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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2001-36, Laws of Florida

HOUSE OF REPRESENTATIVES

BANKING
FINAL ANALYSIS

BILL #: CS/CS/HB 107, ENR
RELATING TO: Unclaimed Property
SPONSOR(S): Council for Competitive Commerce, Committee on Banking, and Representative Prieguez

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BANKING YEAS 8 NAYS 0
- (2) FISCAL POLICY & RESOURCES YEAS 12 NAYS 0
- (3) COUNCIL FOR COMPETITIVE COMMERCE YEAS 13 NAYS 0
- (4)
- (5)

I. SUMMARY:

CS/CS HB 107 continues the Department of Banking and Finance's (department) mission of fostering a positive business environment and protecting the interest of missing property owners as well as benefiting all citizens of Florida by placing excess money into the State School Trust Fund. The bill streamlines the claims processing and payment procedures for owners of unclaimed property, provides uniform record retention requirements for locators, and provides an improved procedure for the processing of claims for small accounts (under \$5,000). Additionally, caps are placed on the fees representatives of unclaimed property owners (heir finders) may charge those owners for obtaining their property from the department.

This bill does not negatively impact the General Revenue Fund.

The bill's effective date is October 1, 2001.

See Section IV. for the history of this bill, and that of the Senate companion bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In Florida, reversion of property to the state is based on the presumption that there is no heir to assume the property upon the death of the owner. The state has jurisdiction to take charge of unclaimed property. It is within the power of the Legislature to establish a reasonable time for succession and to determine what shall become of unclaimed property and the conditions upon which it shall pass to the state. Escheat of unclaimed property to the state under appropriate statutes does not constitute a taking of property without due process of law in violation of the Federal Constitution as established in *Cockrill v. California* (1925) 268 US 258, 69 L Ed 944, 45 S Ct 490. Generally, all property, real and personal, and every right of property of any nature are subject to escheat to the state.

The Florida Disposition of Unclaimed Property Act (Chapter 717, Florida Statutes) provides the obligations of the "holder" of property presumed abandoned and provides a mechanism for the disposition of such property. Under this Act, the department's Unclaimed Property Program is responsible for receiving property, locating the rightful owners, and returning the property (or its value in cases of sold securities) to them. The department is authorized to make a one-time attempt to notify owners of unclaimed property. There is no monetary charge to owners for the department's notification or for the recovery of the property. Owners have the right to claim their property at any time.

Unclaimed property constitutes any funds or other property, tangible or intangible, which has remained unclaimed by the owner for a certain number of years. Unclaimed property may include savings and checking accounts, money orders, traveler's checks, un-cashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safety deposit boxes. Banks, insurance companies, and other holders of unclaimed property must submit unclaimed property to the Florida Department of Banking and Finance. The Act establishes that all checks, drafts, money orders, bank deposits, stocks, as well as other intangible property, is "presumed abandoned" if unclaimed for a period of five years. Notable exceptions include a three-year period for contents in safe-deposit boxes, a seven-year period for money orders, and a 15-year period for traveler's checks.

Prior to 1996, the department was required to publish the names of owners of unclaimed property of all accounts \$50 or greater in value in their respective local newspapers. In 1996, the law was amended to permit the department to use alternative means (i.e., direct mailing and electronic

media) for owner notification. In addition, the 1996 law increased the minimum value of owner accounts requiring notice and publication from \$50 to \$100. In general, once the allowable time for holding unclaimed property has expired, a holder is required to file a verified report with the Department of Banking and Finance by May 1 of each year for all property presumed abandoned the previous fiscal year. Within 120 days of filing, a holder must mail a written notice to the "apparent owner" of such property valued at or above \$50. Willful failure to report unclaimed property is punishable as a second-degree misdemeanor. All reported property must be paid or delivered to the department within six months after the final date for filing the report.

Within 13 months following the report of abandoned property, the department must attempt to locate the apparent owner of property valued at or above \$100 by publishing a notice in a newspaper of general circulation at least once. The department deposits into the State School Trust Fund all proceeds from abandoned property. The State School Trust Fund is funded from many sources: the proceeds of all lands that have been, or will be, granted to the state by the United States for public school purposes, donations to the state when the purpose is not specified, appropriations by the state, the proceeds of escheated property or forfeitures, and 25 percent of the sales of public lands now, or hereafter, owned by the state. The department maintains a separate account (Unclaimed Property Trust Fund) with up to \$3 million for the prompt payment of verified claims. According to the department, sometimes there are bi-weekly requests of the Department of Education to transfer funds to the Unclaimed Property Trust Fund for the payment of claims.

According to the department, the unclaimed property program is approving approximately \$250,000 worth of claims every day on average. Currently, the program is allowed to keep \$3.0 M for the purpose of paying expenses and claims. This means that during those parts of the year when reports are not coming in with additional funds attached the program may have only a 12-day supply of money. In order to continue to be able to pay claims on a timely basis the department must request additional funds from the Department of Education every two weeks. Because money comes in earlier than the April 30 due date and then trickles in after that the department normally makes between 8-12 additional requests for funds. This necessitates additional paperwork flowing between the two departments and creates additional accounting for the fund transfers. In addition, the State School Trust Fund is an invested fund, which means that the DOE must divest itself of some invested dollars to satisfy unclaimed property claimants.

The department contracts with two separate companies to assist in discovering and recovering lost property. During FY 98-99, the two companies accounted for recovering over \$14.7 million, and of these funds recovered, the two firms netted aggregate fees totaling over \$1.6 million. The contracts provide for a fee based upon 13 percent of what the companies recover.

In addition to the efforts by the department to match people with their unclaimed property, there are private investigative agencies, commonly referred to as heir finders, which locate owners of unclaimed property and offer their services to recover the property for a fee. Heir finders generally contact owners and may offer a percentage-based fee, or a sliding scale fee, to complete and file the necessary paperwork to the department to process the claim.

According to the department, there is a delay of a few weeks up to six months from the date the department receives a report from a property holder and the date in which the property is received by the department. When the department receives the property, the property is matched to the report (referred to as "balancing" the report) and the department either places the report on the unclaimed property roll or pays the claim if a claim for the property is on file. Heir finder agencies routinely make public record requests of the department, seeking current reports of unclaimed property by holders. Heir finders then take whatever information the department has at that time and research public databases in an attempt to find owners to offer them collection services.

Florida law prohibits heir finders from targeting owners whose property has been reported to the state for a period of time so that the department has an opportunity to notify owners before the heir finders. According to the law, such contracts are unenforceable if they are made within 90 days after the department attempted notification, or made within 12 months after the property is reported to the department, whichever occurs first. Heir finders are required to disclose these requirements in at least six-point bold type in their agreements to ensure owners are apprised of their rights. Since the department is not a party to the contract between heir finder and an owner of unclaimed property, the department is unable to enforce the statutory time period restrictions, and since there is no requirement that heir finders print the date the owner's property was reported to the department, it is unlikely that an owner would know if the contract could be declared "unenforceable." In Report No. 99-13, dated November, 1999, the Office of Program Policy Analysis and Government Accountability (OPPAGA), recommended that, in order to protect owners of unclaimed property from paying unnecessary fees for heir finder agreements, the Legislature amend s. 717.135, F.S., to provide that heir finder agreements are void, rather than unenforceable, if the agreements do not include the required disclosures, or if they violate the required time periods. The department was not able to enforce that provision simply because the department was not a party to the contract between the owner and the heir finder agency. The department feels it has addressed the consumer protection issue in this bill through disclosure requirements in the contract between heir finder agencies and owners, and through percentage fee caps.

One may perform a computer search for unclaimed property by a name search in 47 of the 50 states, as well as Washington D.C., and Puerto Rico, on the National Association of Unclaimed Property Administrators' website at <http://www.unclaimed.org>. Unclaimed property in Montana, New Mexico, and Oklahoma may be searched at <http://www.missingmoney.com/>. Only the U.S. Virgin Islands do not yet have an active web site dedicated to unclaimed property searches. To research unclaimed property held in those territories, the NAUPA website provides an agency address to contact.

C. EFFECT OF PROPOSED CHANGES:

This bill, which was filed on behalf of Department of Banking and Finance (DBF or department), revises and clarifies provisions of Chapter 717, Florida Statutes, relating to Florida's unclaimed property program. The provisions within this bill continue the department's mission of fostering a positive business environment and protecting the interest of missing property owners as well as benefiting all citizens of Florida by placing excess money into the State School Trust Fund. The bill streamlines the claims processing and payment procedures, provides uniform record retention requirements for locators, and provides an improved procedure for the processing of claims for small accounts (under \$5,000).

This bill revises Chapter 717, Florida Statutes, to reference unclaimed property, as opposed to abandoned property, and to improve the syntax of the statutory language. The substantive revisions to the chapter provided in this bill primarily focus on establishing contract disclosure requirements and set percentage fee caps for agreements between apparent owners and their representatives (i.e., heir finder agencies). The revisions may better protect and inform consumers who have unclaimed property by providing the contract alternative of maximum locators' fees OR written disclosures.

The revisions stipulate that all contracts between owners and their representatives must be in writing, must be filed with the claim form to the department, must disclose that the property is being held by the department, must disclose the type of entity which held the property last, must disclose the date of the holder's last contact with the owner, and must disclose the approximate value and type of property the owner's representative is seeking to recover. Heir finders have the option of adhering to the above contract stipulations or following imposed fee caps as follows: 15 percent for

all contracts with dollar values of \$250 and above, for property held by the department for less than 24 months, and 25 percent for property held by the department in excess of 24 months, and \$25 for all contracts with dollar values below \$250. The bill authorizes the department to make payments directly to the owner after deducting any fees as authorized in the written contract.

Currently, the program is allowed to keep \$3 M for the purpose of paying expenses and claims. This means that during those parts of the year when reports are not coming in with additional funds attached the program may have only a 12-day supply of money. In order to continue to be able to pay claims on a timely basis the department must request additional funds from the Department of Education every two weeks. The bill will permit the department to make a one-time \$5 M adjustment in this amount of money to \$8 M. This will give the unclaimed property program a 32-day supply of money with which to pay claims. All money in excess of \$8 M will automatically be transferred to DOE for the State School Trust Fund. This is expected to result in a reduction in paperwork due to fewer requests for additional funds being necessary throughout the year, and may help speed claim payments. Rather than 8-12 requests for the transfer of \$1.5-2.5 M the requests for additional funds will be on the order of 3-4 requests for \$6 -7 M as the funds in the Unclaimed Property Trust Fund reach the lower limits of acceptability. Once this adjustment is made, the funds will flow to the State School Trust Fund, as they would have prior to the adjustment.

This bill does not negatively impact the General Revenue Fund. As a result of increasing the amount retained for the Unclaimed Property Trust Fund from \$3 to \$8 million, there will be a one-time \$5 million impact for FY 2001-2002 from the State School Trust Fund which has been used in the past to pay valid claims. The department also estimates a private sector cost and a corresponding private sector benefit of \$1.4 million annually. This represents the potential for reduced fees paid to heir finders by claimants, based on industry representations that average fees range between six and eight percent. The bill's effective date is October 1, 2001.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 717.101, F.S., by adding a definition of "due diligence" which relates to efforts holders of property take to unite property with a person. Also amends the definition of "last known address" so that unclaimed property owned by Florida residents but held by sister states will be reported to the department, and amends the definition of "owner" to remove from that definition the status of "creditor" because of a 1st DCA opinion that the department does not have authority to prioritize creditor's claims.

Sections 2 – 6 amend s. 717.102, s. 717.103, s. 717.1035, s. 717.104, and s. 717.105, F.S., substituting the word "unclaimed" for "abandoned" property and making other technical changes.

Section 7 amends s. 717.106, F.S., substituting the word "unclaimed" for "abandoned" property, providing for other technical changes, and adding, as indicia of an active account in a financial organization, first class mail sent to the apparent owner which is not returned as undeliverable.

Sections 8 – 10 amend s. 717.107, s. 717.108, and s. 717.109, F.S., substituting the word "unclaimed" for "abandoned" property and making other technical changes.

Section 11 clarifies s. 717.1101, F.S., where in the case of an owner of stock or other security of a business association which has failed to claim a dividend or distribution for five years, that the stock will not be considered abandoned until there have been five consecutive dividends not claimed by the owner after the five-year presumptive period. This section also makes substitutions for the word "unclaimed" for "abandoned" property and makes other technical changes.

Section 12 amends s. 717.111, F.S., substituting the word “unclaimed” for “abandoned” property and making other technical changes.

Section 13 amends s. 717.112, F.S., providing that intangible property issued by a government or governmental subdivision and held by an agent, is presumed unclaimed after one year, rather than five. This section reflects a situation when a governmental entity is holding property in an agency capacity (i.e., the department holding onto an un-cashed warrant) and is different from s. 717.113, F.S., which presumes property held by a governmental agency or subdivision for one year as unclaimed, but is not presumed to be expressly held in an agency capacity. This section also makes substitutions for the word “unclaimed” for “abandoned” property and makes other technical changes.

Sections 14 - 16 amend s. 717.113, s. 717.115, and s. 717.116, F.S., substituting the word “unclaimed” for “abandoned” property and making other technical changes.

Section 17 amends s. 717.117, F.S., removing the requirement that the department verify filed reports of unclaimed property. This section also requires insurance companies to include a taxpayer identification number or the date of birth of the insured or annuitant to assist in proper identification of the individual. This section places an affirmative duty on the part of a holder (one in possession of property belonging to another, a trustee, or one indebted to another) to use “due diligence” and “reasonable and prudent methods” to locate apparent owners. The standards invoked by these terms replace the current requirement to notify property owners 120 days prior to submitting a report to the department. The holder is required to make at least one search for the owner within 180 days after an account becomes inactive. Except for banks, credit unions, and state or federal savings associations, an account is inactive if two years have transpired after the last owner-initiated account activity, if two years have transpired after the expiration date on the instrument or contract, or when first-class mail is returned as undeliverable. With respect to banks, credit unions, and state or federal savings associations, an account is “inactive” if two years have transpired after the last owner-initiated account activity and first-class mail has been returned as undeliverable, or two years after the expiration date on the instrument or contract and first-class mail has been returned as undeliverable. This section also makes substitutions for the word “unclaimed” for “abandoned” property and makes other technical changes.

Section 18 amends s. 717.118, F.S., differentiating between attempts to contact owners of property that are “active” (direct contact) and those attempts which are “passive” (publication in newspapers, posting on the Internet, or television commercials), and placing an affirmative duty on the department to make an active attempt to notify owners of unclaimed property. The department is also authorized to purchase items in order to promote public awareness of the program. This section also increases the number of times the department may attempt to contact property owners, from a single attempt, to “at least one” attempt (e.g., no limit). The department is released from the obligation to publicize names and items over \$100 in value. This section also makes substitutions for the word “unclaimed” for “abandoned” property and makes other technical changes.

Section 19 amends s. 717.119, F.S., authorizing unclaimed property holders to remit funds through electronic funds transfer when appropriate. Cash and coin items identified as having numismatic value are required to be remitted to the department in their original form. This section also makes substitutions for the word “unclaimed” for “abandoned” property and makes other technical and clarifying changes.

Section 20 amends s. 717.1201, F.S., substituting the word “unclaimed” for “abandoned” property and making other technical changes.

Section 21 amends s. 717.122, F.S., clarifying that if, at a public sale of unclaimed property, the department determines that the cost of the sale would probably exceed the value of the property, and the department decides not to sell the property at that time, that the department may dispose of the property, as it deems appropriate. In addition, this section clarifies that in the case of a sale of unclaimed securities, and the department authorizes a deduction of brokerage fees, the owner's account shall not be reimbursed from the State School Trust Fund if the securities were sold at the owner's request. This section also makes substitutions for the word "unclaimed" for "abandoned" property and makes other technical changes.

Section 22 amends s. 717.123, F.S., increasing the amount the department retains for the payment of claims and administrative costs, from \$3 million to \$8 million. This section eliminates the reference to "a separate account" for the retention of funds to pay claims and costs of the program, and specifically designates the Unclaimed Property Trust Fund as the depository for all funds received under this chapter. All remaining funds, after the retention amount is achieved, shall be deposited into the State School Trust Fund. This section also makes substitutions for the word "unclaimed" for "abandoned" property and makes other technical changes.

Section 23 amends s. 717.124, F.S., authorizing Florida certified public accountants to serve as owners' representatives. This section also expressly stipulates that a power of attorney relationship be established when an apparent owner of unclaimed property executes a written contract for services with a duly licensed "heir finder" agency to file a claim with the department on behalf of the owner, rather than executing a simple assignment of rights. This section also establishes a level of accountability in the claims payment process by authorizing the department to make payments directly to the owner after deducting any fees as authorized in the written contract. Payment of the fees shall be made to the designated attorney or heir finder agency. This section appears to narrow the type of claims payments that must be placed in an escrow or trust account by an heir finder agency or law firm to only unclaimed securities and other intangible interests. This section also makes substitutions for the word "unclaimed" for "abandoned" property and makes other technical changes.

Section 24 amends s. 717.1241, F.S., simplifying the department's responsibilities in the event of a dispute or conflicting claims by authorizing the department to remit the property to the owner's representative or claimant who first filed a claim with the department (in the case of a dispute between the owner and the representative) or to the owner's representative who first signed a contract with the property owner.

Section 25 amends s. 717.1243, F.S., by requiring that all claims made by heirs of a deceased unclaimed property owner, whether the owner dies testate or in testate, must be accompanied by an affidavit stipulating that all funeral expenses, expenses of the last illness, and all other just claims, have been paid. Previously, it was sufficient to stipulate that there was enough money in the estate to cover expenses. In addition, the maximum aggregate amount of the unclaimed property covered by this section is increased from \$1,000 to \$5,000. Further, this section attaches personal liability to each person receiving property under this section for all lawful claims against the estate. Any person, who was lawfully entitled to share in the estate but did not receive their share, may enforce their rights in an appropriate proceeding and shall receive attorney's fees and taxable costs.

Sections 26 and 27 amend s. 717.125, and s. 717.129, F.S., substituting the word "unclaimed" for "abandoned" property and making other technical changes.

Section 28 creates s. 717.1315, F.S., establishing uniform record retention requirements for property locators, and requires them to maintain all books and records as prescribed by department rules for at least 3 years. A locator may keep all records at one central location in the state. The

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registrant must notify the state of the locale of the records, which must be made available to the department upon a request for production by the department.

Section 29 amends s. 717.132, F.S., adding language specifying that all administrative fines collected by the department shall be deposited into the Unclaimed Property Trust Fund.

Section 30 amends s. 717.135, F.S., establishing disclosure requirements and setting maximum fee caps. All contracts between an owner and his or her representative (i.e., licensed heir finder agency) must be in writing and filed with the claim form to the department. The agreement must disclose that the property is being held by the department pursuant to Chapter 717, Florida Statutes, must disclose the type of entity which held the property last, must disclose the date of the holder's last contact with the owner, and must disclose the approximate value and type of property the owner's representative is seeking to recover. Heir finders have the option of adhering to the above contract stipulations or following imposed fee caps of 15 percent for all contracts with dollar values of \$250 and above, for property held by the department for less than 24 months, and 25 percent for property held by the department in excess of 24 months, or \$25 for all contracts with dollar values below \$250. Fees for cash accounts shall be based on the value of the property at the time the agreement for recovery is signed by the apparent owner. Fees for accounts containing securities or other intangibles which are not converted to cash shall be based on the purchase price of the intangible as quoted on a national exchange or other market on which the ownership interest is regularly traded at the time the securities or intangibles is remitted to the owner or owner's representative.

These disclosure and fee caps are not applicable to contracts made in connection with guardianship proceedings or in the probate of an estate. This section also removes language stating that the contracts shall be unenforceable if made within 90 days after attempted notification by the department or within 12 months after such property is reported to the department.

Section 31 amends s. 717.138, F.S., specifically authorizing the department to adopt rules regarding the electronic filing of fees, forms, and reports required by the Act.

Section 32 clarifies s. 732.107, F.S., making numerous grammatical and stylistic changes, and removing from that section of law procedural matters that are already covered by Probate Rule 5.386. In addition, the start of the ten-year period in the statute was changed to the date on which the escheated funds are paid to the State Treasurer, which is intended to make administration significantly easier, according to the comments by Probate Code Committee of September 17, 2000. Finally, this section eliminates the requirement that interest be added to an amount that is the result of a claimant's successful action asserting rights to escheated property.

Section 33 amends s. 215.965, F.S., correcting a statutory cross-reference.

Section 34 amends s. 493.6101, F.S., substituting the word "unclaimed" for "abandoned" property.

Section 35 amends s. 493.6102, F.S., expressly exempting Florida certified public accountants from regulation as private investigators under Chapter 493, F.S., who are acting within the scope of the practice of public accounting as defined in Chapter 473.

Section 36 repeals s. 717.137, F.S., an outdated section of Florida law.

Section 37 provides an effective date of October 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None – see Part III.D. Fiscal Comments

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By imposing percentage caps on fees the department estimates that fees paid by claimants to research companies (heir finders) will be reduced, which may result in a savings to consumers of approximately \$1.4 M annually. According to the department, the fee cap has the potential to generate the same revenues for the heir finder industry. The amount of the total fee based on their recovery was calculated under both schemes and the result was within 2-3%, and the \$1.4 M was based on the industry doing the same amount of business as in prior years. The department believes the industry may do more business based on the trend over the past 4-5 years.

D. FISCAL COMMENTS:

This bill does not negatively impact the General Revenue Fund. As a result of increasing the amount retained for the Unclaimed Property Trust Fund from \$3 to \$8 million, there will be a one-time \$5 million impact for FY 2001-2002 from the State School Trust Fund which has been used in the past to pay valid claims.

In addition, the provision to eliminate paying brokerage fees for those claimants who choose to sell securities in possession of the department may potentially increase the amount paid into the State School Trust Fund by an estimated \$29,000, based upon recent history of securities reclaimed utilizing the aforementioned option. The department believes this may represent a recurring cost savings to the department.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill will not reduce the authority of counties and municipalities to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

The department has existing rulemaking authority for these activities. The bill provides express authority to promulgate rules relating to electronic filings.

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Disposition of HB 107

The bill was prefiled on December 20, 2000, and referred to Banking (CCC); Fiscal Policy & Resources (FRC); Council for Competitive Commerce on January 12, 2001.

On February 5, 2001, the Committee on Banking adopted two amendments offered by Representative Prieguez, the bill's sponsor, and the bill was made into a Committee Substitute. The first amendment was technical, conforming a term that was left unchanged throughout the bill. The second amendment made numerous grammatical and stylistic changes to section 732.107, F.S., and removed from that section of law procedural matters that are already covered by Probate Rule 5.386. In addition, the start of the ten-year period in the statute was changed to the date on which the escheated funds are paid to the State Treasurer, which is intended to make administration significantly easier, according to the comments by Probate Code Committee of September 17, 2000. House Bill Drafting detected and corrected a statutory cross-reference that needed to be re-numbered. That procedural change may be found in section 33 of the bill.

On March 22, 2001, the Council for Competitive Commerce adopted two amendments offered by Representative Prieguez, the bill's sponsor, and one amendment offered by Representative Atwater; the bill was made into a Council Substitute. The first amendment changed the fee caps on heir finder contracts to 15 percent for all contracts with dollar values of \$250 and above, for property held by the department for less than 24 months, and 25 percent for property held by the department in excess of 24 months, or \$25 for all contracts with dollar values below \$250. The second amendment is a technical re-write of section 35 of the bill, relating to certified public accountants. The third amendment clarified when an account is considered "inactive" and drew a distinction between property held by banks, credit unions, federal and state savings associations, and property held by other entities.

On March 22, 2001, the Council for Competitive Commerce passed out CS/CS/HB 107 favorably. On April 10, 2001, the bill passed the House as amended by a vote of 116 - 0. In the Senate, the bill was received on April 10, 2001, was substituted for CS/SB 1398 on April 11, 2001, and passed the Senate as amended by a vote of 38 - 0. The House concurred in the technical, Senate amendments and passed the bill as amended by a vote of 116 - 0 on April 16, 2001.

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Disposition of SB 1398

SB 1398 was filed on March 6, 2001, and referred to Banking and Insurance, and Finance and Taxation. The bill passed out favorably by Banking and Insurance on March 20, 2001, and was withdrawn from Finance and Taxation on March 29, 2001. The House companion, HB 107, was substituted for the Senate bill, and was laid on the table on April 11, 2001.

VII. SIGNATURES:

COMMITTEE ON BANKING:

Prepared by:

Michael A. Kliner

Staff Director:

Susan F. Cutchins

AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

Kama D. S. Monroe

Staff Director:

Greg Turbeville

AS FURTHER REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Rebecca R. Everhart

Council Director:

Hubert "Bo" Bohannon

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON BANKING:

Prepared by:

Michael A. Kliner

Council Director:

Susan F. Cutchins