

2023 Regular Session

HOUSE BILL NO. 430

BY REPRESENTATIVE COUSSAN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

AN ACT

To amend and reenact R.S. 9:177 and to enact R.S. 9:153(16), relative to unclaimed property; to provide with respect to contracts to locate, deliver, recover, or assist in the recovery of unclaimed property; to provide exceptions for certain agents; to provide requirements and exclusions; to provide definitions; to provide with respect to the powers and duties of the state treasurer relative to the unclaimed property program; to provide with respect to the powers and duties of the Louisiana State Law Institute relative to changes made in this Act; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:177 is hereby amended and reenacted and R.S. 9:153(16) is hereby enacted to read as follows:

§153. Definitions

As used in this Chapter:

* * *

(16) "Fiduciary agent" means a representative of an owner whose services provided to the owner include locating, delivering, recovering, or assisting in the recovery of property to the owner, and shall be limited to Louisiana licensed attorneys, certified public accountants, and financial advisors.

* * *

1 §177. Agreement to locate property

2 A. An agreement by an owner to pay compensation to locate, deliver,
 3 recover, or assist in the recovery of property that is presumed abandoned is void and
 4 unenforceable if it was entered into during the period commencing on the date the
 5 property was presumed abandoned and extending to a time that is twenty-four
 6 months after the date the property is paid or delivered to the administrator.

7 B. For his services, a fiduciary agent shall be entitled to compensation of an
 8 amount not to exceed ten percent of the total claim value.

9 C. A fiduciary agent who seeks compensation pursuant to this Section shall
 10 submit to the administrator a payment request. The payment request shall be
 11 submitted with the abandoned property claim. The payment request shall be sworn
 12 to and signed by the fiduciary agent and the owner before a notary public and contain
 13 both of the following:

14 (1) A clear disclosure of any amount that may be paid pursuant to the
 15 provisions of this Section.

16 (2) The signature of the owner below a statement that the owner is aware that
 17 a portion of his unclaimed property may be used by the unclaimed property
 18 administrator to pay the fiduciary agent.

19 D.(1) If the property claimed is cash or has been converted to cash through
 20 sale as provided in this Chapter, the administrator shall pay the fiduciary agent from
 21 the claim proceeds otherwise due the owner.

22 (2) If the property claimed has not been converted to cash as provided in this
 23 Chapter, the owner shall be responsible for payment to the fiduciary agent.

24 E. The provisions of this Section do not apply to any claim made by another
 25 state.

26 F. A fiduciary agent shall have a fiduciary duty to the owner until the
 27 owner's claim is paid.

28 ~~B.~~ G. Any agreement by an owner to pay compensation to locate, deliver,
 29 recover, or assist in the recovery of property is enforceable only if the agreement is

1 in writing, clearly sets forth the nature of the property and the services to be
2 rendered, is signed by the apparent owner, and states the value of the property before
3 and after the fee or other compensation has been deducted.

4 C. H. If an agreement covered by this Section is applicable to mineral
5 proceeds and the agreement contains a provision to pay compensation that includes
6 a portion of the underlying minerals or any production payment, overriding royalty,
7 compensating royalty, or similar payment, the provision is void and unenforceable.

8 ~~D. Any agreement by an owner to pay compensation to locate, deliver,~~
9 ~~recover, and assist in the recovery of property which is entered into on a date that is~~
10 ~~twenty-four months or more after the date the property is paid or delivered to the~~
11 ~~administrator shall not provide for compensation exceeding ten percent of the value~~
12 ~~of the recoverable property.~~

13 I. An owner who has agreed to pay compensation that is unconscionable, or
14 the administrator on behalf of the owner, may maintain an action to reduce the
15 compensation to a conscionable amount. The court may award reasonable attorney
16 fees to an owner who prevails in the action.

17 ~~E. An~~ J. At any time, an owner may ~~at any time~~ assert that an agreement
18 covered by this Section is otherwise invalid.

19 Section 2. The state treasurer is authorized and directed to make changes to the
20 forms used to claim abandoned property pursuant to the Uniform Unclaimed Property Act
21 of 1997 to conform to the provisions of this Act.

22 Section 3. The Louisiana State Law Institute is hereby authorized and directed to
23 arrange in alphabetical order and renumber the definitions provided in R.S. 9:153 as
24 amended by this Act and to correct any cross-references to the renumbered paragraphs,
25 including those in R.S. 40:2811(D).

26 Section 4. The provisions of this Act shall apply only to contracts entered into on
27 or after the effective date of this Act.

1 Section 5. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____