

RÉSUMÉ DIGEST

ACT 351 (HB 430)

2023 Regular Session

Coussan

Existing law establishes the Uniform Unclaimed Property Act of 1997 to provide for collection, administration, and distribution of abandoned property in the state.

Existing law (R.S. 9:177) sets out prohibitions and requirements with respect to agreements to locate abandoned property on behalf of an owner.

New law authorizes a fiduciary agent to receive compensation for his services in an amount not to exceed 10% of the total claim value. Further defines "fiduciary agent" to mean a representative of an unclaimed property owner whose services provided to the owner involve locating, delivering, recovering, or assisting in the recovery of unclaimed property to the owner, and shall be limited to Louisiana licensed attorneys, certified public accountants, and financial advisors.

New law requires a fiduciary agent who seeks compensation to submit to the administrator a payment request. Requires each request submitted for payment pursuant to new law to be submitted with the abandoned property claim. Further requires such request to be sworn to and signed by the fiduciary agent and the owner before a notary public and contain both of the following:

- (1) A clear disclosure of amounts that may be paid pursuant to the provisions of new law.
- (2) The signature of the owner below a statement that the owner is aware that a portion of his unclaimed property may be used to pay the fiduciary agent.

New law further provides that if the property claimed is cash or has been converted to cash through sale as provided in existing law, the payment to the fiduciary agent is made by the administrator from the claim proceeds otherwise due the owner. If the property claimed has not been converted to cash as provided in existing law, the owner is responsible for payment to the fiduciary agent.

New law further prohibits application of new law to any claim made by another state pursuant to existing law (Uniform Unclaimed Property Act of 1997).

Existing law prohibits an agreement to locate abandoned property entered into within 24 months of delivery to the state treasurer as administrator of the Unclaimed Property Program.

Prior law provided that any agreement to locate abandoned property that is entered into after a date that is 24 months after the property is paid or delivered to the administrator cannot require compensation exceeding 10% of the value of the recoverable property. New law repeals prior law.

Existing law authorizes action by an owner and recovery of attorney fees if the rate charged the owner is unconscionable.

Existing law requires any agreement by an owner to pay compensation to locate, deliver, recover, or assist in the recovery of property to be in writing, clearly set forth the nature of the property and services to be rendered, be signed by the apparent owner, and state the value of the property before and after the fee or other compensation has been deducted.

Existing law prohibits any contract dealing with abandoned mineral proceeds that would require compensation that includes a portion of the underlying minerals or mineral production payment, overriding royalty, compensating royalty, or similar payment.

Existing law authorizes an owner at any time to assert that an agreement covered by existing law is otherwise invalid.

New law establishes a fiduciary duty on the fiduciary agent until the owner's claim is paid.

New law directs the state treasurer to make any necessary changes to the forms used to claim abandoned property pursuant to new law.

New law further provides that new law applies only to contracts entered into on or after the effective date of new law.

Effective upon signature of governor (June 12, 2023).

(Amends R.S. 9:177; Adds R.S. 9:153(16))