gateway/reference.asp?No=Ref-14433>.

(c) The Unclaimed Property Recovery Agreement must be manually signed and dated by the claimant pursuant to Section 717.135, F.S.

1. For claims of \$2,000 or less, an apparent owner claimant may electronically sign and date the Unclaimed Property Recovery Agreement. If the Unclaimed Property Recovery Agreement is to be signed electronically, the electronic signature and date must be affixed by the claimant on the DFS-UP-108 using the DocuSign® Enterprise Pro for Government platform utilizing the DocuSign Identify ID Verification authentication method.

2. A true copy of the executed Unclaimed Property Recovery Agreement and the DocuSign® Certificate of Completion must be provided to the claimant upon signing and dating the agreement.

3. A true copy of the executed Unclaimed Property Recovery Agreement, the DocuSign® Certificate of Completion, and a copy of the claimant's current, valid personal photographic identification must be included with the purchasing Claimant's Representative's claim.

(5) Claims filed by Holders of Unclaimed Property Paid or Delivered to the Department shall be submitted on Form DFS-UP-110, Claim Filed by Holder for the Return of Unclaimed Property, effective 1-3-05, which is hereby incorporated by reference and available at www.fltreasurehunt.gov. Form DFS-UP-110 shall be manually signed and dated by the authorized representative of the holder.

(6) Claims filed by other states shall be submitted on Form DFS-UP-131, Claim by Other States, effective 1-3-05, which is hereby incorporated by reference and available at www.fltreasurehunt.gov. Form DFS-UP-131 shall be manually signed and dated by the authorized representative of the state filing the claim.

(7) Claims for reimbursement of costs by holders of safe deposit boxes or other safekeeping repositories shall be submitted on Form DFS-UP-112, Safe Deposit Reimbursement Claim Form, effective 1-3-05, which is hereby incorporated by reference and available at www.fltreasurehunt.gov. Claims by holders for cost reimbursement shall be limited to the actual costs of opening a safe deposit box, for any valid lien, or pursuant to a contract providing for the holder to be reimbursed for unpaid rent or storage charges.

(a) Form DFS-UP-112 shall be manually signed and dated by an authorized representative of the holder.

(b) Form DFS-UP-112 shall not be filed with the Department prior to the date of the sale of the contents of the safe deposit box or other safekeeping repository.

(8) Payment and Delivery of Unclaimed Property for approved claims.

(a) Cash.

1. For claims filed by the person entitled to the unclaimed property, the claimant can elect to receive payment by warrant, electronic fund transfer, or stored value product or account. The claimant must select the preferred payment method in writing within five (5) days of claim approval. If the claimant does not select a payment method in writing within the specified time period, the Department will issue a warrant to the claimant.

2. For claims filed by a Claimant's Representative, the claimant can elect to receive payment, net of the Claimant's Representative's fees, as set forth in paragraph (8)(a)1. above. Payment of fees to Claimant's Representatives will be made by electronic fund transfer at least twice a month.

(b) Securities.

1. The Department will liquidate all securities which can be sold as soon as practicable, unless the security cannot be sold due to market conditions.

2. If the securities have been liquidated, payment of the cash proceeds will be made in accordance with paragraph (8)(a) above.

3. Securities that cannot be sold due to market conditions will be electronically transferred to the claimant's existing brokerage, mutual fund, or other securities type account, provided the Department has the information required by the securities industry.

4. Certificated securities that cannot be sold due to market conditions will be registered in the name of the claimant and mailed to the claimant's address.

5. Securities that cannot be sold, certificated or electronically transferred will not be paid. Written notice will be provided to the claimant.

(c) Tangible Personal Property.

1. If the property is valued at less than ten thousand dollars (\$10,000) and can be accepted for delivery by a common carrier, the property will be shipped to the claimant at the address listed on the claim.

2. If the property is valued at ten thousand dollars (\$10,000) or more, the claimant must arrange with a common carrier to pick up the property during normal business hours at the Department's office in Tallahassee, Florida. All claimant communications with the Department regarding how the property is to be delivered must be in writing. Upon request, the Department will provide the claimant with the appraised shipping value.

3. If the property is valued at ten thousand dollars (\$10,000) or more, or the property cannot be accepted for delivery by a common carrier, the Department will make the property available for pickup during normal business hours at the Department's offices in Tallahassee, Florida.

a. The claimant must produce the award letter and a personal picture identification in order to pickup the property at the Department's Tallahassee address.

b. Receipt of the property must be acknowledged in writing by the person receiving the property.

c. If the property is not collected at the Department's Tallahassee office within ninety (90) days of the claim approval it may be offered for sale at the next auction and the proceeds delivered the same as cash in paragraph (8)(a), above.

Rulemaking Authority 717.124, 717.135, 717.138 FS. Law Implemented 92.525, 668.50, 717.1201, 717.124, 717.12403, 717.12404, 717.12405, 717.1242, 717.1243, 717.125, 717.126, 717.1261, 717.1262, 717.135, 717.138 FS. History—New 3-20-91, Amended 3-13-96, 3-18-96, 1-18-99, 1-5-00, 4-16-02, Formerly 3D-20.0021, Amended 1-3-05, 6-17-15, 4-20-16, Formerly 69I-20.0021, Amended 9-29-22, 1-9-24.

69G-20.0022 Proof of Ownership and Entitlement to Unclaimed Property.

(1) Any and all persons filing a claim for unclaimed property have the burden to provide to the Department a preponderance of evidence to prove ownership and entitlement to such property being claimed.

(2)(a) All persons claiming an interest in unclaimed property in the possession of the Department shall provide to the Department the claimant's first name, last name, address and a copy of a valid driver's license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver's 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 or a foreign nation, a state or territory of the United States or foreign nation, or a political subdivision or agency thereof. In lieu of filing a copy of a government issued photographic identification of the claimant with the claim, the claimant or the Claimant's Representative may file Form DFS-A4-2007, Notarized Sworn Statement of the Claimant, which has been accurately completed in full, executed by the claimant and the notary. This form is incorporated by reference effective 10-13-10 and available from the Florida Department of Financial Services, Division of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358, floridaunclaimedproperty@myfloridacfo.com. The notarized sworn statement must accurately affirm the claimant's identity and state the claimant's address.

(b) In the event that a claimant has not been issued any type of valid photographic identification issued by the United States or a foreign nation, a state or territory of the United States or foreign nation, or a political subdivision or agency thereof, a claimant or Claimant's Representative may file Form DFS-A4-1944, Affidavit Attesting to Claimant's Identity, and a buyer may file Form DFS-A4-1945, Affidavit Attesting to Seller's Identity, which must be accurately completed in full, executed by the affiants and the notary. Forms DFS-A4-1944 and DFS-A4-1945 are incorporated by reference effective 10-13-10 and available from the Florida Department of Financial Services, Division of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358, floridaunclaimedproperty@myfloridacfo.com. Forms DFS-A4-1944 and DFS-A4-1945 must accurately affirm the claimant's or seller's identity and state the address of the claimant or the seller, which ever is applicable. Affiants must have personal knowledge of the claimant or seller. "Personal knowledge" means that the affiant is familiar with the circumstances of the claimant or seller, personally knows and has personally observed the claimant or seller, and has experience in dealing with claimant or seller on a daily basis or is a family member.

(c) For claims electronically submitted for \$2,000 or less, the Department may use an identity authentication service in lieu of a copy of the driver's license, government-issued identification, or notarized sworn statement of the claimant to verify the claimant's identity, as authorized by Section 717.124(7), F.S.

(3) Claims by Beneficiaries or Estates.

(a) If the apparent owner is deceased, the claim must include a certified copy of the decedent's death certificate, as well as the following:

1. Open Estates – Records, certified by the clerk of court within one (1) year of the date of filing the claim with the Department, reflecting the personal representative's right to act for the estate of the apparent owner.

2. Closed Estates – A certified copy of a probate court order, certified by the clerk of court identifying the beneficiaries and the proportional entitlement of each to the estate. If a court order, identifying the beneficiaries and the proportional entitlement of each to the property of the estate is not available, the claimant must submit those documents from the probate court file from which this information may be determined. Typically, this information may be obtained from the decedent's will, if one exists, and the Order admitting the will to probate; the Petition for Administration; or the Petition for Discharge with exhibits. If any such combination of documents is submitted, they must be accompanied by a copy of the Order of Discharge and the docket sheet. In no event is the will standing alone, sufficient.

3. Unclaimed Property with Aggregate Value of \$10,000.00 or Less – If all of the unclaimed property held by the Department on behalf of a deceased apparent owner has an aggregate value of \$10,000 or less, as an alternative to subparagraph (3)(a)2., the claimant may file a copy of the will, if the decedent had a will, and an affidavit signed by all the beneficiaries stating that all the beneficiaries have amicably agreed upon a division of the estate, that no probate proceedings are pending for the estate, and that all funeral expenses, expenses of the last illness and other lawful claims have been paid. The affidavit shall be submitted on Form DFS-UP-1243, Estate Affidavit, effective 1-3-05, which is hereby incorporated by reference and available from the Florida Department of Financial Services, Division of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358, floridaunclaimedproperty@myfloridacfo.com. No partial payments shall be made.

(b) The claimant must provide appropriate documentation to connect the claimant to the deceased apparent owner.

(4) Claims for Guardianship Assets.

(a) The claim must be filed by the court appointed guardian or Claimant's Representative, who must provide a court order evidencing the guardian's existing authority to act on behalf of the ward, certified by the clerk of court within one (1) year of filing the claim with the Department, along with the guardian's name, address and social security number.

(b) The warrant will be made payable to "Guardian For" the ward.

(5) Claims for Business Accounts. Any person claiming an interest in an unclaimed business account in the possession of the Department as an official of the business shall file with the Department the following:

(a) If the unclaimed business account relates to a proprietorship or a partnership then:

1. Documentation to reflect that the apparent owner is the same proprietorship or partnership; and,
2. Documentation reflecting the individual's authorization to file a claim for the proprietorship's or partnership's unclaimed property.

3. Personal identification shall be provided as specified in subsection (2) of this rule.

(b) If the unclaimed business account relates to an active corporation:

1. The last annual report of the corporation if it is available from the Internet site of the Florida Department of State. The claimant must furnish the Department with a printout from the Florida Department of State Internet site identifying the officers and directors of the corporation. If the last annual report of the corporation is not available from the Internet site of the Florida Department of State, the claimant shall file a microfiche copy of the records on file with the Florida Department of State. If microfiche from the Florida Department of State is not available, the claimant may furnish to the Department a uniform resource locator (U.R.L.) for the address of a free Internet site operated by the state of incorporation of the corporation that provides access to the last corporate filing identifying the officers and directors of the corporation. The claimant must furnish the Department with a printout from the free Internet site identifying the officers and directors of the corporation. If the free Internet site is not available, an authenticated copy of the last corporate filing from an appropriate state official of the state of incorporation shall be provided to the Department which identifies the officers and directors of the corporation.

2. Unless the corporate representative is listed as an officer or director of the corporation, evidence to reflect the claimant's right to act on behalf of the business. Letterhead and business cards alone will not be sufficient to meet the required burden of proof. For example:

a. Signed and dated statement by an officer or director of the corporation, other than the person signing the claim, authorizing the individual authority to file the claim.

b. Bylaws of the corporation identifying the person signing the claim as occupying a position with authority to contractually bind the corporation.

c. Corporate resolution authorizing the person signing, to file the claim on behalf of the corporation.

3. Documents evidencing ownership or entitlement to the account. Letterhead and business cards alone will not be sufficient to meet the required burden of proof. Examples of other documentary evidence include: evidence that the corporation is the sole corporation that has operated under the reported name; utility bills, cancelled checks or deposit slips, copies of annual reports, sales or marketing materials that would identify the corporation and match one of the account identifiers, copy of an occupational license issued to the corporation, price lists, bank statements, loan papers, etc., documents in the corporation's name which establish a relationship with a bank, tax filings, including annual tax returns, quarterly employee withholding filings, employee tax filing records such as W-2 or W-4 forms (with personal information redacted), sales tax filings, other tax filings or bills, financial statements (audited), SEC filings (other than those which are public records), company identification cards, insurance documentation – property and casualty, health and workers' compensation insurance policies, claim forms, premium statements, benefit membership cards.

(c)1. If the unclaimed business account is that of a dissolved corporation, the claimant must specify the corporation's state of incorporation and its last principal business address. The claimant must provide a certified copy of the last corporate filing identifying the officers and directors of the corporation. This document must be obtained from an appropriate authorized official of the state of incorporation. A certified copy of the last corporate filing shall not be required if:

a. The last annual report of the corporation if it is available from the Internet site of the Florida Department of State. The claimant must furnish the Department with a printout from the Florida Department of State Internet site identifying the officers and directors of the corporation.

b. If the last annual report of the corporation is not available from the Internet site of the Florida Department of State, the claimant shall file a microfiche copy of the records on file with the Florida Department of State.

c. If microfiche from the Florida Department of State is not available, the claimant may furnish to the Department a uniform resource locator (U.R.L.) for the address of a free Internet site operated by the state of incorporation of the corporation that provides access to the last corporate filing identifying the officers and directors of the corporation. The claimant must furnish the Department with a printout from the free Internet site identifying the officers and directors of the corporation.

2. The evidence provided must prove that the dissolved corporation is the same corporation as shown on the Department's records. The evidence must prove that the claimant is entitled to all or a proportional share of the dissolved corporation or that the claimant is an officer or director of the corporation. It is not sufficient that the claimant has the same name as that of an officer or director of the dissolved corporation. The claimant must demonstrate a connection to the dissolved corporation. Subparagraph (5)(b)3. herein provides examples of documents which may establish a connection between the claimant and the dissolved corporation.

3. A claim for an unclaimed business account of a dissolved corporation must indicate whether the dissolved corporation has ever been a debtor in bankruptcy. If the dissolved corporation has ever been a debtor in bankruptcy, the claim must identify the bankruptcy chapter under which the bankruptcy case proceeded. The claim must also identify the location of the bankruptcy court, the case number, and the address and telephone number of the Office of the U.S. Trustee in that jurisdiction. If no bankruptcy proceedings of the dissolved corporation are known, the claim must either provide the results of a bankruptcy court website Case Management/Electronic Case Files (CM/ECF) search, if available, or a Public Access to Court Electronic Records (PACER) search. The CM/ECF or PACER search must be conducted in the bankruptcy court of the state and district of incorporation and where the main office is located, if different. The claim must provide the results of both a search by corporate name and a search by tax identification number, if available, for the state and district of incorporation and the location of the main office, if different. As an alternative to the CM/ECF or PACER search, the claim must provide a completed United States Bankruptcy Court Application for Search of Bankruptcy Records from the state and district of incorporation, and from the district where the main office is located, if different.

4. The Office of the U.S. Trustee or the trustee will be contacted by the Department if the dissolved corporation was a debtor in a closed Chapter 7 bankruptcy case and the aggregate value of the unclaimed property is greater than \$2,500.00. If the bankruptcy case is reopened, the unclaimed property will be remitted to the bankruptcy trustee.

5. Unclaimed property will be remitted to the bankruptcy trustee for a corporation in a pending bankruptcy case unless the debtor is in possession of the bankruptcy estate. If the debtor is in possession of the bankruptcy estate, the unclaimed property will

be remitted to the debtor corporation.

6. Personal identification shall be provided as specified in subsection (2) of this rule.

Rulemaking Authority 717.124, 717.138 FS. Law Implemented 92.525, 117.05, 668.50, 717.124, 717.12403, 717.12404, 717.12405, 717.1242, 717.1243, 717.126, 717.1261, 717.1262, 732.102, 732.103, 733.103, 733.815, 735.301 FS. History—New 3-20-91, Amended 3-13-96, 8-18-96, 1-28-97, 1-18-99, 4-16-02, Formerly 3D-20.0022, Amended 1-3-05, 10-13-10, 4-20-16, Formerly 69I-20.0022, Amended 10-20-22.

69G-20.0023 Database Submissions.

(1) A claimant, or a claimant's representative, may submit the results of a database search for the Department to consider with the claim for unclaimed property.

(2) In the event that the claim is denied, and a hearing is requested by the claimant or the claimant's representative, the evidentiary requirements of Sections 120.569 and 120.57, F.S., shall apply to the results of a database search.

(3) Unless otherwise provided by Florida law, the results of a database search shall be public record in accordance with Section 119.07, F.S.

Rulemaking Authority 717.138 FS. Law Implemented 717.124, 717.126 FS. History—New 1-3-05, Formerly 69I-20.0023.

69G-20.0024 Investigation or Examination Fees.

(1) The Department shall charge \$100.00 per eight hour day for each examiner engaged in an investigation or examination of the records of a holder under Chapter 717, F.S.

(2) Such examination fee shall be calculated on an hourly basis and shall be rounded down to the nearest hour if less than .5 of an hour is spent. If equal to or greater than .5 of an hour is spent the time will be rounded up to the nearest hour.

(3) A holder shall not be required to pay an investigation or examination fee if the investigation or examination fails to disclose property which is reportable and deliverable under Chapter 717, F.S.

(4) The Department shall not charge a fee for the investigation or examination of any governmental unit.

Rulemaking Authority 717.138 FS. Law Implemented 717.1301(6) FS. History—New 11-12-91, Formerly 3D-20.0024, 69I-20.0024.

69G-20.0025 Shareholder Affidavit.

Rulemaking Authority 717.138 FS. Law Implemented 717.124, 717.126 FS. History—New 11-6-96, Formerly 3D-20.0025, 69I-20.0025, Repealed 1-8-20.

69G-20.0026 Claimant Affidavit.

In the event proof of ownership to unclaimed property can not be substantiated, the claimant may, for the Department's consideration, file an affidavit swearing to the authenticity of the claim and to the lack of documentation and agreeing to the release of the claimant's name and address by the Department to subsequent claimants providing substantiated proof of entitlement to the unclaimed property. The affidavit must be accurately completed. The claimant must state on the affidavit why the claimant is entitled to the unclaimed property. The affidavit must be signed by the claimant and on the same day the affidavit is dated by the claimant who must be the "apparent owner" as defined by Section 717.101(2), F.S. No person shall place any writing or other information on the affidavit after the affidavit has been signed and dated by the claimant. The affidavit shall be submitted on Form DFS-A4-2006, Unclaimed Property Claimant Affidavit effective 10-13-10, which is hereby incorporated by reference and available from the Department of Financial Services, Division of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358, floridaunclaimedproperty@myfloridacfo.com. This section applies only if all of the unclaimed property held by the Department on behalf of the claimant for which entitlement has not been established has an aggregate value of \$250 or less.

Rulemaking Authority 717.138 FS. Law Implemented 117.05, 717.101(2), 717.124(3) FS. History—New 1-28-97, Amended 4-16-02, Formerly 3D-20.0026, Amended 10-13-10, Formerly 69I-20.0026.

69G-20.0028 General Principles for Joint Ownership of Property for Accounts that are not Unclaimed Demand, Savings or Checking Accounts Formerly Held by a Financial Institution.

(1) Tenancy in common. Generally, each owner is entitled to receive a percentage share of the unclaimed property. If there are two owners, each owner will receive 50%; if there are 3 owners, each owner will receive 33.33%, etc. If an owner dies, the

percentage share of the unclaimed property shall be remitted to that owner's estate or beneficiary, as defined in Section 731.201, F.S., provided that entitlement is established in accordance with Section 717.126, F.S. Unclaimed property reported with more than one owner designated with the word "and" is treated as a tenancy in common.

(2) Joint Tenancy with Rights of Survivorship. This type of property involves two or more people. Generally, each owner is entitled to receive a percentage share of the unclaimed property. If there are two owners, each owner will receive 50%; if there are 3 owners, each owner will receive 33.33%, etc. If one of the owners dies, the remaining owner or owners are entitled to receive the unclaimed property. If all owners are deceased, the unclaimed property shall be remitted to the estate or beneficiary of the last surviving owner provided that entitlement is established in accordance with Section 717.126, F.S.

(3) Tenancy by the Entirety. This type of tenancy applies only to married persons. Both persons must file a claim for the unclaimed property. If one spouse dies, the surviving spouse is entitled to the unclaimed property. If both owners are deceased, the unclaimed property shall be remitted to the estate or beneficiary of the last surviving spouse provided that entitlement is established in accordance with Section 717.126, F.S. If the spouses divorce, the tenancy by the entirety is converted to a tenancy in common.

Rulemaking Authority 717.138 FS. Law Implemented 717.124, 717.12406, 717.126 FS. History--New 4-27-09, Formerly 69I-20.0028.

69G-20.0029 Survivorship Accounts Reported by a Financial Institution.

(1) In the absence of evidence to the contrary, an unclaimed demand, savings, or checking account from a financial institution as defined in Section 655.005, F.S., reported to the Department as an "and" account or as an "or" account, or otherwise reported in the name of two or more persons shall be treated as a survivorship account notwithstanding Rule 69G-20.0028, F.A.C.

(2) This rule relates to proving entitlement pursuant to Section 717.126, F.S., and shall not be interpreted as affecting any private cause of action that one account holder may have against a joint account holder.

Rulemaking Authority 717.138 FS. Law Implemented 717.12403, 717.126 FS. History--New 4-27-09, Formerly 69I-20.0029. Cf. Sections 655.005, 655.79 FS.

69G-20.0030 Claims for United States Savings Bonds.

(1) A claim for a United States savings bond, or the proceeds from such bond, may be approved if the claimant is able to provide sufficient proof of the validity of the claim.

(a) If no beneficiary or pay-on-death recipient is indicated on the bond:

1. By any person whose name appears on the bond, or
2. By the beneficiary as defined by Section 731.201, F.S., or the personal representative of the estate of the person whose name appears on the bond who died last.

(b) If a beneficiary or pay-on-death recipient is indicated on the bond:

1. By any person (other than the beneficiary or pay-on-death recipient) whose name appears on the bond, or
2. By the beneficiary or pay-on-death recipient named on the bond, if all persons who are named on the bond (other than the beneficiary or pay-on-death recipient) are deceased, or
3. By the beneficiary as defined by Section 731.201, F.S., or the personal representative of the estate of the person whose name appears on the bond who died last if the beneficiary or pay-on-death recipient named on the bond died before such person.

(2) Because the "and" form of registration is not authorized, any person (other than the beneficiary or pay-on-death recipient, if any) whose name appears on the bond may claim a United States savings bond or the proceeds from such bond.

(3) A claim for a United States savings bond by a person who leased the safe deposit box containing the United States savings bond shall be denied unless the person who leased the safe deposit box satisfies the requirements of subsection (1).

Rulemaking Authority 717.124, 717.138 FS. Law Implemented 717.124, 717.12404, 717.12405, 717.1243, 17.1261, 717.1262, 717.135, 717.1351, 717.1382, 717.1383 FS. History--New 4-23-17.

69G-20.0037 Reporting and Remitting Abandoned Property by Mail-in Secondhand Precious Metals Dealers.

(1) All property having a true market value of greater than \$50, which is presumed abandoned under section 538.32(7), F.S., shall be delivered to the Department through the U.S. Mail or other carrier. The package should be clearly marked on the outside "Deliver Unopened."

(2) Precious metals or jewelry shall be reported by submitting a duly completed Form DFS-A4-2005, Mail-in Secondhand Precious Metals Dealer Report, effective 10-13-10, hereby incorporated by reference and available from the Department of Financial

Services, Division of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358, ereporting@myflorida.com. The report shall accompany the precious metal or jewelry. If the package contains precious metal or jewelry belonging to more than one seller, each report shall either be attached to the precious metal or jewelry belonging to each seller or each report must be placed in a separate container with the corresponding precious metal or jewelry of each seller within the package marked on the outside "Deliver Unopened." The report shall specify:

(a) The seller's name, address, telephone number, email address, and drivers license number or other government issued identification number together with the issuing state, if available.

(b) A complete and accurate description of the seller's goods, including:

1. Precious metal type, or, if jewelry, the type of jewelry.
2. Any other unique identifying marks, numbers, or letters.

(c) The date that the seller's goods were received by the mail-in secondhand precious metals dealer.

(d) The name of a person who may be contacted regarding the report and the remittance.

Rulemaking Authority 717.117(1), 717.138 FS. Law Implemented 538.31, 538.32, 717.117, 717.119 FS. History—New 10-13-10, Formerly 69I-20.0037.

69G-20.030 Definitions.

As used in this rule chapter.

(1) The definitions provided in Section 717.101, F.S., shall also apply to this rule chapter.

(2) "Service charge" and "maintenance charge" means all documented charges that are incurred by a banking or financial organization with regard to the handling of an account.

(3) "Presumed Unclaimed" means the apparent owner has not indicated an interest in the property for the applicable prescribed period. The interest should be evidenced by communication by the owner with a record of same on file.

(4) "Safekeeping Repository" means safe deposit boxes held in banks and financial institutions.

(5) "Owner of a Cashiers' Check" is the named payee of the cashiers' check unless the remitter has a release of ownership from the payee.

(6) "Inactive status" means the holder is not required to file a report of unclaimed property with the Department on an annual basis.

(7) "Report of unclaimed property" means a report that complies with all the requirements of Sections 717.101 through 717.117 and 717.119, F.S., created in accordance with the Department's prescribed format and filed through the Department's Holder Reporting Online System.

(8) "Zero report" means a report of unclaimed property that has a zero value due to the reporting entity having no unclaimed property for the reporting period.

(9) "Claimant's Representative" means a Florida attorney-at-law, Florida-certified public accountant, or private investigator who is duly licensed to do business in Florida, registered with the Department, and authorized by the claimant to claim unclaimed property on the claimant's behalf.

(10) "Entity Representative" means one who is legally authorized to represent a claimant that is not a natural person. As used in this definition, the phrase "entity representative" does not include a Claimant's Representative.

(11) "Approximate value" or "approximate dollar value," for purposes of Sections 717.135 and 717.1351, F.S., means within 15% of the actual value.

(12) "Electronic medium," for purposes of Section 717.117(1), F.S., means the Holder Reporting Online System, which is a report filing portal available on the Division of Unclaimed Property's website.

(13) "Auction fees, preparation costs, and expenses," for purposes of Section 717.122(1), F.S., means appraiser and contractor fees, catalogue fees, and travel expenses.

(14) "Claimant" means any person, as defined by Section 1.01(3), F.S., excluding another state, asserting an interest in any portion of any property paid or delivered to the Department on whose behalf a claim is filed.

(15) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(16) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(17) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and

executed or adopted by a person with the intent to sign the record.

(18) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including public records as defined in Section 119.011, F.S.

Rulemaking Authority 717.117(1), 717.124, 717.138 FS. Law Implemented 668.50(2), 717.101, 717.102, 717.103, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.1125, 717.113, 717.115, 717.116, 717.117, 717.119, 717.1201, 717.122, 717.124, 717.1241, 717.1315, 717.1322(5), 717.135, 717.1351, 717.138, 717.139, 717.1400, 731.201, 736.0103 FS. History—New 6-23-91, Amended 1-28-97, 4-16-02, Formerly 3D-20.030, Amended 1-3-05, 4-20-16, Formerly 69I-20.030.

69G-20.034 Report of Unclaimed Property.

(1) The Department has established the Holder Reporting Online System that can be securely used by all holders to report unclaimed property to the Division of Unclaimed Property. The Holder Reporting Online System can be accessed at the Department's website.

(2) All persons subject to the Florida Disposition of Unclaimed Property Act shall file a report of unclaimed property with the Department, pursuant to Section 717.117, F.S., upon becoming subject to the filing requirement of Chapter 717, F.S., and each year thereafter, including zero reports, where applicable, unless:

(a) Written justification has been received from a holder by the Department stating, but not limited to, the following reasons:

1. The holder is filing a complete and accurate report with another state that has adopted the current National Association of Unclaimed Property Administrators (NAUPA) Reciprocity/Exchange guidelines;
2. The holder is located outside Florida and does not conduct business in Florida in its day-to-day operations;
3. The holder maintains a fiduciary relationship with its clients such as real estate brokers and attorneys and does not, as a normal course of business, maintain unclaimed property; or
4. The holder lacks access to the Internet at the holder's place of business as demonstrated in a writing submitted to the Department, and the Department subsequently prescribes an alternative medium to file the unclaimed property report for the report year.

(b) Upon receipt of a written request, the Department, after a review, may place the holder in an inactive status.

(3) Holders reporting 25 or more apparent owners shall file a report of unclaimed property using the electronic report format option on the Department's Holder Reporting Online System.

(4) Holders reporting less than 25 apparent owners shall file a report of unclaimed property using the manual input option or the electronic report format option on the Department's Holder Reporting Online System.

(5) The report of unclaimed property shall be considered filed only upon receipt of both the funds and the electronic report or the manual input report filed through the Department's Holder Reporting Online System.

(6) Non-compliant reports will be returned to the holder.

Rulemaking Authority 717.117(1), 717.138 FS. Law Implemented 717.117, 717.119, 717.134, 717.138 FS. History—New 6-23-91, Amended 8-29-94, 2-12-97, Formerly 3D-20.034, Amended 4-20-16, Formerly 69I-20.034.

69G-20.035 Reporting Safe Deposit Box Contents.

Safe deposit box contents must be reported to the Department of Financial Services, Division of Unclaimed Property, by submitting a completed Form DFS-UP-155, Safe Deposit Box Inventory Form of Property Presumed Unclaimed, effective 08/2022, which is hereby incorporated by reference and available at: <https://ftreasurehunt.gov/UP-Web/sitePages/ReportUnclaimedPropertyHR.jsf> under the Remittance Information tab; or on the following link: <https://www.flrules.org/Gateway/reference.asp?No=Ref-14616>.

Rulemaking Authority 717.117(1), 717.138 FS. Law Implemented 717.116, 717.117, 717.119 FS. History—New 1-3-05, Formerly 69I-20.035, Amended 11-13-22.

69G-20.036 Remitting of Safe Deposit Box Contents and Reimbursement of Expenses.

(1) All property presumed unclaimed under Section 717.116, F.S., shall be delivered to the Department pursuant to Section 717.119, F.S. The delivery of the property, through the U.S. Mail or other carrier, shall be insured at an amount equal to the estimated value of the property. The package should 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. The detailed shipping schedule shall specify the name of the apparent owner previously reported to the Department, the physical address of the safe deposit box whose contents are being remitted, and the name of a person who may be contacted regarding the report and the remittance of the safe deposit boxes.

(2) Reimbursement may be made for the actual cost incurred in the opening of a safe deposit box and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage costs pursuant to Section 717.1201(7), F.S. The Department shall reimburse the holder out of the proceeds remaining after the deduction of the Department's selling cost.

(3) Holders shall request reimbursement from the Department by submitting a completed Form DFS-UP-112, Safe Deposit Reimbursement Claim Form, effective 1-3-05, hereby incorporated by reference and available from the Florida Department of Financial Services, Division of Unclaimed Property, 200 East Gaines Street, Tallahassee, Florida 32399-0358, floridaunclaimedproperty@myfloridacfo.com.

(4)(a) All intangible and tangible property held in a safe deposit box or any other safekeeping repository and reported to the Department pursuant to Section 717.117, F.S., shall be delivered to the Department in accordance with Section 717.119(5), F.S. Delivery of property shall be commenced 120 days after the report due date and completed within 180 days after the report is due. In the event that the reporting date is postponed, the time periods specified in paragraph (4)(a), are extended for a period of time equal to the additional time given to the holder to report the unclaimed property.

(b) As used herein, delivery in accordance with Section 717.119(5), F.S., means actual delivery of the unclaimed property to the offices of the Department in Tallahassee, Florida. As proof of actual delivery holders may submit the registered mail return receipt.

(c) Within 120 days of the filing of the report, the Department will review reports submitted and notify the holder if the Department declines to accept certain items as having insufficient value to warrant the expense of notice and sale.

(d) The holder must notify the Department in writing within 120 days of the filing of the report that the safe deposit box contents have either been claimed by the owner or have no commercial value and will not be remitted to the Department by the holder.

(5) Numismatic List. A listing of cash and coin items considered to have numismatic value above face value, as referenced in Section 717.119(5), F.S., is hereby incorporated by reference and entitled Numismatic List, Form DFS-UP-150, effective 10-1-01. This list is also available on the Department's Internet website address, www.fltreasurehunt.gov/files/NumismaticList.pdf, the annual reporting instructions, and upon request from the Department.

Rulemaking Authority 717.138 FS. Law Implemented 717.117, 717.119, 717.1201(7), 717.127 FS. History—New 6-23-91, Amended 8-24-98, 4-16-02, Formerly 3D-20.036, Amended 1-3-05, Formerly 69I-20.036.

69G-20.038 Late Annual Report(s), Late Payment(s), and Late Delivery of Unclaimed Property.

(1) If the due date for filing the Report of Unclaimed Property prescribed under Section 717.117, F.S., falls on a Saturday or Sunday, the following Monday will be considered the due date. In the event the reporting or payment or property delivery date is an official State of Florida holiday under Section 110.117, F.S., the next business day will become the due date.

(2) No penalty shall be assessed on a late report that correctly reflects no property to be reported.

(3) A written request for an extension of time to file an unclaimed property report for the prior calendar year must be postmarked or filed with the Department by April 30th of the subsequent calendar year. A written request that is not timely postmarked or filed shall be denied. The Department shall review the facts and circumstances of each timely postmarked or filed written request on a case-by-case basis and, if the Department finds that the requestor has shown that good cause exists to grant an extension, the Department shall postpone the reporting date or extend the property delivery date for a period of up to sixty (60) days. For purposes of this subsection, "good cause" means:

- (a) Natural disasters;
- (b) Acts of war or terrorism;
- (c) Report to be filed by the holder or its subsidiaries using an electronic medium for the first time;
- (d) Significant changes in personnel;
- (e) Corporate actions such as mergers, acquisitions, bankruptcy, etc.;
- (f) System conversions, updates/changes in reporting software; or
- (g) Change in third party administrator.

(4) A written request for a waiver of applicable penalties must be filed with the Department. The Department shall review the

facts and circumstances of each filed written request on a case-by-case basis. A finding by the Department that good cause exists shall constitute appropriate justification to waive applicable penalties. For purposes of this subsection, “good cause” means:

- (a) Natural disasters;
 - (b) Acts of war or terrorism;
 - (c) Initial report filed by the holder or its subsidiaries which was not induced by an examination from the Department or agents;
- or
- (d) Penalty amount in excess of the reported amount;
 - (e) Penalty assessed in error; or
 - (f) System conversions, updates/changes in reporting software.
- (5) Extensions for the reason set forth in paragraph (3)(d), above, shall be granted for one reporting period only within a three year time frame from the date of the first extension.
- (6) The Department shall grant postponements, extensions and waivers in writing.

Rulemaking Authority 717.119(5), 717.138 FS. Law Implemented 717.117, 717.119, 717.134 FS. History—New 6-23-91, Amended 8-29-94, 1-28-97, Formerly 3D-20.038, Amended 4-20-16, Formerly 69I-20.038.

69G-20.040 Written Notice.

All holders in possession of property presumed unclaimed having a value of \$50.00 or more shall give notice to the apparent owner in accordance with Section 717.117(4), F.S. The notice shall, at a minimum, meet the following criteria:

- (1) The account must be identified as inactive and subject to reporting and remittance to the Department as provided by Sections 717.101 through 717.117 and 717.119, F.S.
- (2) The property value must be clearly stated on the notice.
- (3) The notice must include a reasonable description of the property sufficient to inform the property owner of the nature of the unclaimed property and the property identifier assigned by the holder to the account.
- (4) The notice must include a telephone number and mailing address of the holder from which additional information concerning the property is available.

Rulemaking Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.1125, 717.113, 717.115, 717.116, 717.117, 717.119 FS. History—New 6-23-91, Amended 8-29-94, 1-28-97, 4-16-02, Formerly 3D-20.040, Amended 4-20-16, Formerly 69I-20.040.

69G-20.041 Reporting Instructions Manual for Unclaimed Property.

The Department’s mission is to collect and return unclaimed property to its rightful owners in accordance with the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S. To accomplish this mission, all holders must comply with Florida’s Unclaimed Property Law. When reporting and remitting unclaimed property to the Department, holders must follow the procedures in Form DFS-P1-0001, Reporting Instructions Manual, revised July 2019, which is hereby incorporated by reference and available from the Florida Department of Financial Services, Division of Unclaimed Property’s website at: www.FLTreasureHunt.gov; and may be viewed on the following link <http://www.flrules.org/Gateway/reference.asp?No=Ref-12001>.

Rulemaking Authority 717.117(1), 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.1125, 717.113, 717.115, 717.116, 717.117, 717.119, 717.129, 717.1311, 717.134, 717.138 FS. History—New 5-3-10, Amended 4-20-16, Formerly 69I-20.041, Amended 9-20-17, 7-21-20.

69G-20.050 Voluntary Disclosure Agreements, Examinations, and Audits.

(1) The Department’s mission is to collect and return unclaimed property to its rightful owners in accordance with the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S. To achieve these results, the Department is encouraging businesses (“Holders”) inside and outside the State of Florida who are in possession of unclaimed property to comply with Florida’s Unclaimed Property Law. This compliance can be achieved using a program called voluntary disclosure. This program provides the following benefits to a Holder:

- (a) It relieves the Holder of associated expense and liability holding unclaimed property; and,
- (b) Penalties and fines are not assessed by the Department.

(2) To participate in this program, the Holder must not:

- (a) Be currently under examination or audit;
- (b) Have filed an annual report of unclaimed property with the Department;
- (c) Have agreed to a Department-assisted or Contractor-assisted self-audit;
- (d) Have been requested to conduct a Department-assisted or contractor-assisted self-audit; or
- (e) Have been notified by the Department or by one of the Department's contract auditors of the intention or desire to conduct an examination or audit of the Holder.

(3) The property to be disclosed must be unreported and unremitted unclaimed property due to the State of Florida. No property will be accepted on behalf of another state.

(4) The Holder must provide the Division of Unclaimed Property with the following information:

(a) Name of entity, mailing address, contact person, telephone number, facsimile number and e-mail address of the contact person, federal employer identification number, and standard industrial code classification;

(b) The Holder's state of incorporation;

(c) The Holder's principal place of business (city and state);

(d) If the Holder's state of incorporation and principal place of business is outside of Florida, the Holder must provide a list detailing the cities in Florida where the Holder conducts business with the number of locations in each city; and,

(e) If the Holder has no locations within Florida, the Holder must so state.

(5) The Holder must submit a detail plan outlining the disclosure process to be completed by the Holder, the estimation calculations used by the Holder, and a report identifying the unclaimed property due to the Department. The unclaimed property remittance must accompany the report.

(6) If companies in the same or similar line of business regularly report unclaimed property such as payroll or vendor checks, unclaimed accounts payable, and unclaimed escrow accounts, and the Holder does not, or if companies of the same approximate size regularly report unclaimed property such as payroll or vendor checks, unclaimed accounts payable, and unclaimed escrow accounts of a certain dollar amount, and the Holder has reported a lower dollar amount, an unclaimed property audit or self-audit should be conducted.

Rulemaking Authority 717.117(1), 717.138 FS. Law Implemented 717.117, 717.119, 717.129, 717.1301, 717.133(5) FS. History—New 1-3-05, Amended 4-27-09, Formerly 69I-20.050, Amended 12-6-22.

69G-20.071 Purpose.

The purpose of Rules 69G-20.071 through 69G-20.080, F.A.C., is to implement the Department's duty to establish penalty guidelines for violations of Sections 717.1322 and 717.1341, F.S.

Rulemaking Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1400 FS. History—New 1-3-05, Formerly 69I-20.071.

69G-20.072 Penalty Guideline Definitions.

The following definitions shall apply for purposes of this rule chapter:

(1) "Administrative complaint" refers to formal administrative charges filed by the Department against a person. The charges consist of factual allegations with citations to violations of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S., Department rules or orders.

(2) "Aggregate final penalty" means the total of the final penalties against a person in one or more enforcement actions.

(3) "Count" refers to a series of one or more numbered paragraphs of factual allegations in an administrative complaint that are incorporated by reference under the word "Count" followed by a Roman numeral, which are set apart from other counts in an administrative complaint, and which if true would constitute a violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(4) "Convicted" means adjudicated guilty by a court.

(5) "Department" means the Florida Department of Financial Services.

(6) "Final penalty" means the penalty actually imposed on a person.

(7) “Penalty per count” means the total of the stated penalties in a count for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(8) “Registrant” means a person who has satisfied the requirements of Section 717.1400, F.S., and whose registration is active.

(9) “Stated penalty” means the penalty set forth in Rule 69G-20.075 or 69G-20.076, F.A.C., for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(10) “Total penalty” refers to the sum of the penalties for each count.

Rulemaking Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1400 FS. History—New 1-3-05, Formerly 69I-20.072.

69G-20.073 Calculating Penalty.

(1) Penalty Per Count. The Department is authorized to find that grounds exist under Section 717.1322, F.S., for disciplinary action based upon a single act, transaction or occurrence of misconduct by a person. “Penalty per count” means the total of the stated penalties in a count for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(2) Total Penalty. Each penalty per count shall be added together and the sum shall be referred to as the “total penalty.”

(3) Final Penalty. The final penalty means the penalty which will be imposed against a person under these rules, as adjusted to take into consideration aggravating or mitigating factors, if any.

Rulemaking Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1400 FS. History—New 1-3-05, Formerly 69I-20.073.

69G-20.074 Prosecutorial Discretion.

(1) Stipulated Disposition. The provisions of this rule are intended and shall not be construed to limit the ability of the Department to informally dispose of disciplinary actions by stipulation, agreed settlement or consent order whether or not the Department has initiated administrative charges.

(2) Cease and Desist Orders and Orders to Take Corrective Action. This rule chapter shall not preclude the Department from initiating an administrative action against registered or unregistered individuals as authorized by Section 717.132, F.S.

(3) Collateral Actions. The provisions of this rule chapter are not intended and shall not be construed to limit the ability of the Department to pursue or recommend collateral, civil or criminal actions where appropriate.

Rulemaking Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1400 FS. History—New 1-3-05, Formerly 69I-20.074.

69G-20.075 Stated Penalty Guidelines for Violation of Sections 717.1322 and 717.1341, F.S., by Registrants.

(1) If it is found that a registrant has violated any of the following subsections of Section 717.1322, F.S., the following stated penalty guidelines shall apply for each act, transaction or occurrence. The penalty imposed within the range of penalties should be based upon the severity of the violation. It is the Florida Legislature’s intent that minor violations be distinguished from serious violations.

(a) Section 717.1322(1)(a), F.S. – suspension of 6 months to revocation if the act is willful or with reckless disregard or deliberate ignorance of the truth, 1 to 2 months if the act is not willful or with reckless disregard or deliberate ignorance of the truth.

(b) Section 717.1322(1)(b), F.S. – suspension of 6 months to revocation.

(c) Section 717.1322(1)(c), F.S. – suspension of 6 months to revocation.

(d) Section 717.1322(1)(d), F.S. – suspension of 3 to 6 months.

(e) Section 717.1322(1)(e), F.S. – suspension of 3 to 6 months.

- (f) Section 717.1322(1)(f), F.S. – suspension of 3 to 6 months if the act is willful, 1 to 2 months if the act is not willful.
- (g) Section 717.1322(1)(g), F.S. – suspension of 3 months to revocation and a \$500 to \$1,000 fine per day of non-compliance.
- (h) Section 717.1322(1)(h), F.S. – see Rule 69G-20.077, F.A.C.
- (i) Section 717.1322(1)(i), F.S. – suspension of 3 to 6 months if the act is willful, 1 to 2 months if the act is not willful.
- (j) Section 717.1322(1)(k), F.S. – suspension of 3 to 6 months and a \$500 to \$1,000 fine per day of non-compliance if the act is willful, 1 to 2 months suspension if the act is not willful.
- (k) Section 717.1322(1)(l), F.S. – suspension of 12 to 24 months.
- (l) Section 717.1341(3), F.S. – a fine equal to the value of the property for the first offense, a fine equal to twice the value of the property for the second offense, and a fine equal to three times the value of the property for the third and subsequent offenses.
- (2) Any registrant that has an aggregate final penalty of suspension of more than 3 years shall have such person's registration revoked and shall be prohibited from being director, officer, agent, employee, or ultimate equitable owner of a 10% percent or greater interest in an employer of a registrant.

Rulemaking Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1400 FS. History–New 1-3-05, Formerly 69I-20.075.

69G-20.076 Stated Penalty Guidelines for Violation of Sections 717.1322 and 717.1341, F.S., by Persons Who Are Not Registrants.

(1) If it is found that a person, who is not a registrant when the act was committed, has violated any of the following subsections of Section 717.1322, F.S., the following stated penalty guidelines shall apply for each act, transaction or occurrence. The penalty imposed within the range of penalties should be based upon the severity of the violation. It is the Florida Legislature's intent that minor violations be distinguished from serious violations.

- (a) Section 717.1322(1)(a), F.S. – fine of \$500 to \$1,000 if the act is willful or with reckless disregard or deliberate ignorance of the truth, \$100 to \$250 if the act is not willful or with reckless disregard or deliberate ignorance of the truth.
- (b) Section 717.1322(1)(b), F.S. – fine of \$500 to \$2,000.
- (c) Section 717.1322(1)(c), F.S. – fine of \$500 to \$2,000.
- (d) Section 717.1322(1)(d), F.S. – fine of \$250 to \$750.
- (e) Section 717.1322(1)(e), F.S. – fine of \$250 to \$750.
- (f) Section 717.1322(1)(f), F.S. – fine of \$500 to \$1,000 if the act is willful, \$100 to \$250 if the act is not willful.
- (g) Section 717.1322(1)(g), F.S. – \$500 to \$1,000 fine per day of non-compliance.
- (h) Section 717.1322(1)(i), F.S. – fine of \$250 to \$750 if the act is willful, \$100 to \$250 if the act is not willful.
- (i) Section 717.1322(1)(j), F.S. – fine of \$500 to \$1,000 if the person has committed the act for compensation or gain, or in the expectation of compensation or gain, a reprimand if the person has committed the act without the expectation of compensation or gain.
- (j) Section 717.1322(1)(k), F.S. – fine of \$500 to \$1,000 fine per day of non-compliance if the act is willful, \$100 to \$250 if the act is not willful.
- (k) Section 717.1322(1)(l), F.S. – fine of \$1,000 to \$2,000.
- (l) Section 717.1341(3), F.S. – a fine equal to the value of the property for the first offense, a fine equal to twice the value of the property for the second offense, and a fine equal to three times the value of the property for the third and subsequent offenses.
- (2) Any person that has an aggregate final penalty of more than \$5,000 shall be prohibited from being director, officer, agent, employee, or ultimate equitable owner of a 10% percent or greater interest in an employer of a registrant.

Rulemaking Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1400 FS. History–New 1-3-05, Formerly 69I-20.076.

69G-20.077 Criminal Proceedings.

- (1) If a person is found to have committed criminal conduct in the course of such person's business, in violation of Section

717.1322(1)(h), F.S., the following stated penalty shall apply:

(a) If a person is convicted by a court for committing a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, the penalty shall be revocation, if the person is registered, and the entry of an order prohibiting the person from being director, officer, agent, employee, or ultimate equitable owner of a 10% or greater interest in an employer of a registrant.

(b) If a person is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to the commission of a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, which involves moral turpitude and is a crime involving breach of trust or dishonesty, the penalty shall be revocation, if the person is registered, and the entry of an order prohibiting the person from being director, officer, agent, employee, or ultimate equitable owner of a 10% or greater interest in an employer of a registrant.

(c) If a person is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the laws of the United States of America or of any state thereof or under the law of any other country, which does not involve moral turpitude and is not a crime involving breach of trust or dishonesty, the penalty shall be a 24 month suspension, if the person is registered, and the entry of an order prohibiting the person from being director, officer, agent, employee, or ultimate equitable owner of a 10% percent or greater interest in an employer of a registrant for a period of 24 months.

(2) Foreign Law Enforcement Records. In the event that a law enforcement record includes convictions, charges, or arrests outside the United States, the Department shall consider the following factors to reduce or eliminate the penalty:

(a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;

(b) The degree of penalty associated with the same or similar crimes in the United States; and,

(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States.

Rulemaking Authority 717.138 FS. Law Implemented 717.117, 717.119, 717.132, 717.1322, 717.134, 717.1341 FS. History—New 1-3-05, Formerly 69I-20.077.

69G-20.078 Aggravating and Mitigating Factors.

(1) It is the Florida Legislature's intent that minor violations be distinguished from serious violations. A specific finding of mitigating or aggravating circumstances shall allow the Department to impose a penalty other than that provided for in the stated penalty guidelines.

(2) The variation and range of penalties permitted are as follows:

(a)1. A suspension may be reduced to a fine equivalent to \$500 to \$1,000 for each month of suspension.

2. A total penalty dollar amount may be reduced by up to 50%.

3. A reduction of the penalty may be done only once for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(b)1. A suspension of 2 years or more may be increased to a revocation.

2. The total dollar penalty amount may be increased by up to 50%; provided that the stated penalty dollar amount shall not exceed the maximum statutory amount for each act, transaction or occurrence.

3. An increase of the penalty may be done only once for each act, transaction or occurrence in violation of the Florida Disposition of Unclaimed Property Act, Chapter 717, F.S.

(3) Aggravating and mitigating factors for penalties assessed under Rules 69G-20.075 and 69G-20.076, F.A.C., and Sections 717.117(3), 717.119(5)(c), and 717.134, F.S.:

(a) Willfulness of person's conduct;

(b) Degree of actual injury to victim;

(c) Degree of potential injury to victim;

(d) Age or capacity of victim;

(e) Timely restitution;

(f) Motivation of person;

(g) Financial gain or loss to person;

- (h) Cooperation with the Department;
- (i) Related criminal charge; disposition;
- (j) Previous disciplinary orders or prior warning by the Department;
- (k) The amount of the claim involved;
- (l) The complexity of locating the owner;
- (m) The steps taken to ensure the accuracy of the claim by the person filing the claim;
- (n) The acts of commission and omission of the ultimate owners in establishing themselves as rightful owners of the funds;
- (o) The acts of commission or omission of the agent or employee of an employer in the filing of the claim;
- (p) The actual knowledge of the agent, employee, employer, or owner in the filing of the claim;
- (q) The departure, if any, by the agent or employee from the internal controls and procedures established by the employer with regard to the filing of a claim;
- (r) The number of defective claims previously filed by the agent, employee, employer, or owner; and,
- (s) Other relevant factors.
- (4) Aggravating and mitigating factors for penalties assessed under Rule 69G-20.077, F.A.C.:
 - (a) Number of years that have passed since criminal proceeding;
 - (b) Age of person at time the crime was committed;
 - (c) Whether the person served time in jail;
 - (d) Whether or not the person violated criminal probation;
 - (e) Whether or not the person is still on criminal probation;
 - (f) Whether or not the person's actions or behavior resulted in substantial injury to victim;
 - (g) Whether or not restitution was, or is being timely paid;
 - (h) Whether or not the person's civil rights have been restored; and,
 - (i) Other relevant factors.

Rulemaking Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1400 FS. History—New 1-3-05, Formerly 69I-69.078.

69G-20.079 Time for Payment of Administrative Fines and Costs.

In disciplinary cases where the Department has imposed an administrative fine for violation of Florida Disposition of Unclaimed Property Act, Chapter 717, F.S., the fine shall be paid within 30 days of the filing date of the final order unless otherwise directed by the Department.

Rulemaking Authority 717.138 FS. Law Implemented 717.101, 717.102, 717.103, 717.1035, 717.104, 717.1045, 717.105, 717.106, 717.107, 717.1071, 717.108, 717.109, 717.1101, 717.111, 717.112, 717.113, 717.115, 717.116, 717.117, 717.119, 717.124, 717.12404, 717.12405, 717.1261, 717.1262, 717.1301(1), 717.1311, 717.1315, 717.132, 717.1322, 717.1323, 717.134, 717.1341, 717.135, 717.1351, 717.1400 FS. History—New 1-3-05, Formerly 69I-20.079.

69G-20.080 Minor Violations.

Pursuant to Section 717.1322, F.S., the Department sets forth below those minor violations for which there is no substantial threat to the public health, safety, and welfare. Next to each violation is the fine to be imposed.

(1) Section 717.1400(5)(a), F.S. – reprimand if the written notification of the termination of the agency or employment is no more than 30 days late and a \$50 fine for each successive 30-day period up to a maximum fine of \$2,000.

(2) Section 717.1400(5)(c), F.S. – reprimand if the copy of the renewed private investigator's Class "C" individual license under Chapter 493, F.S., or a private investigator's employer's Class "A" business license under Chapter 493, F.S., is provided to the Department no more than 30 days late and a \$50 fine for each successive 30-day period up to a maximum fine of \$2,000.

Rulemaking Authority 717.138 FS. Law Implemented 717.1322, 717.1400 FS. History—New 1-3-05, Formerly 69I-20.080.

69G-20.090 Orders or Settlements Requiring Restitution.

In accordance with Chapter 717, F.S., orders or settlements requiring restitution may include one of the following recommended paragraphs which may be modified to fit the particular facts of the case:

(1)(a) The (Defendant/Respondent/Petitioner) shall make a good faith effort to locate each entity or individual who is required to be paid in accordance with this (Settlement/Order).

(b) If the (Defendant/Respondent/Petitioner) is not able to locate any entity or individual who is required to be paid in accordance with this (Settlement/Order) or does not make payment to the entity or individual for any other reason, the (Defendant/Respondent/Petitioner) shall report and remit the amount due to the entity or individual to the unclaimed property program of the state of the last known address of the entity or individual as shown on the records of the (Defendant/Respondent/Petitioner) or to the state of domicile of the (Defendant/Respondent/Petitioner) if the records of the (Defendant/Respondent/Petitioner) do not reflect the last known address of the entity or individual. The funds shall be payable in U.S. dollars using the appropriate reporting forms and electronic reporting format within 60 days after the date that the (Defendant/Respondent/Petitioner) was required to issue payment in accordance with the terms of this (Settlement/Order), unless directed otherwise by the receiving unclaimed property program. If the (Defendant/Respondent/Petitioner) is directed otherwise by the receiving unclaimed property program, the (Defendant/Respondent/Petitioner) shall follow the reporting and remitting instructions of the receiving unclaimed property program. A copy of the (Settlement/Order) requiring restitution shall accompany the unclaimed property report and remittance.

(c) If the (Defendant/Respondent/Petitioner) issues a check to an entity or individual who is required to be paid in accordance with this (Settlement/Order) and the entity or individual does not negotiate or cash the check within 90 days after the issuance of the check, the (Defendant/Respondent/Petitioner) shall report and remit the value of the uncashed check in U.S. dollars to the unclaimed property program of the state of the last known address of the entity or individual as shown on the records of the (Defendant/Respondent/Petitioner) or to the state of domicile of the (Defendant/Respondent/Petitioner) if the records of the (Defendant/Respondent/Petitioner) do not reflect the last known address of the entity or individual. The (Defendant/Respondent/Petitioner) shall report and remit the unclaimed property using the appropriate reporting forms and electronic reporting format within 150 days after the issuance of the check, unless directed otherwise by the receiving unclaimed property program. If the (Defendant/Respondent/Petitioner) is directed otherwise by the receiving unclaimed property program, the (Defendant/Respondent/Petitioner) shall follow the reporting and remitting instructions of the receiving unclaimed property program. A copy of the (Settlement/Order) requiring restitution shall accompany the unclaimed property report and remittance.

(d) Unclaimed Property due and owing to the State of Florida shall be reported and remitted to the Florida Department of Financial Services, Division of Unclaimed Property in accordance with Rules 69G-20.034 and 69G-20.041, F.A.C.

(e) "Domicile" means the state of incorporation, in the case of a corporation incorporated under the laws of a state, and the state of the principal place of business, in the case of a person not incorporated under the laws of a state.

(2)(a) The (Defendant/Respondent/Petitioner) shall make a good faith effort to locate each entity or individual who is required to be paid in accordance with this (Settlement/Order).

(b) If the (Defendant/Respondent/Petitioner) is not able to locate any entity or individual who is required to be paid in accordance with this (Settlement/Order) or does not make payment to the entity or individual for any other reason, the (Defendant/Respondent/Petitioner) shall report and remit the amount due to the entity or individual to the Florida Department of Financial Services, Division of Unclaimed Property, in U.S. dollars using the appropriate reporting forms and electronic reporting format in accordance with Rules 69G-20.034 and 69G-20.041, F.A.C., within 60 days after the date that the (Defendant/Respondent/Petitioner) was required to issue payment in accordance with the terms of this (Settlement/Order). A copy of the (Settlement/Order) requiring restitution shall accompany the unclaimed property report and remittance.

(c) If the (Defendant/Respondent/Petitioner) issues a check to an entity or individual who is required to be paid in accordance with this (Settlement/Order) and the entity or individual does not negotiate or cash the check within 90 days after the issuance of the check, the (Defendant/Respondent/Petitioner) shall report and remit the value of the uncashed check in U.S. dollars to the Florida Department of Financial Services, Division of Unclaimed Property, using the appropriate reporting forms and electronic reporting format in accordance with Rules 69G-20.034 and 69G-20.041, F.A.C., within 150 days after the issuance of the check. A copy of the (Settlement/Order) requiring restitution shall accompany the unclaimed property report and remittance.



DEPARTMENT OF FINANCIAL SERVICES
Division of Unclaimed Property

Reporting Instructions Manual

www.FLTreasureHunt.gov

DFS-P1-0001
Effective July 2019
Rule 69G-20.041, F.A.C.

The Reporting Instructions Manual is designed to provide information and requirements for reporting and remitting unclaimed property to the Florida Department of Financial Services (Department), as required under the Florida Disposition of Unclaimed Property Act, chapter 717, Florida Statutes (F.S.), and Rule Chapter 69G-20, Florida Administrative Code (F.A.C.).

Section 1 of this manual is a comprehensive guide to provide information and requirements for reporting and remitting unclaimed property to the State of Florida (sometimes referred to herein as “Florida”).

Section 2 of this manual is frequently asked questions concerning unclaimed property reporting requirements.

The Holder Reporting Online System (Online System) is the Department’s online reporting application that allows reporting entities to file the required unclaimed property report(s) and remittance in a safe and secure online environment. Section 1.3 of this manual contains instructions on how to use this system to report and remit unclaimed property.

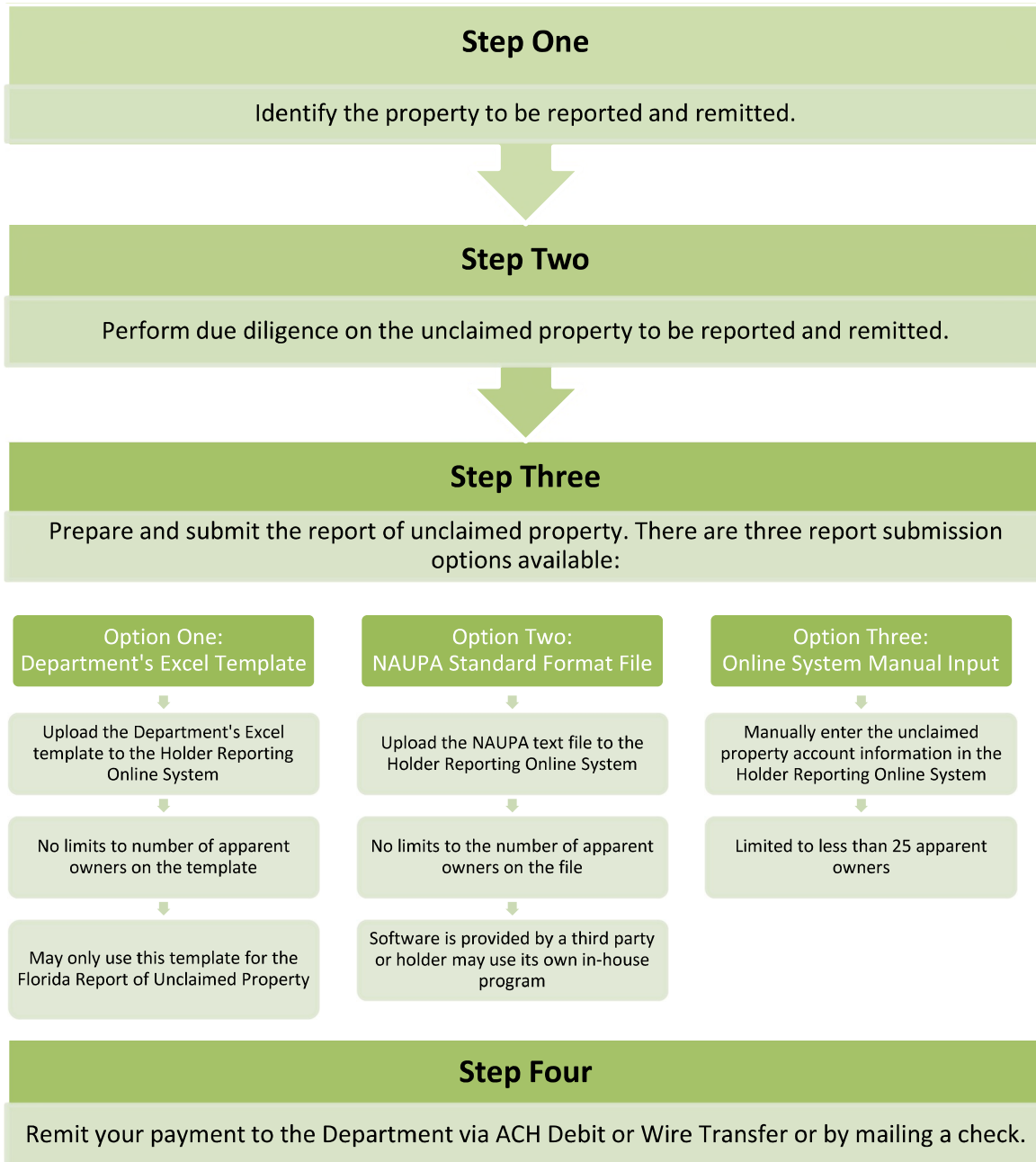
The Department periodically conducts workshops to inform entities regarding reporting and remitting of unclaimed property. Visit our web page at www.FLTreasureHunt.gov and click on the **Events** link to see scheduled workshops.

Contact the Department by telephone at (850) 413-5522 or by email at EReporting@MyFloridaCFO.com for questions on the reporting of unclaimed property.

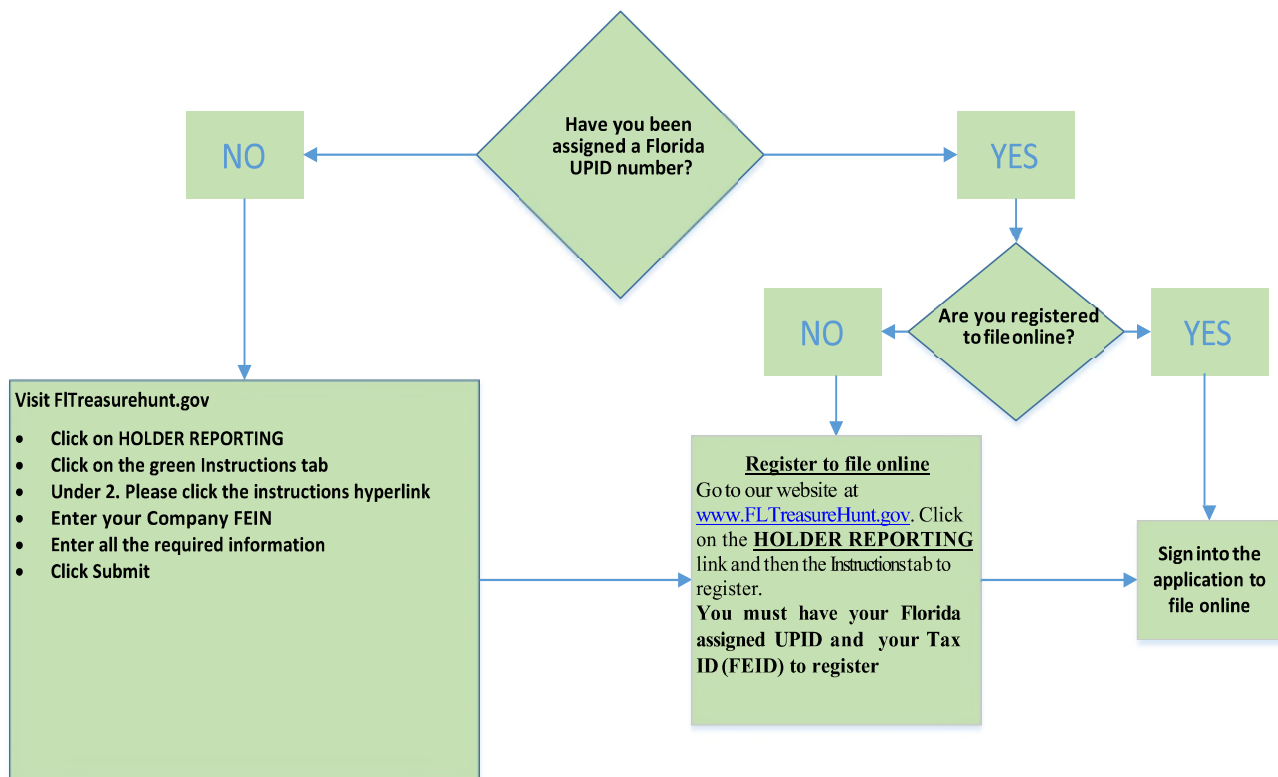
1. SECTION 1: STEPS IN REPORTING AND REMITTING UNCLAIMED PROPERTY TO FLORIDA	4
1.1 STEP 1 - IDENTIFY THE UNCLAIMED PROPERTY TO BE REPORTED AND REMITTED	5
1.2 STEP 2 – PERFORM DUE DILIGENCE	6
1.2.1 <i>Sample Due Diligence Letter</i>	7
1.3 STEP 3 – PREPARE AND SUBMIT THE REPORT OF UNCLAIMED PROPERTY AND REMITTANCE/PAYMENT	8
1.3.1 <i>ELECTRONIC REPORT FORMAT OPTION</i>	8
1.3.1.1 CREATING THE DEPARTMENT’S EXCEL TEMPLATE	8
1.3.1.2 SUBMITTING THE NAUPA FILE TO THE STATE OF FLORIDA	9
1.3.2 <i>MANUAL INPUT OPTION</i>	9
1.3.3 <i>REMITTANCE / PAYMENT</i>	9
1.3.3.1 CASH RELATED PROPERTY	10
1.3.3.2 SECURITIES RELATED PROPERTY	10
1.3.3.3 SAFE-DEPOSIT BOX TANGIBLE PROPERTY	13
1.3.4 <i>PROPERTY TYPE CODES, RELATIONSHIP CODES, AND TANGIBLE CATEGORY CODES</i>	14
1.3.4.1 FLORIDA PROPERTY TYPE CODES AND DORMANCY TABLE	14
1.3.4.2 RELATIONSHIP CODES	18
1.3.4.3 GUIDE ON REPORTING OWNER NAMES FOR UNIQUE PROPERTY TYPES	21
1.3.4.4 TANGIBLE CATEGORY CODES	22
2. SECTION 2: OTHER REPORTING-RELATED INFORMATION	22
2.1 REPORT FILING EXTENSION	22
2.2 LIMITS ON THE VALUE OF AN ACCOUNT THAT MUST BE REPORTED AND REMITTED	23
2.3 ANNUAL REPORTING	23
2.4 SPECIAL NOTE TO ENTITIES REPORTING UNCLAIMED PROPERTY HELD OR OWING UNDER ANY LIFE OR ENDOWMENT INSURANCE POLICY OR ANNUITY CONTRACT	23

1. SECTION 1: STEPS IN REPORTING AND REMITTING UNCLAIMED PROPERTY TO FLORIDA

The following flow chart summarizes the steps involved in reporting and remitting unclaimed property to the State of Florida:



Online System - If you are not already registered to use our Online System, adopted in Rule 69G-20.034, F.A.C., you must follow the steps identified in the chart below. The [Online System](http://www.FLTreasureHunt.gov) can be accessed at www.FLTreasureHunt.gov by clicking on the **HOLDER REPORTING** link. You will find valuable information under this tab including a handbook on how to use the system.



1.1 STEP 1 - IDENTIFY THE UNCLAIMED PROPERTY TO BE REPORTED AND REMITTED

Unclaimed property is primarily an intangible property liability that has been inactive on the books of a holder for a period of time as provided by state law (**dormancy period**) for which there has been no owner-generated activity. Once these liabilities are identified, the first step is to determine which state's unclaimed property law must be followed for each liability and that state's required dormancy period which determines when the liability becomes unclaimed property and subject to being reported and remitted.

Where to report and remit unclaimed property is primarily determined based on the following Supreme Court decisions:

- (I) Texas v. New Jersey, 379 U.S. 674, 85 S.Ct. 626, 13 L.Ed.2d 596 (1965).
- (II) Pennsylvania v. New York, 407 U.S. 206, 92 S.Ct. 2075, 32 L.Ed.2d 693 (1972).

These decisions establish the Primary and Secondary Rules which determine where a holder must report and remit unclaimed property.

- The **Primary Rule** requires that intangible unclaimed property be reported to the state of the owner's last known address.

- The **Secondary Rule** requires that when there is an unknown owner, no last known address, or the owner's address is located in a state without an applicable unclaimed property law, the intangible property must be reported to the holder's state of domicile.
- The **Transaction Rule** is codified in 12 U.S.C. 2503 as an exception to the Primary and Secondary Rules. The Transaction Rule provides the following where any sum is payable on a traveler's check, money order, or other similar written instrument on which a banking or financial organization or a business association is directly liable:
 - 1) If the books and records show the state of purchase, that state shall be entitled exclusively to take custody of the sum payable on the traveler's check, money order, or other similar instrument, to the extent that state's laws provide for taking custody.
 - 2) If the books and records do not show the state of purchase, that state in which the banking or financial organization or business association has its principal place of business shall be entitled to take custody of the sum payable on the traveler's check, money order, or other similar instrument, to the extent that state's laws provide for taking custody.
 - 3) If the books and records show the state of purchase and the laws of that state do not provide for taking custody of the sum payable on the traveler's check, money order, or other similar instrument, the state in which the banking or financial organization or business association has its principal place of business shall be entitled to take custody of the sum payable on the instrument, to the extent that state's laws provide for taking custody.

Based on these rules, once you have identified the liabilities that will be subject to Florida's unclaimed property law, you must follow the requirements set forth by Florida. The Florida Property Code and Dormancy Table, provided in this manual, is a helpful tool in identifying liabilities and the required dormancy period. Once the liability reaches the required dormancy period, it becomes unclaimed property and subject to being reported and remitted to Florida.

1.2 STEP 2 – PERFORM DUE DILIGENCE

Prior to reporting and remitting unclaimed property valued at \$50 or more which has reached its required dormancy period (as explained in STEP 1) during the calendar year, the holder must perform due diligence as outlined by statute.

Due diligence means the use of reasonable and prudent methods under particular circumstances to locate apparent owners of inactive accounts using the taxpayer identification number or social security number, if known, which may include, but are not limited to, using a nationwide database, cross-indexing with other records of the holder, mailing to the last known address (unless the last known address is known to be inaccurate) or engaging a licensed agency or company capable of conducting such search and providing updated addresses.

A written notice must be sent to the apparent owner's last known address, unless the last known address is known to be inaccurate, informing the apparent owner that the holder is in possession of the unclaimed property account subject to chapter 717, F.S., and requesting that the apparent owner respond to the notice. The written notice must clearly state the property value and include a proper description of the property sufficient for identifying that type of property. Per statute, this must be performed not more than 120 days and not less than 60 days prior to the report of unclaimed property due date, which is before May 1 of each year. The holder must provide the name and contact information of the holder representative the owner can contact if they have any questions. **The due diligence letter must not contain any contact information for the state of Florida.** Failure to perform due diligence as provided by statute could result in potential fines and interest penalties.

If the documents establishing a deposit in a banking or financial organization state the address of a beneficiary of the deposit and the account is valued at \$50 or more, the holder must also give notice to the beneficiary.

1.2.1 Sample Due Diligence Letter

The following due diligence letter is provided **as an example only.**

SAMPLE DUE DILIGENCE LETTER

January 1, 20XX

Mr./Ms. Good Customer
100 Any Street
City, State 23218

Dear Mr./Ms. Customer:

It is our policy to review and update our account records periodically. Our records indicate that there has been no transaction on your (type) account with a balance of (\$XXX) since (LAST DATE OF ACTIVITY). Florida law requires that we contact you when there has been no customer-generated activity on this account for the time period specified by law. If you do not respond to this notice, your account is subject to being reported and remitted to the State of Florida's unclaimed property office. Please check the appropriate box, sign in the space provided below, and return this form to us no later than 5 weeks from the date of this letter to (your address).

☐ I am aware of the account and wish to keep it open.

☐ Please update the account address as follows:

☐ I wish to close this account. Please send a check for the close-out amount to the following address:

Signature

Date

Please contact our office at (xxx) xxx-xxxx if you require additional information.
(Note: This is your contact number and not the State of Florida's)

Sincerely,
Your Name

NOTE: This is intended only as an example of a due diligence letter. The holder must design the due diligence letter to meet its needs. Do not include the state of Florida's contact information in this letter.

1.3 STEP 3 – PREPARE AND SUBMIT THE REPORT OF UNCLAIMED PROPERTY AND REMITTANCE/PAYMENT

Once you have identified a liability subject to Florida's unclaimed property law and it has reached the required dormancy period, it becomes unclaimed property and must be reported and remitted to the Department before May 1 of each year. If the due date for filing the report of unclaimed property falls on a Saturday or Sunday, the following Monday will be considered the due date. In the event the due date is an official state of Florida holiday, the next business day will become the due date.

The Department has established the Online System that can be securely used by all entities to submit the report of unclaimed property. The Online System can be accessed at www.FLTreasureHunt.gov. If you need assistance using the Online System, a handbook is available at www.FLTreasureHunt.gov, under the **Holder Reporting** link, **Prepare Report** tab. The report of unclaimed property shall apply to all unclaimed property reaching the required dormancy period during the preceding calendar year ending December 31.

The report of unclaimed property must have sufficient information so that owners can easily search the unclaimed property database to recover their property. Except for traveler's checks and money orders, the report of unclaimed property must include the name, social security number, a taxpayer identification number, and date of birth, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed. This information will assist the Department in its attempt to locate the owner and ensure the Department pays the correct owner of the property. Each item of property must have a separate property record. If an owner has multiple properties, each property must be identified as a separate record.

IMPORTANT:

- a. The report of unclaimed property formatted as an Excel spreadsheet, Word document, Access database, or PDF file **will not be accepted**.
- b. Clerks of Court - All intangible property held for the owner that has not been claimed by the owner for more than 1 year after it became payable or distributable is presumed unclaimed and is subject to being reported and remitted to the Department. However, money held in the court registry for which no court order has been issued to determine an owner is not payable or distributable and is not to be reported and remitted to the Department.

NOTE: Regardless of the resource utilized to create the report of unclaimed property, the Department will incur no liability for any errors in the resulting report. It is the responsibility of the holder to accurately report as required by law.

1.3.1 ELECTRONIC REPORT FORMAT OPTION

Entities reporting 25 or more apparent owners must file the report of unclaimed property using the electronic format on the Department's Online System. The Online System provides for two electronic report format options. Option 1 is the Department's Excel template and Option 2 is a National Association of Unclaimed Property Administrators (NAUPA) standard format file.

NOTE: If the report of unclaimed property contains less than 25 apparent owners, either the electronic report format option or the manual input option provided below in section 1.3.2 may be used.

1.3.1.1 CREATING THE DEPARTMENT'S EXCEL TEMPLATE

The Department has created Excel templates that can be used for reporting Cash, Stock, and Tangible unclaimed property through the Online System. These templates are available at no charge and can be used in place of a NAUPA standard format file. You must be registered to use the Online System to access these

templates which are located on the dashboard under “Templates” and designed to work exclusively with the Department’s Online System.

The templates must be downloaded and saved to the registered user’s computer. After the download is complete, the user must first “ENABLE CONTENT” before adding data and then fill in the information require by each pre-defined column. If you copy and paste information, you must use the “Paste Special” function. Review the property type codes and the relationship codes on pages 15 through 21 of this manual and ensure you apply the correct code for each property on the template.

Once the template is complete, it must be saved as a “.CSV (Comma Delimited)” file and submitted to the Department through the Online System. Save a copy of the template for your records.

1.3.1.2 SUBMITTING THE NAUPA FILE TO THE STATE OF FLORIDA

NAUPA is an organization of all fifty states which facilitates collaboration among state unclaimed property administrators in their effort to reunite unclaimed property with the rightful owner. The NAUPA standard format is designed by NAUPA to help standardize the reporting process in all states. Refer to the [NAUPA Standard Format Manual](#) (link) to access the definitions and specifications under each filed in the NAUPA standard format file, as it provides detailed information on the requirements of the NAUPA standard format.

To assist you in preparing the NAUPA standard format file, free reporting software information can be found at www.FLTreasureHunt.gov, under the **Holder Reporting** link, **Prepare Report** tab. You can also choose to use your organization’s internal IT resources or any other third-party vendor to create the NAUPA standard format file or utilize any other third-party vendor. Review the property type codes and relationship codes on pages 15 through 20 of this manual to ensure you apply the correct code for each property on the NAUPA standard format file.

After preparing the NAUPA standard format file, you must submit it to the Department through the Online System. Follow the online application chart in Section 1 above if you have not registered to use this system.

1.3.2 MANUAL INPUT OPTION

A holder reporting less than 25 apparent owners may file the report of unclaimed property using either the manual input option **or** the electronic report format option on the Department’s Online System. The manual input option allows for properties to be manually entered online and eliminates the need to create the Department’s Excel template or the NAUPA standard file, as required under the electronic format option. Review the property type codes and relationship codes on pages 15 through 21 of this manual to ensure you apply the correct code for each property that is manually input.

Entities reporting more than 24 apparent owners must use the electronic report format option described in section 1.3.1

1.3.3 REMITTANCE / PAYMENT

All unclaimed property other than the contents of a safe-deposit box or other safekeeping repository must be remitted once the report is filed through the Online System. Your filing is not complete until both the report and remittance/payment are received by the Department.

1.3.3.1 CASH RELATED PROPERTY

The Online System provides the following options for remitting cash to the State of Florida.

- A. ACH Debit/Online Payment** – This is a safe and secure method of payment, free of charge and preferred by the Department. It allows for easy reconciliation of cash remittances to the filed report of unclaimed property. To use this option, you must provide the following information:

- The name on your Bank Account
- Bank Routing Number
- Bank Account Number

IMPORTANT: Before utilizing this option, you must contact your financial institution to ensure there are no existing ACH blocks on your account. Your bank will require our ACH Company ID number L272818119 for this payment. A fee for insufficient funds may be charged if your account has a block on it and the transaction is returned by your bank.

- B. Check** - A check made payable to the Florida Department of Financial Services. Include with the check, a copy of the coupon attached to the confirmation email you will receive after filing your report of unclaimed property through the Online System.
- C. Wire Transfer** - Instructions will be emailed to you upon filing the report of unclaimed property through the Online System. The instructions may also be obtained by sending an email to the Department at **EReporting@MyFloridaCFO.com**.

1.3.3.2 SECURITIES RELATED PROPERTY

The holder is responsible for preparing the report of unclaimed property and will be responsible for emailing the Notification of Transfer.

Notification of Transfer of all securities will be emailed directly to:

State of Florida, Department of Financial Services
Attn: Division of Unclaimed Property
At: EReporting@MyFloridaCFO.com

The subject line of the email must include the Florida-assigned Unclaimed Property Identification (UPID) number for your organization and the “Notification of Transfer.” The notification must include:

- Florida Assigned UPID Number
- Holder Name
- Holder FEIN (Federal Employer Identification Number)
- Holder Contact Person Name, Telephone Number, & Email Address
- Report Due
- Reporting Year
- Reported CUSIP (Committee on Uniform Securities Identification Procedures) Number
- Reported Security Name
- Number of Shares
- Type of Shares (DTC, Certificate, Mutual Fund, etc...)
- Dollar amount of shares
- Date & time transfer to Florida’s Securities Custodian occurred

The notification must be emailed at least 48 hours in advance of the transfer of the securities to the Department's Custodian. Microsoft Excel is the preferred format for processing. A template has been provided for your convenience at: [Transfer of Securities Notification template](#).

When share information (e.g., dividends, capital gains earned, or any other type of corporate action) changes after the report of unclaimed property and the Notification of Transfer has been submitted, both the report of unclaimed property and the Notification of Transfer information must be updated and resubmitted.

Common or Preferred Stock and Mutual Funds eligible for DTC/DWAC transfer must be sent directly to:

DTC participant 901
Agent Bank #26500
State of Florida, Account 822496

At least 48 hours prior to delivery you must email a list of the shares you intend to deliver to upch.custody@avenuinsights.com. The list shall include the information found in the Notification of Transfer section. **The Department's FEIN is 27-2818119.**

Dividend reinvestment plans must be terminated by converting the whole shares to common stock and liquidating the partial shares. The whole shares can then be sent via DTC to:

DTC participant 901
Agent Bank #26500
State of Florida, Account 822496

Partial shares must be sold and the proceeds mailed to:

Florida Department of Financial Services
Attn: Division of Unclaimed Property
200 East Gaines St
Tallahassee, FL 32399-0358

A listing containing the information found in the Notification of Transfer section must be emailed to the Department Custodian at upch.custody@avenuinsights.com at least 48 hours before the transfer of the securities.

Direct Registration/Book-Entry shares are not accepted by the Department.

Securities remitted by certificate must be transferred via DTC to:

**DTC participant 901
Agent Bank #26500
State of Florida, Account 822496**

To transfer securities not eligible for DTC, issue a physical certificate registered in the name of "Hare & Co., LLC, FBO Florida Department of Financial Services" and mail to:

The Depository Trust Company
570 Washington Blvd – 5th Floor
Jersey City, NJ 07310
Attn: BNY Mellon/Branch Deposit Department
FEIN: 13-6062916

DO NOT deliver original certificates to the State of Florida with your report. A photocopy must be sent with the original report. If any certificates are registered incorrectly, they will be returned to you for re-registration and your report will be considered incomplete. Only one certificate must be delivered for each security position reported. Copies of the certificates or a list of the certificates including the information found in the Notification of Transfer section must be faxed to 617-722-9660 at least 48 hours prior to delivery.

Delivery of Foreign Securities: When attempting to deliver foreign securities, contact the Department's securities custodian at upch.custody@avenuinsights.com to obtain delivery instructions.

Federal Reserve Book Eligible Securities Delivery Instructions

Federal Reserve Bank of New York
ABA#0210-0001-8
BK of NYC/CUST
FBO - State of Florida; Account # 822496

A listing containing, at a minimum, the information found in the Notification of Transfer section must be emailed to the Department Custodian at upch.custody@avenuinsights.com at least 48 hours before the transfer of the securities.

Open End Mutual Fund Accounts

Accounts held for the State of Florida must be registered to the name Mac & Co., LLC. The Department's securities custodian will provide account numbers for all mutual funds transferred to the State of Florida's account. Contact the Department's securities custodian at upch.custody@avenuinsights.com to obtain account numbers at least 3 business days prior to attempting delivery.

Closed End Mutual Funds Accounts

Accounts held for the State of Florida must be registered in the name of State of Florida c/o Avenu Insights & Analytics, LLC, 100 Hancock Street, 10 Floor, Quincy, MA 02171 FEIN 27-2818119.

If the fund is DTC eligible, please close the account and deliver full shares to DTC# 901, Agent Bank #26500, Account # 822496.

If the fund is not DTC eligible, please close the account and forward certificates for full shares to:

Avenue Insights & Analytics, LLC
100 Hancock Street
10th Floor
Quincy, MA 02171

Partial shares must be sold and the proceeds mailed to:

Florida Department of Financial Services
Attn: Division of Unclaimed Property
200 East Gaines St.
Tallahassee, FL 32399-0358

A listing containing, at a minimum, the information found in the Notification of Transfer section shall be emailed to the Department Custodian at upch.custody@avenuinsights.com at least 48 hours before the transfer of the securities.

All unclaimed property must be remitted once the report is filed through the Online System.

Do not report stocks or other intangible ownership interests unless you are also able to simultaneously deliver the property. Any unclaimed property delivered to the Department must have value. Should any property that is not transferred become transferable in the future and available for delivery simultaneously with the report of unclaimed property, report the property to the Department and include a brief explanation stating why the property was reported after the reporting due date. Contact the Department at EReporting@MyFloridaCFO.com or at 850-413-5522 if you have any questions.

1.3.3.3 SAFE-DEPOSIT BOX TANGIBLE PROPERTY

- A. The contents of a safe-deposit box or other safekeeping repository which have monetary value shall be presumed unclaimed. The contents must be remitted to the Department between 120 and 180 days after the report due date, except for the following contents which are NOT TO BE REMITTED to the Department:

Ammunition	Empty Envelopes
Articles of Incorporation	Firearms
Audio/Video Tapes	Flash Drives
Awards/Diplomas	Keys
Bills (e.g., a utility bill; not referring to currency)	Letters/Notes
Blank or Cancelled Checks	Newspaper Clippings
Blank CDs/Discs	Photographs (Personal Family Photos)
Credit Cards	Post Cards
Data Cartridges	

- B. The [Safe-Deposit Box Inventory \(DFS-UP-155\)](#) form, which is incorporated by reference in Rule 69G-20.035, F.A.C., must be used to inventory the contents of a safe-deposit box. The form must be sent along with the remittance of the safe-deposit contents. Safe-deposit contents must be received by the Department 120 to 180 days after the report due date. DO NOT SEND THE CONTENTS ALONG WITH THE REPORT THAT IS DUE BEFORE MAY 1.
- C. If reported item(s) listed on the Safe-Deposit Box Inventory (DFS-UP-155) form will not be sent to the Department, notify the Department in writing by listing the items that will not be sent and include the reason (e.g., no commercial value, items claimed by the owner prior to shipment, etc.).
- D. Stock certificates found in a safe-deposit box must be included along with the remittance.
- E. Non-numismatic paper currency and coins (paper currency or coins that do not have collectable value) found in a safe-deposit box must be remitted by cashier's check payable to the Department along with the other contents of the safe-deposit box. Numismatic paper currency and coins (paper currency and coins that have collectable value) must be remitted in their original form. Use the [Numismatic List for Financial Institutions](#) to determine if currency and coins have collectable value.
- F. A single cashier's check may be issued for non-numismatic paper currency and coins belonging to multiple safe-deposit box owners; however, a list must be provided which clearly identifies the owners and the amount belonging to each owner. Write the check number on each owner's inventory sheet and

indicate which coins and paper currency listed on the inventory sheet were converted to a cashier's check. Make cashier's checks payable to "Florida Department of Financial Services" and include the check(s) with the safe-deposit box contents.

G. Shipping Contents

1. Contents delivered through the U.S. Mail or other carrier must be insured at an amount equal to the estimated value of the property.
2. All contents must be packaged securely to prevent damage during shipment.
3. Breakables must be wrapped individually and packed in sturdy shipping containers.
4. Heavy items such as large quantities of coins must be placed in cloth coin bags and packed in sturdy shipping containers so they will not break open in shipment.
5. Include the Florida-assigned UPID number of the bank as part of the return address on each shipping container.
6. Ideally, safe-deposit box contents should be delivered to the Department in a single shipment. If contents are shipped at different times or from different locations, you must provide the Department with a detailed shipping schedule that includes package-tracking information for all packages being sent, the name of the safe-deposit box owners included in each shipment, the address of the branch that will be sending the contents, and the name of a person who may be contacted concerning the remittance of the contents.
7. If multiple shipping containers are being sent from the same location, each shipping container must be numbered (e.g., "1 of 6," "2 of 6," etc.). Prominently mark several sides of each container "DELIVER UNOPENED." Mail the containers to:

Department of Financial Services
Division of Unclaimed Property
Asset Management
200 East Gaines Street
Tallahassee, FL 32399-0360

- H. The penalty for the receipt of a safe-deposit box container between 180 days after the report due date and 210 days after the report due date will be \$100. Thereafter, the penalty will be \$500 for each additional successive 30-day period. The penalty assessed against a holder will not exceed \$4,000 annually. The holder must remit the penalty to the Department within 30 days after the date of the notification to the holder that the penalty is due.

1.3.4 PROPERTY TYPE CODES, RELATIONSHIP CODES, AND TANGIBLE CATEGORY CODES

For each report format option, you must input a Property Type Code to identify the type of property being reported and a Relationship Code to describe the owner's relationship to the property being reported. If you are a financial institution required to report tangible personal properties from safe-deposit boxes you must input a Tangible Category Code to identify the category type for each item being reported from a safe-deposit box.

1.3.4.1 FLORIDA PROPERTY TYPE CODES AND DORMANCY TABLE

The property type code identifies the type of property reported. The table below is a guide to assist you in identifying the different property types, and it provides a statutory reference and the designated dormancy period which must be met before the property is unclaimed and subject to being reported and remitted to the Department. Other than tangible property held by mail-in secondhand precious metal dealers, the only tangible personal properties that may be reported and remitted are items from safe-deposit boxes in financial institutions as provided in Florida law.

Select the property type code which best identifies the property being reported. The property type code will always be four characters.

NOTE: The codes in the table below are the only property type codes accepted by the Department.

FLORIDA PROPERTY TYPE CODE AND DORMANCY TABLE			
PROPERTY TYPE	DORMANCY PERIOD (YEARS)	PROPERTY CODE	STATUTORY REFERENCE
GENERAL			
Checking Accounts	5	AC01	717.106
Savings Accounts	5	AC02	717.106
Matured CD's or Savings Certificates	5	AC03	717.106
Christmas Club Accounts	5	AC04	717.106
Deposit to Secure Funds	5	AC05	717.106
Security Deposits	5	AC06	717.102
Unidentified Deposits	5	AC07	717.106
Suspense Accounts	5	AC08	717.106
Cashier's Checks	5	CK01	717.105
Certified Checks	5	CK02	717.105
Registered Checks	5	CK03	717.105
Treasurer's Checks	5	CK04	717.105
Bank Drafts	5	CK05	717.105
Warrants	5	CK06	717.102
Money Orders	7	CK07	717.104(2)
Traveler's Checks	15	CK08	717.104(1)
Foreign Exchange Checks	5	CK09	717.105
Expense Checks	5	CK10	717.102
Pension Checks	5	CK11	717.112
Credit Memo or Credit Checks	5	CK12	717.1045(4)
Vendor Checks	5	CK13	717.102
Checks Written Off	5	CK14	717.102
Other O/S Official Checks	5	CK15	717.102
CD Interest Payments/Checks	5	CK16	717.106
Educational Savings Account – Cash	5	CS01	717.112(1)
Educational Savings Account – Mutual Funds	5	CS02	717.112(1)
Educational Savings Account – Securities	5	CS03	717.112(1)
Health Savings Account	5	HS01	717.112(1)
Health Savings Account Investment	5	HS02	717.112(1)
Net Revenue Interests	5	MI01	717.102
Royalties	5	MI02	717.102
Overriding Royalties	5	MI03	717.102
Production Payments	5	MI04	717.102
Working Interests	5	MI05	717.102
Bonuses-Royalties	5	MI06	717.102
Delay Rentals	5	MI07	717.102
Shut-In Royalties	5	MI08	717.102
Minimum Royalties	5	MI09	717.102
Wages, Payroll, Salary	1	MS01	717.115
Commissions	1	MS02	717.115
Worker Comp Benefits	5	MS03	717.102

Payment Goods & Services	5	MS04	717.102
Customer Overpayments	5	MS05	717.102
Unidentified Remittances	5	MS06	717.102
Un-refunded Overcharges	5	MS07	717.102
Accounts Payable	5	MS08	717.102
Credit Balances on Accts Receivable	5	MS09	717.102
Discounts Due	5	MS10	717.102
Refunds	5	MS11	717.102
Gift Certificates/Cards	5	MS12	717.1045(4)
Unclaimed Loan Collateral-Cash	5	MS13	717.106
Pension, Profit Sharing Plans	5	MS14	717.112
Voluntary or Involuntary Dissolution or Liquidation	6 months	MS15	717.111
Miscellaneous Checks	5	MS16	717.102
Miscellaneous Intangible Property	5	MS17	717.102
Suspense Liabilities	5	MS18	717.102
FINANCIAL INSTITUTIONS (TANGIBLE PROPERTY)			
Contents of Safe-Deposit Boxes	3	SD01	717.116
Contents of Safekeeping Repository	3	SD02	717.116
Other Tangible Property	3	SD03	717.116
Unclaimed Loan Collateral – NonCash	3	SD04	717.116
INSURANCE COMPANIES			
Demutualization Cash	2	DM01	717.1071
Demutualization Stock	2	DM02	717.1071
Individual Policy Benefits or Claim Payments	5	IN01	717.107
Group Policy Benefits or Claim Payments	5	IN02	717.107
Death Benefits Due Beneficiaries	5	IN03	717.107
Proceeds from Matured Policy, Endowments, or Annuities	5	IN04	717.107
Premium Refunds on Individual	5	IN05	717.107
Unidentified Remittances	5	IN06	717.107
Other Amounts Due under Policy Terms	5	IN07	717.107
Agent Credit Balances	5	IN08	717.107
Matured Life-Limiting Age	2	IN09	717.107
SECURITIES RELATED			
Unclaimed Dividends	3	SC01	717.1101
Registered Bond Interest – State and Local Government	1	SC02	717.112(5)
Equity Payments	3	SC04	717.1101
Profits	3	SC05	717.1101(4)
Funds Paid Toward Shares or Interest	3	SC06	717.1101
Bearer Bond Principal – State and Local Government	1	SC07	717.112(5)
Shares of Stock & Underlying Shares	3	SC08	717.1101
Cash in Lieu of Fractional Shares	3	SC09	717.1101
Un-exchanged Stock of Successor Corp.	3	SC10	717.1101
Other Certificates of Stock	3	SC11	717.1101
Stock Redemption Funds	3	SC13	717.1101
Bonds (physical bonds and debentures)	3	SC14	717.1101
US Government Securities	1	SC15	717.112(5)
Mutual Fund Shares	3	SC16	717.1101
Stock Warrants	3	SC17	717.1101
Registered Bond Principal –State and Local Government	1	SC18	717.112(5)
Dividend Reinvestment Plans	3	SC19	717.1101

Credit Balances	3	SC20	717.1101(4)
Bearer Bond Principal – Corporate	3	SC21	717.1101
Bearer Bond Interest – State and Local Government	1	SC22	717.112(5)
Bearer Bond Interest – Corporate	3	SC23	717.1101
Registered Bond Principal – Corporate	3	SC24	717.1101
Registered Bond Interest – Corporate	3	SC25	717.1101
FIDUCIARIES			
IRA – Cash (Traditional IRA, SEP IRA, SARSEP IRA, and SIMPLE IRA)	5	IR01	717.112
IRA –Mutual Funds (Traditional IRA, SEP IRA, SARSEP IRA, and SIMPLE IRA)	5	IR02	717.112
IRA – Securities (Traditional IRA, SEP IRA, SARSEP IRA, and SIMPLE IRA)	5	IR03	717.112
IRA – Cash (Roth IRA)	5	IR05	717.112
IRA –Mutual Funds (Roth IRA)	5	IR06	717.112
IRA – Securities (Roth IRA)	5	IR07	717.112
Paying Agent Accounts	5	TR01	717.112
Undelivered or Un-cashed Dividends	5	TR02	717.112
Fiduciary Funds	5	TR03	717.112
Escrow Funds	5	TR04	717.112
Trust Vouchers	5	TR06	717.112
Properties Held Under Trust Instruments	2	TR10	717.1125
UTILITY COMPANIES			
Utility Deposits	1	UT01	717.108
Membership Fees	5	UT02	717.102
Refunds or Rebates	5	UT03	717.102

COURTS AND GOVERNMENTAL AGENCIES - Including any court, government or governmental subdivision or agency, public corporation, or public authority			
Statutory references are to the provisions which give rise to the deposit of funds into the registry of the court (what should be entered in the “property description” field). The Department is authorized by section 717.113, F.S., to take custody of all intangible property held for the owner by any court, government (or governmental subdivision or agency), public corporation, or public authority once the property is presumed unclaimed.	1 Year Dormancy Period unless otherwise expressly provided by statute		717.112(5) and 717.113
OUT OF STATE COURTS			
Escrow Funds	1	CT01	717.112(4) and 717.113
Condemnation Awards	1	CT02	717.113
Missing Heir Funds	1	CT03	717.113
Suspense Accounts	1	CT04	717.113
Deposit Made with Court	1	CT05	717.113
MISCELLANEOUS FLORIDA STATUTORY PROVISIONS			
Guardianship Funds following Death of Ward	1	CT06	744.534
Missing, Unknown, or Unlocatable Beneficiary Determined by Court Order to be Entitled to Estate Proceeds Held by Personal Representative	1	CT07	733.816

Proceeds from Estate of Person Determined by Court Order to have No Surviving Beneficiaries	1	CT08	732.107
Alimony and Child Support Default Bonds	1	CT09	61.18
Chattel Mortgage Payments into the Court Registry	1	CT10	698.03
Cash Deposits or Bonds filed with the Court to Contest an Assessment or a Denial of a refund	1	CT11	72.011
Contested Tax, Tax Certificate, or Assessment Lien Payments into the Court Registry	1	CT12	173.07
Eminent Domain Payments into the Court Registry	1	CT13	73.111, 74.051
Final Judgments and Decree Payments into the Court Registry	1	CT14	55.141
Garnishment Payments into the Court Registry	1	CT15	77.22, 77.082
Real Estate Reserve Proceeds Payments into the Court Registry	1	CT16	475.711
Mobile Home Bonds or Payments into the Court Registry	1	CT17	713.785
Motor Vehicle Bonds or Payments into the Court Registry	1	CT18	713.585
Sale of Partitioned Property Payments into the Court Registry	1	CT19	64.071
Vehicle or Vessel Bonds or Payments into the Court Registry	1	CT20	713.78
Rent Payments into the Court Registry	1	CT21	83.232, 83.60
Mobile Home Park Payments into the Court Registry	1	CT22	723.063
Statutory Liens, Sale Without Proceedings Payments into the Court Registry	1	CT23	85.031
Surplus Proceeds from Judicial Foreclosure	1	CT24	45.032
Tax Certificates, Tax Deeds	1	CT25	197.473, 197.582
Construction Lien Bonds or Payments into the Court Registry	1	CT26	713.24
Unauthorized Insurer Bonds or Payments into the Court Registry	1	CT27	626.908
Restitutions	1	CT28	775.089
Lost Property Sold by Law Enforcement Agency	1	MO97	705.103
Health and Human Services Care and Maintenance Unclaimed Trust Funds	1	MO98	402.17

NOTE for all Florida County Clerks of Court – If there are questions regarding which statute to identify as the source and nature of the funds (for example, section 713.585, F.S., for a motor vehicle lien; section 197.473, F.S. for tax deed redemption funds, etc.), contact the Department at EReporting@MyFloridaCFO.com for assistance with reporting this specific property.

1.3.4.2 RELATIONSHIP CODES

The relationship code indicates the reported owners' association to the unclaimed property account. This information helps the Department return the unclaimed property to the owner. The relationship code will always be two letters.

Examples:

1. One owner – a check made payable to John Doe would be the SO (Sole Owner) relationship code as there is only one owner of the property.
2. Multiple owners – a check made payable to John Doe & Jane Doe would be the AN (And) relationship code as both are the owners of the property. The PA (Payee) code **is not** a valid code when there are multiple owners.

A chart of the NAUPA Relationship Codes is at <https://www.unclaimed.org/reporting/naupa-standard-electronic-file-format/> under the NAUPA Standard Electronic File Format link.

The following are relationship codes specific to and accepted by the State of Florida.

RELATIONSHIP CODES		
Code	Short Description	Definition
AD	Administrator	The person appointed by the court to administer the assets and liabilities of a decedent.
AG	Agent For	A person who is authorized to act for another (the agent's principal).
AF	Attorney For	A person who has been qualified by a state or federal court to provide legal services, including appearing in court, and is authorized to act for the client.
AN	(And) Unspecified Joint Relationship	A designation for tenancy in common.
BF	Beneficiary	Any person or entity (like a charity) designated to receive assets from, by way of example, an estate, a trust, or an insurance policy, or any instrument in which there is distribution.
CN	Conservator	A guardian and protector appointed by a court to protect and manage the assets or financial affairs of a person or a business.
CF	Custodian	A person who is in possession of property or documents.
ES	Estate	The property of a decedent, prior to distribution, or assets managed by a conservator or guardian.
EX	Executor or Executrix	The person appointed to administer the estate of a person who has died leaving a will which nominates that person.
FB	For Benefit Of	Property may be held by a person or entity for the benefit of another person who is entitled to the property.
GR	Guardian	A person who has been appointed to manage the assets of another person.
HE	Heir	As anyone entitled to receive property of a decedent.
IN	Insured	The person or entity covered by an insurer under the terms of an insurance policy.
JT	Joint Tenancy	Ownership by two or more persons in which each owns an undivided interest in the whole, and a right of survivorship is presumed.

RELATIONSHIP CODES		
Code	Short Description	Definition
TC	Tenancy in Common	Type of property owned by at least two people with no rights of survivorship afforded to any of the owners (i.e., account holders). Generally, the ownership in the account is determined on a pro rata basis, meaning that if there are two tenants in the account, each will have a 50% claim on the account's value.
JE	Tenancy by the Entireties	Joint ownership of property by spouses where, upon the death of one, the property goes to the survivor.
OR	(Or) Unspecified Joint Relationship	A designation where any person on the account may obtain all of the property.
PD	Payable On Death	An account that is payable to the person specified upon the death of the owner of the account.
PA	Payee	The one named on a check or promissory note entitled to receive payment. NOTE: Only use this code when there is only one payee on a check or promissory note. If there is more than one payee you must use a relationship code that describes the relationship of the payees on the check. For example: If the payees on a check are John Doe & Jane Doe, then the AN relationship code must be used for both owners.
PO	Power of Attorney	A written document signed by a person called the principal giving another person the power to act for the principal. There are both general powers of attorney which give the authorized party broad authority and special powers of attorney that are more limited in scope. To be recognized, a power of attorney must conform to requirements of law.
RE	Remitter	Used primarily on official checks. The Remitter is the person who purchased the official check. This relationship is different from the reporting entity who remits the unclaimed property to the Department.
SO	Sole Owner	The single owner of a property who has all rights to the ownership of the property.
TE	Trustee	A person or entity who holds the assets (corpus) of a trust for the benefit of the beneficiaries and manages the trust and its assets under the terms of the trust.
UG	Uniform Gifts to Minors Act	An act that permits the designated custodian to act on behalf of the minor. The custodian on the account must be coded as CF, and even after the minor reaches the age of majority the UG relation coding of the account should continue.
UT	Uniform Transfer to Minors Act	An act that permits the designated custodian to act on behalf of the minor. The custodian on the account must be coded as CF, and even after the minor reaches the age of majority the UT relation coding of the account should continue.
UN	Unknown	The owner's relationship to the property is not known.

RELATIONSHIP CODES		
Code	Short Description	Definition
UF	Usufruct	A right to use a property owned by another, normally for a limited time or until death. Simply stated, it is the right to use the property, to enjoy the fruits and income of the property, to rent the property out and to collect the rents, all to the exclusion of the underlying property owner. The usufructuary has the full right to use the property but cannot dispose of nor destroy the property.

1.3.4.3 GUIDE ON REPORTING OWNER NAMES FOR UNIQUE PROPERTY TYPES

Type of Property	How to Report Owner Name	Property Type Code	Relationship Code
Estate	Do not include "Estate of" in the name field on your report. Only include the first and last name of the deceased owner. (The Estate should be reflected in the relationship code field.)	Varies depending on type of property being reported (checking, savings, IRA, etc.)	Owner: ES
IRA	Do not include "IRA" anywhere in the first name, last name, or address fields. Report the last name and first name of the owner, and any beneficiary information, if applicable.	Any of the "IR" property type codes	Owner: SO Beneficiary: BF
Trust	Report "John Smith Living Trust" as a business with the tax ID of the trust. If there is a trustee for the trust, the trustee must be reported as an alternate owner.	Varies depending on the type of property being reported (checking, savings, IRA, etc.)	Owner(s): SO or AN Beneficiary: BF Trustee: TE
Guardianship/Custodian	Do not include the word "Guardian" or "Custodian" anywhere in the name or address fields on the report. The guardian or custodian must be reported as an alternate owner on the account, with the correct relationship code. The guardian or custodian must not be reported as the primary owner. The actual owner of the funds must be listed as the primary owner.	Varies depending on the type of property being reported (checking, savings, IRA, etc.)	Owner(s): SO or AN Guardian: GR Custodian: CF

1.3.4.4 TANGIBLE CATEGORY CODES

The Tangible Category Code is required when using the Electronic Report Format option and is used to identify the category type for each item being reported from a safe-deposit box.

TANGIBLE CATEGORY CODES TABLE (ELECTRONIC FORMAT)	
SB01	Jewelry
SB02	Watches
SB03	Coins
SB04	Stock Certificates
SB05	Other Bonds
SB06	Personal I.D. Documents
SB07	Miscellaneous Other Items
SB08	Numismatic Bills
SB09	Foreign Bills
SB10	Foreign Coins
SB11	Checks, CDs, Traveler's Checks
SB12	U.S. Savings Bonds
SB13	U.S. Gold
SB14	Foreign Gold
SB15	Cashier's Check, Face Value Monies

2. SECTION 2: OTHER REPORTING-RELATED INFORMATION

2.1 REPORT FILING EXTENSION

A written request for an extension of time to file the report of unclaimed property for property that reached the required dormancy period during the prior calendar year must be postmarked or filed with the Department by April 30th of the subsequent calendar year. A written request that is not timely postmarked or filed will be denied. The Department will review the facts and circumstances of each timely postmarked or filed written request and if the Department finds that the requestor has shown that good cause exists to grant an extension, the Department will postpone the reporting date or extend the property delivery date for a period of up to sixty (60) days. Extensions will be granted for one reporting period only within a three-year time frame from the date of the first extension.

Extension requests may be sent by email to EReporting@MyFloridaCFO.com or by mail at the below address.

Florida Department of Financial Services
Division of Unclaimed Property – Reporting Section
200 E. Gaines Street, Larson Bldg.
Tallahassee, FL 32399-0355

2.2 LIMITS ON THE VALUE OF AN ACCOUNT THAT MUST BE REPORTED AND REMITTED

All identified unclaimed property must be reported and remitted except:

- A zero report may be filed if the total unclaimed property for the reporting period has a total value of \$10 or less.
- **Credit balances, customer overpayments, security deposits, and refunds** having a value of less than \$10 shall not be presumed unclaimed.

2.3 ANNUAL REPORTING

A holder that has previously filed a report of unclaimed property with the State of Florida must file a report of unclaimed property each year thereafter. This includes filing a “zero” report if the holder did not identify any unclaimed property for the current report year.

All entities, regardless of previous reporting history, are subject to the requirements of Florida’s Unclaimed Property Law. The Department has the authority to audit any holder to verify compliance with requirements of Florida’s Unclaimed Property Law.

2.4 SPECIAL NOTE TO ENTITIES REPORTING UNCLAIMED PROPERTY HELD OR OWING UNDER ANY LIFE OR ENDOWMENT INSURANCE POLICY OR ANNUITY CONTRACT

Unclaimed funds which have a value of \$50 or more held or owing under any life or endowment insurance policy or annuity contract must be reported with the full name, taxpayer identification number or social security number, date of birth, if known, and last known address of the insured or annuitant and of the beneficiary according to records of the insurance company holding or owing the funds.

This information is in addition to the owner information provided by the holder on the electronic file.

General Questions

How Do Accounts Become Unclaimed Property?

What is unclaimed property?

Unclaimed Property is a financial asset that is unknown or lost, or has been left inactive, unclaimed or abandoned by its owner. The most common types of unclaimed property are dormant bank accounts, unclaimed insurance proceeds, stocks, dividends, uncashed checks, deposits, credit balances and refunds. Unclaimed property also includes contents from abandoned safe deposit boxes in financial institutions. Unclaimed property assets are held by business or government entities (holders) for a set period of time, usually five years. If the holder is unable to locate, re-establish contact with the owner and return the asset, it is reported and remitted to the Florida Department of Financial Services, Division of Unclaimed Property.

Why do the accounts come to the state?

Chapter 717, Florida Statutes, requires the unclaimed property assets be held by business or government entities (holders) for a set period of time, usually five years. If the holder is unable to locate, re-establish contact with the owner and return the asset, it is reported and remitted to the Florida Department of Financial Services, Division of Unclaimed Property.

Are any efforts made to find owners? What if money is not claimed?

Businesses (holders of unclaimed property) are required to try to locate the owner, but when their attempts fail, they report the property and the owner's name, last known address and other information to the Department. The Department acts as custodian for the State of Florida, but never takes legal ownership of the property. The State uses various methods, including database searches, in an effort to notify owners of their property. Citizens have the right to claim their property, at no cost, any time, regardless of the amount.

What does the State do with the money before it is claimed?

Unclaimed funds are deposited into the State School Fund and used to support public schools. However, the original amount reported can always be claimed by the owner, or his/her heirs, at no cost.

Does the state pay interest on claims?

Chapter 717, Florida Statutes, does not provide for the payment of interest on claims other than that reported and remitted to the Department by the holder.

Search for and Claim Unclaimed Property

How do I search for unclaimed property?

Begin by searching the interactive database, available free of charge, 24 hours a day, which allows claimants to initiate a claims process (with instructions) for accounts they believe they are entitled to claim. For the best results, search all known names (maiden name, married names, nick-names).

[Start an Unclaimed Property Search \(/ControlServlet?ActionForm=GotoNewPublicSearch\)](/ControlServlet?ActionForm=GotoNewPublicSearch)

Submitting Claim

I have received my claim form, what do I do now?

Read carefully, fill out completely and sign your claim form. Each claim form will detail the documentation you are required to provide. The required documentation will include (but may not be limited to) a copy of your current identification reflecting your current mailing address and documentation proving your ownership of the account. Please refer to your claim form for the specific documentation required for your particular claim. Mail the completed claim form with the required documentation to the address indicated on the form.

How Do I Prove the Account Belongs to Me?

Each claim form will detail what documentation will be required in order to verify your ownership of the property. Having the same name as that on an account does not establish entitlement, as there are many people who share the same names. Often, claims are received from more than one person with the same name, trying to claim the same account(s). Proper entitlement can only be established by providing the required documentation. Providing your identification alone may not be sufficient. What documentation you are asked to submit may vary depending upon what information the company that reported the funds to the department provided about the owner of the account. You may be asked for documentation of your Social Security Number, a past address or proof of your past connection or relationship to the entity that reported the account to the Department. If you are the heir of a deceased account owner, you will also be asked to provide certified copies of official documentation that establishes your entitlement to the property. Examples of unacceptable documentation are: hand written letters, letterhead and business cards, printouts from the Internet and telephone directories.

What Types of Identification are Accepted?

Florida law requires claimants to provide a copy of their driver's license or another form of government-issued photographic identification. If your Identification does not reflect your current address, please include other documentation (such as a current utility bill, etc.) reflecting your current mailing address in addition to your Identification and proof of ownership. If the account has more than one owner and one of the owners is deceased, a certified death certificate for the deceased owner is required in addition to the Identification for the person claiming the account. Note: Each claimant must submit identification and sign the claim form.

What if the Original Owner of the Property is Deceased?

Proof of ownership (detailed above) must still be established with documentation (as detailed on your claim form). In addition, you must provide a certified death certificate for the owner, along with identification and signed claim forms for all heirs of the owner (or for the personal representative if the estate remains open). Additional documentation may be required depending on the specific case. Please review the Florida Administrative Code (<https://www.myfloridacfo.com/appresources/upmis/admin/Administrative-Rules.pdf>) section 69G-20.0022 (3) for more information.

After Submitting a Claim**How long does it take to get my money?**

The Department is allotted up to 90 days from the date it receives your complete claim package to make a determination. Claims are often processed sooner, but due to the high volume of claims received by the department, the full 90-day period may be required to finalize your claim. Please allow this time period to pass before calling our office. The period may be extended if all of the required documentation is not included with the original claim package. Please read your claim form carefully to ensure you provide all of the necessary documentation. Failure to return your claim form completely filled-out, along with all of the required documentation, will result in the missing information being requested, and the delay of processing your claim.

Was my claim received?

Click here (</ControlServlet?ActionForm=ClaimChkStatusExternal&Action=DIRECT>) to see if the Department received your claim.

I've moved since I sent my claim in, what do I do?

To request a change of address, or if you believe your check may have been lost in the mail, please have your claim number ready and call the Customer Service line. You may also email us to inform us of the address change or to make inquiries regarding your check.

What if the Original Owner of the Property is Deceased?

Proof of ownership (detailed above) must still be established with documentation (as detailed on your claim form). In addition, you must provide a certified death certificate for the owner, along with identification and signed claim forms for all heirs of the owner (or for the personal representative if the estate remains open). Additional documentation may be required depending on the specific case. Please review the Florida Administrative Code (<https://www.myfloridacfo.com/appresources/upmis/admin/Administrative-Rules.pdf>) section 69G-20.0022 (paragraph 3) for more information.



(<https://www.myfloridacfo.com>)

Florida Department of Financial Services

200 East Gaines Street, Tallahassee, FL 32399-0358

Email: FloridaUnclaimedProperty@MyFloridaCFO.com

(<mailto:FloridaUnclaimedProperty@MyFloridaCFO.com>)

Contact Us (/UP-Web/sitePages/contactus.jsp) / Legislative Statute / Administrative Rules
(<https://www.myfloridacfo.com/appresources/upmis/admin/Administrative-Rules.pdf>)

Copyright © Florida Department of Financial Services 2019

(e) a written or recorded communication requested by a prospective client;

(f) professional announcement cards stating new or changed associations, new offices, and similar changes relating to a lawyer or law firm, and that are mailed only to other lawyers, relatives, close personal friends, and existing or former clients; and

(g) information contained on the lawyer's Internet website(s).

Adopted January 31, 2013, effective May 1, 2013 (108 So.3d 609).

RULE 4-7.21 FIRM NAMES AND LETTERHEAD

(a) False, Misleading, or Deceptive Firm Names. A lawyer may not use a firm name, letterhead, or other professional designation that violates rules 4-7.11 through 4-7.15.

(b) Trade Names. A lawyer may practice under a trade name if the name is not deceptive and does not imply a connection with a government agency or with a public or charitable legal services organization, does not imply that the firm is something other than a private law firm, and is not otherwise in violation of rules 4-7.11 through 4-7.15. A lawyer in private practice may use the term "legal clinic" or "legal services" in conjunction with the lawyer's own name if the lawyer's practice is devoted to providing routine legal services for fees that are lower than the prevailing rate in the community for those services.

(c) Advertising Under Trade Names. A lawyer may not advertise under a trade or fictitious name, except that a lawyer who actually practices under a trade name as authorized by subdivision (b) may use that name in advertisements. A lawyer who advertises under a trade or fictitious name is in violation of this rule unless the same name is the law firm name that appears on the lawyer's letterhead, business cards, office sign, and fee contracts, and appears with the lawyer's signature on pleadings and other legal documents.

(d) Law Firm with Offices in Multiple Jurisdictions. A law firm with offices in more than 1 jurisdiction may use the same

name in each jurisdiction, but identification of the lawyers in an office of the firm must indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(e) Name of Public Officer in Firm Name. The name of a lawyer holding a public office may not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(f) Partnerships and Business Entities. A name, letterhead, business card or advertisement may not imply that lawyers practice in a partnership or authorized business entity when they do not.

(g) Insurance Staff Attorneys. Where otherwise consistent with these rules, lawyers who practice law as employees within a separate unit of a liability insurer representing others pursuant to policies of liability insurance may practice under a name that does not constitute a material misrepresentation. In order for the use of a name other than the name of the insurer not to constitute a material misrepresentation, all lawyers in the unit must comply with all of the following:

(1) the firm name must include the name of a lawyer who has supervisory responsibility for all lawyers in the unit;

(2) the office entry signs, letterhead, business cards, websites, announcements, advertising, and listings or entries in a law list or bar publication bearing the name must disclose that the lawyers in the unit are employees of the insurer;

(3) the name of the insurer and the employment relationship must be disclosed to all insured clients and prospective clients of the lawyers, and must be disclosed in the official file at the lawyers' first appearance in the tribunal in which the lawyers appear under such name;

(4) the offices, personnel, and records of the unit must be functionally and physically separate from other operations of the insurer to the extent that would be required by these rules if the

lawyers were private practitioners sharing space with the insurer; and

(5) additional disclosure should occur whenever the lawyer knows or reasonably should know that the lawyer's role is misunderstood by the insured client or prospective clients.

Comment

Misleading Firm Name

A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm's identity, or by a trade name such as "Family Legal Clinic." Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use of such names in a law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express disclaimer that it is not a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm.

A sole practitioner may not use the term "and Associates" as part of the firm name, because it is misleading where the law firm employs no associates in violation of rule 4-7.13. *See Fla. Bar v. Fetterman*, 439 So. 2d 835 (Fla. 1983). Similarly, a sole practitioner's use of "group" or "team" implies that more than one lawyer is employed in the advertised firm and is therefore misleading.

Subdivision (a) precludes use in a law firm name of terms that imply that the firm is something other than a private law firm. Three examples of such terms are "academy," "institute" and "center." Subdivision (b) precludes use of a trade or fictitious name suggesting that the firm is named for a person when in fact such a person does not exist or is not associated with the firm. An

example of such an improper name is “A. Aaron Able.” Although not prohibited per se, the terms “legal clinic” and “legal services” would be misleading if used by a law firm that did not devote its practice to providing routine legal services at prices below those prevailing in the community for like services.

Trade Names

Subdivision (c) of this rule precludes a lawyer from advertising under a nonsense name designed to obtain an advantageous position for the lawyer in alphabetical directory listings unless the lawyer actually practices under that nonsense name. Advertising under a law firm name that differs from the firm name under which the lawyer actually practices violates both this rule and the prohibition against false, misleading, or deceptive communications as set forth in these rules.

With regard to subdivision (f), lawyers sharing office facilities, but who are not in fact partners, may not denominate themselves as, for example, “Smith and Jones,” for that title suggests partnership in the practice of law.

All lawyers who practice under trade or firm names are required to observe and comply with the requirements of the Rules Regulating the Florida Bar, including but not limited to, rules regarding conflicts of interest, imputation of conflicts, firm names and letterhead, and candor toward tribunals and third parties.

Insurance Staff Lawyers

Some liability insurers employ lawyers on a full-time basis to represent their insured clients in defense of claims covered by the contract of insurance. Use of a name to identify these lawyers is permissible if there is such physical and functional separation as to constitute a separate law firm. In the absence of such separation, it would be a misrepresentation to use a name implying that a firm exists. Practicing under the name of a lawyer inherently represents that the identified person has supervisory responsibility. Practicing under a name prohibited by subdivision (f) is not permitted. Candor requires disclosure of the employment relationship on letterhead, business cards, and in certain other communications that are not

presented to a jury. The legislature of the State of Florida has enacted, as public policy, laws prohibiting the joinder of a liability insurer in most such litigation, and Florida courts have recognized the public policy of not disclosing the existence of insurance coverage to juries. Requiring lawyers who are so employed to disclose to juries the employment relationship would negate Florida public policy. For this reason, the rule does not require the disclosure of the employment relationship on all pleadings and papers filed in court proceedings. The general duty of candor of all lawyers may be implicated in other circumstances, but does not require disclosure on all pleadings.

Adopted January 31, 2013, effective May 1, 2013 (108 So.3d 609).

RULE 4-7.22 REFERRALS, DIRECTORIES AND POOLED ADVERTISING

(a) Applicability of Rule. A lawyer is prohibited from participation with any qualifying provider that does not meet the requirements of this rule and any other applicable Rule Regulating The Florida Bar.

(b) Qualifying Providers. A qualifying provider is any person, group of persons, association, organization, or entity that receives any benefit or consideration, monetary or otherwise, for the direct or indirect referral of prospective clients to lawyers or law firms, including but not limited to:

(1) matching or other connecting of a prospective client to a lawyer drawn from a specific group or panel of lawyers or who matches a prospective client with lawyers or law firms;

(2) a group or pooled advertising program, offering to refer, match or otherwise connect prospective legal clients with lawyers or law firms, in which the advertisements for the program use a common telephone number or website address and prospective clients are then matched or referred only to lawyers or law firms participating in the group or pooled advertising program;

RULE 4-8.5 JURISDICTION

A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction although engaged in practice elsewhere.

Comment

In modern practice lawyers frequently act outside the territorial limits of the jurisdiction in which they are licensed to practice, either in another state or outside the United States. In doing so, they remain subject to the governing authority of the jurisdiction in which they are licensed to practice. If their activity in another jurisdiction is substantial and continuous, it may constitute the practice of law in that jurisdiction. See rule 4-5.5.

If the Rules of Professional Conduct in the 2 jurisdictions differ, principles of conflict of laws may apply. Similar problems can arise when a lawyer is licensed to practice in more than 1 jurisdiction.

Where the lawyer is licensed to practice law in 2 jurisdictions that impose conflicting obligations, applicable rules of choice of law may govern the situation. A related problem arises with respect to practice before a federal tribunal where the general authority of the states to regulate the practice of law must be reconciled with such authority as federal tribunals may have to regulate practice before them.

Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252).

RULE 4-8.6 AUTHORIZED BUSINESS ENTITIES

(a) Authorized Business Entities. Lawyers may practice law in the form of professional service corporations, professional limited liability companies, sole proprietorships, general partnerships, or limited liability partnerships organized or qualified under applicable law. Such forms of practice are authorized business entities under these rules.

(b) Practice of Law Limited to Members of The Florida Bar.

No authorized business entity may engage in the practice of law in the state of Florida or render advice under or interpretations of Florida law except through officers, directors, partners, managers, agents, or employees who are qualified to render legal services in this state.

(c) Qualifications of Managers, Directors and Officers. No person may serve as a partner, manager, director or executive officer of an authorized business entity that is engaged in the practice of law in Florida unless such person is legally qualified to render legal services in this state. For purposes of this rule the term “executive officer” includes the president, vice-president, or any other officer who performs a policy-making function.

(d) Violation of Statute or Rule. A lawyer who, while acting as a shareholder, member, officer, director, partner, proprietor, manager, agent, or employee of an authorized business entity and engaged in the practice of law in Florida, violates or sanctions the violation of the authorized business entity statutes or the Rules Regulating The Florida Bar will be subject to disciplinary action.

(e) Disqualification of Shareholder, Member, Proprietor, or Partner; Severance of Financial Interests. Whenever a shareholder of a professional service corporation, a member of a professional limited liability company, proprietor, or partner in a limited liability partnership becomes legally disqualified to render legal services in this state, said shareholder, member, proprietor, or partner must sever all employment with and financial interests in such authorized business entity immediately. For purposes of this rule the term “legally disqualified” does not include suspension from the practice of law for a period of time less than 91 days. Severance of employment and financial interests required by this rule will not preclude the shareholder, member, proprietor, or partner from receiving compensation based on legal fees generated for legal services performed during the time when the shareholder, member, proprietor, or partner was legally qualified to render legal services in this state. This provision will not prohibit employment of a legally disqualified shareholder, member, proprietor, or partner in a position that does not render legal service nor payment to an

existing profit sharing or pension plan to the extent permitted in rules 3-6.1 and 4-5.4(a)(3), or as required by applicable law.

(f) Cessation of Legal Services. Whenever all shareholders of a professional service corporation, or all members of a professional limited liability company, the proprietor of a solo practice, or all partners in a limited liability partnership become legally disqualified to render legal services in this state, the authorized business entity must cease the rendition of legal services in Florida.

(g) Application of Statutory Provisions. Unless otherwise provided in this rule, each shareholder, member, proprietor, or partner of an authorized business entity will possess all rights and benefits and will be subject to all duties applicable to such shareholder, member, proprietor, or partner provided by the statutes pursuant to which the authorized business entity was organized or qualified.

Comment

In 1961 this court recognized the authority of the legislature to enact statutory provisions creating corporations, particularly professional service corporations. But this court also noted that “[e]nabling action by this Court is therefore an essential condition precedent to authorize members of The Florida Bar to qualify under and engage in the practice of their profession pursuant to The 1961 Act.” In *Re The Florida Bar*, 133 So. 2d 554, at 555 (Fla. 1961).

The same is true today, whatever the form of business entity created by legislative enactment. Hence, this rule is adopted to continue authorization for members of the bar to practice law in the form of a professional service corporation, a professional limited liability company, or a limited liability partnership. This rule also permits a member of the bar to practice law as a sole proprietor or as a member of a general partnership. These types of entities are collectively referred to as authorized business entities.

Limitation on rendering legal services

No person may render legal services on behalf of an authorized business entity unless that person is otherwise authorized to do so via membership in the bar or through a motion for leave to appear. Neither the adoption of this rule nor the statutory provisions alter this limitation.

Employment by and financial interests in an authorized business entity

This rule and the statute require termination of employment of a shareholder, member, proprietor, or partner when same is “legally disqualified” to render legal services. The purpose of this provision is to prohibit compensation based on fees for legal services rendered at a time when the shareholder, member, proprietor, or partner cannot render the same type of services. Continued engagement in capacities other than rendering legal services with the same or similar compensation would allow circumvention of prohibitions of sharing legal fees with one not qualified to render legal services. Other rules prohibit the sharing of legal fees with nonlawyers and this rule continues the application of that type of prohibition. However, nothing in this rule or the statute prohibits payment to the disqualified shareholder, member, proprietor, or partner for legal services rendered while the shareholder, member, proprietor, or partner was qualified to render same, even though payment for the legal services is not received until the shareholder, member, proprietor, or partner is legally disqualified.

Similarly, this rule and the statute require the severance of “financial interests” of a legally disqualified shareholder, member, proprietor, or partner. The same reasons apply to severance of financial interests as those that apply to severance of employment. Other provisions of these rules proscribe limits on employment and the types of duties that a legally disqualified shareholder, member, proprietor, or partner may be assigned.

Practical application of the statute and this rule to the requirements of the practice of law mandates exclusion of short term, temporary removal of qualifications to render legal services.

Hence, any suspension of less than 91 days, including membership fees delinquency suspensions, is excluded from the definition of the term. These temporary impediments to the practice of law are such that with the passage of time or the completion of ministerial acts, the member of the bar is automatically qualified to render legal services. Severe tax consequences would result from forced severance and subsequent reestablishment (upon reinstatement of qualifications) of all financial interests in these instances.

However, the exclusion of such suspensions from the definition of the term does not authorize the payment to the disqualified shareholder, member, proprietor, or partner of compensation based on fees for legal services rendered during the time when the shareholder, member, proprietor, or partner is not personally qualified to render such services. Continuing the employment of a legally disqualified shareholder, member, proprietor, or partner during the term of a suspension of less than 91 days requires the authorized business entity to take steps to avoid the practice of law by the legally disqualified shareholder, member, proprietor, or partner, the ability of the legally disqualified shareholder, member, proprietor, or partner to control the actions of members of the bar qualified to render legal services, and payment of compensation to the legally disqualified shareholder, member, proprietor, or partner based on legal services rendered while the legally disqualified shareholder, member, proprietor, or partner is not qualified to render them. Mere characterization of continued compensation, which is the same or similar to that the legally disqualified shareholder, member, proprietor, or partner received when qualified to render legal services, is not sufficient to satisfy the requirements of this rule.

Profit sharing or pension plans

To the extent that applicable law requires continued payment to existing profit sharing or pension plans, nothing in this rule or the statute may abridge such payments. However, if permitted under applicable law the amount paid to the plan for a legally disqualified shareholder, member, proprietor, or partner will not include payments based on legal services rendered while the legally

disqualified shareholder, member, proprietor, or partner was not qualified to render legal services.

Interstate practice

This rule permits members of The Florida Bar to engage in the practice of law with lawyers licensed to practice elsewhere in an authorized business entity organized under the laws of another jurisdiction and qualified under the laws of Florida (or vice-versa), but nothing in this rule is intended to affect the ability of non-members of The Florida Bar to practice law in Florida. See, e.g., *The Florida Bar v. Savitt*, 363 So. 2d 559 (Fla. 1978).

The terms qualified and legally disqualified are imported from the Professional Service Corporation Act (Chapter 621, Florida Statutes).

Added June 8, 1989 (544 So.2d 193); amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended June 27, 1996, effective July 1, 1996 (677 So.2d 272); amended Sept. 24, 1998, effective Oct. 1, 1998 (718 So.2d 1179); amended May 20, 2004 (875 So.2d 448); amended October 6, 2005, effective January 1, 2006 (916 So.2d 655); amended May 29, 2014; effective June 1, 2014 (140 So.3d 541).

Select Year: 2024 ▼ Go

The 2024 Florida Statutes (including 2025 Special Session C)

[Title XXXVI](#)
BUSINESS
ORGANIZATIONS

[Chapter 621](#)
PROFESSIONAL SERVICE CORPORATIONS AND LIMITED
LIABILITY COMPANIES

[View Entire
Chapter](#)

CHAPTER 621 PROFESSIONAL SERVICE CORPORATIONS AND LIMITED LIABILITY COMPANIES

- 621.01 Legislative intent.
- 621.02 Short title.
- 621.03 Definitions.
- 621.04 Exemptions.
- 621.05 Corporation organization.
- 621.051 Limited liability company organization.
- 621.06 Rendition of professional services, limitations.
- 621.07 Liability of officers, agents, employees, shareholders, members, and corporation or limited liability company.
- 621.08 Limitation on corporation's or limited liability company's business transactions; investment of funds.
- 621.09 Limitation on issuance and transfer of ownership.
- 621.10 Disqualification of member, shareholder, officer, agent, or employee; administrative dissolution.
- 621.11 Alienation of shares and ownership interests; restrictions.
- 621.12 Identification with individual shareholders or individual members.
- 621.13 Applicability of chapters 605 and 607.
- 621.14 Construction of law.

621.01 Legislative intent.—It is the legislative intent to provide for the incorporation or organization as a limited liability company of an individual or group of individuals, professional corporations, or professional limited liability companies to render the same professional service to the public for which such individuals, individual shareholders of professional corporations, or members of limited liability companies are required by law to be licensed or to obtain other legal authorization.

History.—s. 1, ch. 61-64; s. 1, ch. 93-110; s. 74, ch. 93-284.

621.02 Short title.—This act may be cited as the “Professional Service Corporation and Limited Liability Company Act.”

History.—s. 2, ch. 61-64; s. 2, ch. 93-110; s. 75, ch. 93-284.

621.03 Definitions.—As used in this act the following words shall have the meaning indicated:

(1) The term “professional service” means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization. By way of example and without limiting the generality thereof, the personal services which come within the provisions of this act are the personal services rendered by certified public accountants, public accountants, chiropractic physicians, dentists, osteopathic physicians, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatric physicians, chiroprodists, architects, veterinarians, attorneys at law, and life insurance agents.

(2) The term “professional corporation” means a corporation which is organized under this act for the sole and specific purpose of rendering professional service and which has as its shareholders only other professional corporations, professional limited liability companies, or individuals who themselves are duly licensed or otherwise legally authorized to render the same professional service as the corporation.

(3) The term “professional limited liability company” means a limited liability company that is organized under this act for the sole and specific purpose of rendering professional service and that has as its members only other professional limited liability companies, professional corporations, or individuals who themselves are duly licensed or otherwise legally authorized to render the same professional service as the limited liability company.

History.—s. 3, ch. 61-64; s. 3, ch. 93-110; s. 76, ch. 93-284; s. 56, ch. 97-264; ss. 220, 289, ch. 98-166.

621.04 Exemptions.—This act shall not apply to any individuals or groups of individuals within this state who prior to the passage of this act were permitted to organize a corporation or limited liability company and perform personal services to the public by the means of a corporation or limited liability company, and this act shall not apply to any corporations or limited liability companies organized by such individual or group of individuals prior to the passage of this act; provided, however, an individual or group of individuals or any such corporation or limited liability company may bring themselves and such corporation or limited liability company within the provisions of this act by amending the articles of incorporation, if a corporation, or the articles of organization, if a limited liability company, in such a manner so as to be consistent with all the provisions of this act and by affirmatively stating in the amended articles that the shareholders or members have elected to bring the corporation or limited liability company within the provisions of this act.

History.—s. 4, ch. 61-64; s. 4, ch. 93-110; s. 77, ch. 93-284.

621.05 Corporation organization.—One or more individuals, professional corporations, or professional limited liability companies, in any combination, duly licensed or otherwise legally authorized to render the same professional services may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of chapter 607 for the sole and specific purpose of rendering the same and specific professional service.

History.—s. 5, ch. 61-64; s. 10, ch. 79-9; s. 5, ch. 93-110; s. 78, ch. 93-284.

621.051 Limited liability company organization.—A group of professional service corporations, professional limited liability companies, or individuals, in any combination, duly licensed or otherwise legally authorized to render the same professional services may organize and become members of a professional limited liability company for pecuniary profit under the provisions of chapter 605 for the sole and specific purpose of rendering the same and specific professional service.

History.—s. 6, ch. 93-110; s. 79, ch. 93-284; ss. 22, 23, ch. 2013-180.

621.06 Rendition of professional services, limitations.—No corporation or limited liability company organized under this act may render professional services except through its members, officers, employees, and agents who are duly licensed or otherwise legally authorized to render such professional services; provided, however, this provision shall not be interpreted to include in the term “employee,” as used herein, clerks, secretaries, bookkeepers, technicians, and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional services to the public for which a license or other legal authorization is required; and provided further, that nothing contained in this act shall be interpreted to require that the right of an individual to be a shareholder of a corporation or a member of a limited liability company organized under this act, or to organize such a corporation or limited liability company, is dependent upon the present or future existence of an employment relationship between him or her and such corporation or limited liability company, or his or her present or future active participation in any capacity in the production of the income of such corporation or limited liability company or in the performance of the services rendered by such corporation or limited liability company.

History.—s. 6, ch. 61-64; s. 1, ch. 67-590; s. 7, ch. 93-110; s. 80, ch. 93-284; s. 170, ch. 97-102; s. 18, ch. 2008-187.

621.07 Liability of officers, agents, employees, shareholders, members, and corporation or limited liability company.—Nothing contained in this act shall be interpreted to abolish, repeal, modify, restrict, or limit the law now in effect in this state applicable to the professional relationship and liabilities between the person furnishing the professional services and the person receiving such professional service and to the standards for professional conduct; provided, however, that any officer, agent, member, manager, or employee of a corporation or limited liability company organized under this act shall be personally liable and accountable only for negligent or wrongful acts or misconduct committed by that person, or by any person under that person's direct supervision and control, while rendering professional service on behalf of the corporation or limited liability company to the person for whom such professional services were being rendered; and provided further that the personal liability of shareholders of a corporation, or members of a limited liability company, organized under this act, in their capacity as shareholders or members of such corporation or limited liability company, shall be no greater in any aspect than that of a shareholder-employee of a corporation organized under chapter 607 or a member-employee of a limited liability company organized under chapter 605. The corporation or limited liability company shall be liable up to the full value of its property for any negligent or wrongful acts or misconduct committed by any of its officers, agents, members, managers, or employees while they are engaged on behalf of the corporation or limited liability company in the rendering of professional services.

History.—s. 7, ch. 61-64; s. 2, ch. 67-590; s. 11, ch. 79-9; s. 8, ch. 93-110; s. 81, ch. 93-284; ss. 24, 25, ch. 2013-180.

621.08 Limitation on corporation's or limited liability company's business transactions; investment of funds.—No corporation or limited liability company organized under this act shall engage in any business other than the rendering of the professional services for which it was specifically organized; provided, however, nothing in this act or in any other provisions of existing law applicable to corporations or limited liability companies shall be interpreted to prohibit such corporation or limited liability company from investing its funds in real estate, mortgages, stocks, bonds, or any other type of investments, or from owning real or personal property necessary for the rendering of professional services.

History.—s. 8, ch. 61-64; s. 9, ch. 93-110; s. 82, ch. 93-284.

621.09 Limitation on issuance and transfer of ownership.—

(1) No corporation organized under the provisions of this act may issue any of its capital stock to anyone other than a professional corporation, a professional limited liability company, or an individual who is duly licensed or otherwise legally authorized to render the same specific professional services as those for which the corporation was incorporated. No shareholder of a corporation organized under this act shall enter into a voting trust agreement or any other type agreement vesting another person with the authority to exercise the voting power of any or all of that person's stock.

(2) No person shall be admitted as a member of a limited liability company organized under this act, unless such person is a professional corporation, a professional limited liability company, or an individual, each of which must be duly licensed or otherwise legally authorized to render the same specific professional services as those for which the limited liability company is organized. No member of a limited liability company organized under this act shall enter into any type of agreement vesting another person with the authority to exercise any of that member's voting power in the limited liability company.

History.—s. 9, ch. 61-64; s. 10, ch. 93-110; s. 83, ch. 93-284.

621.10 Disqualification of member, shareholder, officer, agent, or employee; administrative dissolution.—If any member, officer, shareholder, agent, or employee of a corporation or limited liability company organized under this chapter who has been rendering professional service to the public becomes legally disqualified to render such professional services or accepts employment that, pursuant to existing law, places restrictions or limitations upon that person's continued rendering of such professional services, that person shall sever all employment with, and financial interests in, such corporation or limited liability company forthwith. A corporation's or limited liability company's failure to require compliance with this provision shall constitute a ground for the judicial dissolution of the corporation or limited liability company. When a corporation's or limited liability company's

failure to comply with this provision is brought to the attention of the Department of State, the department forthwith shall certify that fact to the Department of Legal Affairs for appropriate action to dissolve the corporation or limited liability company.

History.—s. 10, ch. 61-64; ss. 10, 11, 35, ch. 69-106; s. 1, ch. 69-288; s. 1, ch. 70-305; s. 1, ch. 70-439; s. 11, ch. 93-110; s. 84, ch. 93-284; s. 19, ch. 2008-187.

621.11 Alienation of shares and ownership interests; restrictions.—

(1) No shareholder of a corporation organized under this act may sell or transfer her or his shares in such corporation except to another professional corporation, professional limited liability company, or individual, each of which must be eligible to be a shareholder of such corporation.

(2) No member of a limited liability company organized under this act may sell or transfer ownership interest in the limited liability company except to another professional corporation, professional limited liability company, or individual, each of which must be eligible to be a member of the limited liability company.

History.—s. 11, ch. 61-64; s. 3, ch. 67-590; s. 12, ch. 93-110; s. 85, ch. 93-284; s. 171, ch. 97-102.

621.12 Identification with individual shareholders or individual members.—

(1) The name of a corporation or limited liability company organized under this act may contain the last names of some or all of the individual shareholders or individual members and may contain the last names of retired or deceased former individual shareholders or individual members of the corporation, limited liability company, a predecessor corporation or limited liability company, or partnership.

(2) The name shall also contain:

(a) The word “chartered”; or

(b)1. In the case of a professional corporation, the words “professional association,” or the abbreviation “P.A.” or the designation “PA”; or

2. In the case of a professional limited liability company formed before January 1, 2014, the words “professional limited company” or “professional limited liability company,” the abbreviation “P.L.” or “P.L.L.C.” or the designation “PL” or “PLLC,” in lieu of the words “limited company” or “limited liability company,” or the abbreviation “L.C.” or “L.L.C.” or the designation “LC” or “LLC” as otherwise required under s. 605.0112 or former s. 608.406.

3. In the case of a professional limited liability company formed on or after January 1, 2014, the words “professional limited liability company,” the abbreviation “P.L.L.C.” or the designation “PLLC,” in lieu of the words “limited liability company,” or the abbreviation “L.L.C.” or the designation “LLC” as otherwise required under s. 605.0112.

(3) In the case of a corporation, the use of the word “company,” “corporation,” or “incorporated” or any other word, abbreviation, affix, or prefix indicating that it is a corporation in the corporate name of a corporation organized under this act, other than the word “chartered” or the words “professional association” or the abbreviation “P.A.,” is specifically prohibited.

(4) It shall be permissible, however, for the corporation or limited liability company to render professional services and to exercise its authorized powers under a name which is identical to its name or contains any one or more of the last names of any shareholder or member included in such name except that the word “chartered,” the words “professional association,” “professional limited company,” or “professional limited liability company,” the abbreviations “P.A.,” “P.L.,” or “P.L.L.C.,” or the designation “PA,” “PL,” or “PLLC” may be omitted, provided that the corporation or limited liability company has first registered the name to be so used in the manner required for the registration of fictitious names.

History.—s. 12, ch. 61-64; s. 1, ch. 77-134; s. 1, ch. 87-41; s. 13, ch. 93-110; s. 86, ch. 93-284; s. 26, ch. 2013-180; s. 32, ch. 2015-148; s. 283, ch. 2019-90.

621.13 Applicability of chapters 605 and 607.—

(1) Chapter 607 is applicable to a corporation organized pursuant to this act except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 607. In such event, the

provisions and sections of this act shall take precedence with respect to a corporation organized pursuant to the provisions of this act.

(2) Chapter 605 is applicable to a limited liability company organized pursuant to this act except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 605. In such event, the provisions and sections of this act shall take precedence with respect to a limited liability company organized pursuant to the provisions of this act.

(3) A professional corporation or limited liability company heretofore or hereafter organized under this act may change its business purpose from the rendering of professional service to provide for any other lawful purpose by amending its certificate of incorporation in the manner required for an original incorporation under chapter 607 or by amending its certificate of organization in the manner required for an original organization under chapter 605. However, such an amendment, when filed with and accepted by the Department of State, shall remove such corporation or limited liability company from the provisions of this chapter including, but not limited to, the right to practice a profession. A change of business purpose shall not have any effect on the continued existence of the corporation or limited liability company.

History.—s. 13, ch. 61-64; ss. 10, 35, ch. 69-106; s. 2, ch. 69-288; s. 210, ch. 77-104; s. 179, ch. 90-179; s. 14, ch. 93-110; s. 87, ch. 93-284; s. 20, ch. 2008-187; ss. 27, 28, ch. 2013-180.

621.14 Construction of law.—The provisions of this act shall not be construed as repealing, modifying, or restricting the applicable provisions of law relating to incorporations, organization of limited liability companies, sales of securities, or regulating the several professions enumerated in this act except insofar as such laws conflict with the provisions of this act.

History.—s. 15, ch. 61-64; s. 15, ch. 93-110; s. 88, ch. 93-284.

FLORIDA BAR ETHICS OPINION
OPINION 21-2
March 23, 2021

Advisory ethics opinions are not binding.

A lawyer ethically may accept payments via a Web-based payment-processing service (such as Venmo or PayPal), including funds that are the property of a client or third person, as long as reasonable steps are taken to protect against inadvertent or unwanted disclosure of information regarding the transaction and to safeguard funds of clients and third persons that are entrusted to the lawyer.

RPC: 4-1.1, 4-1.6(a), 4-1.6(e), 4-1.15, 5-1.1(a), (g)

I. Introduction

The Florida Bar Ethics Department has received several inquiries whether lawyers may accept payment from clients via Web-based payment-processing services such as Venmo and PayPal. This also is an increasingly frequent question on the Bar's Ethics Hotline. Accordingly, the Professional Ethics Committee issues this formal advisory opinion to provide Florida Bar members with guidance on the topic.

Several Web-based, mobile, and digital payment-processing services and networks ("payment-processing services") facilitate payment between individuals, between businesses, or between an individual and a business. Some are specifically designed for lawyers and law firms (e.g., LawPay and LexCharge), while others are not (e.g., Venmo, PayPal, ApplePay, Circle, and Square). These services operate in different ways. Some move funds directly from the payor's bank account to the payee's bank account, some move funds from a payor's credit card to a payee's bank account, and some hold funds for a period of time before transferring the funds to the payee. Service fees differ for various transactions, depending on the service's terms of operation. Some offer more security and privacy than others.

The Committee sees no ethical prohibition per se to using these services, as long as the lawyer fulfills certain requirements. Those requirements differ depending on the purpose of the payment—i.e., whether the funds are the property of the lawyer (such as earned fees) or the property of a client or third person (such as advances for costs and fees and escrow deposits). The two principal ethical issues are (1) confidentiality and (2) safeguarding funds of clients and third persons that are entrusted to the lawyer.

II. Analysis

A. Confidentiality

1. *The Issue*

The use of payment-processing services creates privacy risk. This arises from the potential publication of transactions and user-related information, whether to a network of subscribers or to a population of users interacting with an application. For example, Venmo users, when making a

payment, are permitted to input a description of the transaction (e.g., “\$200 for cleaning service”). Transactions then are published to the feed of each Venmo user who is a party to the transaction. Depending on the privacy settings of each party to the transaction, other users of the application may view that transaction and even comment on it.

For lawyers, accepting payment through a payment-processing service risks disclosure of information pertaining to the representation of a client in violation of Rule 4-1.6(a) of the Rules Regulating The Florida Bar. Rule 4-1.6(a) prohibits a lawyer from revealing information relating to representation of a client absent the client’s informed consent. This prohibition is broader than the evidentiary attorney-client privilege invoked in judicial and other proceedings in which the lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The ethical obligation of confidentiality applies in situations other than those in which information is sought from the lawyer by compulsion of law and extends not only to information communicated between the client and the lawyer in confidence but also to all information relating to the representation, whatever its source. R. Regulating Fla. Bar 4-1.6 cmt. para. [4]. Likewise, a lawyer must make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation. *Id.* R. 4-1.6(e); *see also id.* R. 4-1.6 cmt. paras. [24], [25]. The obligation of confidentiality also arises from a lawyer’s ethical duty to provide the client with competent representation. *See id.* R. 4-1.1 cmt. para. [3]. This includes safeguarding information contained in electronic transmissions and communications. *Id.*

Rule 4-1.6(c)(1) permits a lawyer to reveal confidential information to the extent the lawyer reasonably believes necessary to serve the client’s interests. Although receipt of payment in connection with legal services benefits the client, the disclosure of information about the payment to a community of users would not. Wide publication of a Venmo payment “for divorce representation” hardly would serve the client’s interest.¹

2. Recommended and Required Actions

Payment-processing services typically offer various privacy settings. Venmo, for example, enables users to adjust their privacy settings to control who sees particular transactions. The options are (1) “Public,” meaning anyone on the Internet will be able to see it, (2) “Friends only,” meaning the transaction will be shared only with the “friends” of the participants to the transaction, and (3) “Private,” meaning it will appear only on the personal feeds of the user and the other participant to the transaction. Venmo has a default rule that honors the more restrictive privacy setting between two users: if either participant’s account is set to Private, the transaction will appear only on the feeds of the participants to the transaction, regardless of the setting enabled by the other participant.²

¹ Revealing to a bank the limited information needed to make a deposit to the lawyer’s account serves the client’s interest. In addition, financial institutions are subject to federal and state laws regarding disclosure of financial information.

² *See* Venmo Help Center, “Payment Activity & Privacy” available at <https://help.venmo.com/hc/en-us/articles/210413717-Payment-Activity-Privacy>.

If, as with Venmo, the service being used permits the recipient to control the privacy setting, the lawyer must select the most secure setting to mitigate against unwanted disclosure of information relating to the representation.

Venmo is only one example of a payment-processing service. Each application has its unique privacy settings and potential risks. The lawyer should be aware that these options can and likely will change from time to time. Prior to using a payment-processing service, the lawyer must diligently research the service to ensure that the service maintains adequate encryption and other security features as are customary in the industry to protect the lawyer's and the client's financial information and to preserve the confidentiality of any transaction. The lawyer must make reasonable efforts to understand the manner and extent of any publication of transactions conducted on the platform and how to manage applicable settings to preempt and control unwanted disclosures. *See* R. Regulating Fla. Bar 4-1.6(e); *id.* R. 4-1.1 cmt. para. [3]. The lawyer must take reasonable steps to avoid disclosure by the lawyer as well as by the client, including advising clients of any steps that they should take to prevent unwanted disclosure of information. Although not ethically required, inserting such advice in the lawyer's retainer or engagement agreement or on each billing statement is wise. For example:

As a convenience to our clients, we accept payment for our services via certain online payment-processing services. The use of these services carries potential privacy and confidentiality risks. Before using one of these services, you should review and elect the privacy setting that ensures that information relating to our representation of you is not inadvertently disclosed to the public at large.

The foregoing is just an example. Variations to fit the circumstances may be appropriate.

These confidentiality obligations apply to any payment that relates to the lawyer's representation of a client, regardless of the purpose of the payment.

B. Safeguarding Funds of Clients and Third Persons

1. The Issue

A customer's account with most payment-processing services such as Venmo and PayPal does not qualify as the type of bank account in which the trust-accounting rules require the funds of clients or third persons in a lawyer's possession be held. Indeed, with limited exceptions, they are not bank accounts at all, rather they are virtual ledgers of funds trading hands, with entries made by the service in the customers' names.

Rule 5-1.1(a)(1) of the Rules Regulating The Florida Bar establishes the fundamental anti-commingling requirement that a lawyer hold in trust, separate from the lawyer's own funds, funds of clients or third persons that are in a lawyer's possession in connection with a representation ("entrusted funds"). It requires that all such funds, including advances for fees, costs, and expenses, "be kept in a separate federally insured bank, credit union, or savings and loan association account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person and clearly labeled and designated as a trust account."

All nominal or short-term entrusted funds must be deposited in an IOTA account. R. Regulating Fla. Bar 5-1.1(g)(2).³ The IOTA account must be with an “eligible institution,” namely, “any bank or savings and loan association authorized by federal or state laws to do business in Florida and insured by the Federal Deposit Insurance Corporation, any state or federal credit union authorized by federal or state laws to do business in Florida and insured by the National Credit Union Share Insurance Fund, or any successor insurance entities or corporation(s) established by federal or state laws, or any open-end investment company registered with the Securities and Exchange Commission and authorized by federal or state laws to do business in Florida.” *Id.* R. 5-1.1(g)(1)(D).

2. Recommended and Required Actions

The Committee concludes that it is permissible for a lawyer to accept entrusted funds via a payment-processing service. To avoid impermissible commingling, the lawyer must maintain separate accounts with the service, one for funds that are the property of the lawyer (such as earned fees), which normally would be deposited in the lawyer’s operating account, and one for entrusted funds (such as advances for costs and fees and escrow deposits), which when in a lawyer’s possession are required to be held in a separate trust account. The lawyer must identify the correct account for the client or third party making the payment.

Rule 5-1.1 applies to funds of clients and third persons that are “in a lawyer’s possession” and requires that any such funds be “kept” in a particular type of account. It does not require that the funds be “immediately” or “directly” deposited into a qualifying account. A payee does not acquire possession—access to and control over—funds transmitted via a payment-processing service until the service makes those funds available in the payee’s account. If the funds are the property of the lawyer, the lawyer may leave those funds in that account or transfer them to another account or payee at the lawyer’s discretion. The lawyer, however, must transfer entrusted funds from the service account into an account at a qualifying banking or credit institution promptly upon their becoming available to the lawyer. By transferring entrusted funds from the service account into a qualified trust account promptly upon acquiring access to and control over those funds, the lawyer complies with the requirement that those funds be *kept* in a qualified account.

Many banks do not permit linking an IOTA account to an account with a payment-processing service such as Venmo or PayPal. In those situations, the lawyer should establish with the banking institution some type of suspense account to which the account established with the payment-processing service can be linked and into which the payments are transferred, then promptly swept into the lawyer’s IOTA account.

Depending upon how quickly the funds are released or other factors, a payment-processing service may charge the payee a transaction fee. Unless the lawyer and the client otherwise agree, the

³ “Nominal or short-term” describes funds of a client or third person that the lawyer has determined cannot earn income for the client or third person in excess of the costs to secure the income. R. Regulating Fla. Bar 5-1.1(g)(1)(A). That determination involves consideration of several factors, such as the amount of the funds and the period of time that the funds are expected to be held. *See id.* R. 5-1.1(g)(3); *see also id.* R. 5-1.1(g)(1)(C) (definition of “IOTA account”).

lawyer must ensure that any such fee is paid by the lawyer and not from client trust funds. Likewise, the lawyer must ensure that any chargebacks are not deducted from trust funds and that the service will not freeze the account in the event of a payment dispute. As with the concern for confidentiality, a lawyer must make a reasonable investigation into a payment-processing service to determine whether the service employs reasonable measures to safeguard funds against loss or theft and has the willingness and resources to compensate for any loss.

III. Conclusion

In sum, the Committee concludes that a lawyer ethically may accept payments via a payment-processing service (such as Venmo or PayPal), including funds that are the property of a client or third person that must be held separately from the lawyer's own funds, under the following conditions:

1. The lawyer must take reasonable steps to prevent the inadvertent or unwanted disclosure of information regarding the transaction to parties other than the lawyer and the client or third person making the payment.
2. If the funds are the property of a client or third person (such as advances for costs and fees and escrow deposits), the lawyer must direct the payor to an account with the service that is used only to receive such funds and must arrange for the prompt transfer of those funds to the lawyer's trust account at an eligible banking or credit institution, whether through a direct link to the trust account if available, through a suspense account with the banking or credit institution at which the lawyer's trust account is maintained and from which the funds automatically and promptly are swept into the lawyer's trust account, or through another substantially similar arrangement.
3. Unless the lawyer and client otherwise agree, the lawyer must ensure that any transaction fee charged to the recipient is paid by the lawyer and not from client trust funds. Likewise, the lawyer must ensure that any chargebacks are not deducted from trust funds and that the service will not freeze the account in the event of a payment dispute.

The Rules of Professional Conduct are “rules of reason” and “should be interpreted with reference to the purposes of legal representation and of the law itself.” R. Regulating Fla. Bar ch. 4, pmb1. (“Scope”). When reasonable to do so, the rules should be interpreted to permit lawyers and clients to conduct business in a manner that society has deemed commercially reasonable while still protecting clients' interests. Permitting lawyers to accept payments via payment-processing services under the conditions expressed in this opinion satisfies those objectives.⁴

Note: The discussion about specific applications in this opinion is based on the technology as it exists when this opinion is authored and does not purport to address all such available technology. Web-based applications and technology are constantly changing and evolving. A

⁴The quoted language comes from the Preamble to the Rules of Professional Conduct, which are found in Chapter 4 of the Rules Regulating The Florida Bar. Rule 5-1.1 is part of the Rules Regulating Trust Accounts, which are found in Chapter 5 of the Rules Regulating The Florida Bar). Chapter 5 is incorporated into Chapter 4 by Rule 4-1.15.

lawyer must make reasonable efforts to become familiar with and stay abreast of the characteristics unique to any application or service that the lawyer is using.