
DIGEST

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HB 430 Original

2023 Regular Session

Coussan

Abstract: Authorizes certain agents acting in a fiduciary capacity to be compensated for helping recover unclaimed property for an owner and sets forth the requirements for any such contract.

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

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

Proposed law prohibits any agreements to locate abandoned property on behalf of an owner except for contracts for fiduciary agents as provided in proposed law. 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.

Proposed law authorizes a fiduciary agent to receive compensation for his services in an amount not to exceed 10% of the total claim value.

Proposed law requires a fiduciary agent who seeks compensation to submit to the administrator a payment request. Requires each request submitted for payment pursuant to proposed 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 this Section.
- (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.

Further provides that if the property claimed is cash or has been converted to cash through sale as provided in present 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 present law, the owner is responsible for payment to the fiduciary agent.

Proposed law further prohibits application of proposed law to any claim made by another state under present law (Uniform Unclaimed Property Act of 1997).

Present 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. Provides 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 may be valid, but cannot require compensation exceeding 10% of the value of the recoverable property. Proposed law repeals present law.

Present law authorizes action by an owner and recovery of attorney fees if the rate charged the owner is unconscionable. Proposed law retains present law.

Present 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. Proposed law retains present law.

Present 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. Proposed law retains present law.

Present law authorizes an owner at any time to assert that an agreement covered by present law is otherwise invalid. Proposed law retains present law.

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

Proposed law directs the state treasurer to make any necessary changes to the forms used to claim abandoned property pursuant to present and proposed law.

Proposed law directs the La. State Law Institute to alphabetize and renumber definitions in proposed law and correct any cross-references in present law to the renumbered paragraphs.

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

Effective upon signature of governor or lapse of time for gubernatorial action.

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