



Office of Program Policy Analysis And Government Accountability



John W. Turcotte, Director

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Review of the Abandoned Property Program Within the Department of Banking and Finance

Abstract

- Contrary to Department projections, recent legislative changes have had little net effect on the Abandoned Property Program's workload.
- Using database searches followed by direct mail is more cost-effective than solely using newspaper advertisements to identify and notify abandoned property owners.
- Privatizing all or part of the Program's operations may be feasible but will require the Department to reassess its methods for conducting cost benefit analysis and carefully develop contract requirements.
- While private "heir finder" companies can help locate owners, these companies tend to concentrate on large accounts and charge contingency fees for their services. The Legislature may wish to consider statutory amendments to better protect owners from paying unnecessary heir finder fees.
- In anticipation of privatizing the Program, the Department delayed several key activities that will now have to be performed internally.

Purpose

Chapter 96-301, Laws of Florida, directed our Office to review the Abandoned Property Program in the Department of Banking and Finance, including, but not limited to, cost-effective notification procedures. In this review, we:

- assessed the impact of 1996 Legislative changes on the Abandoned Property Program's workload;

- assessed whether the Department can use more cost-effective approaches for notifying owners of abandoned property; and
- reviewed the current status of the Abandoned Property Program, including recent efforts to privatize.

Background

Abandoned property constitutes any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years. Abandoned property may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes. Banks, insurance companies, and other holders of abandoned property must submit abandoned property to the Florida Department of Banking and Finance annually. During fiscal year 1996-97, approximately \$137.0 million of abandoned property was submitted to the Department.

Under the Florida Disposition of Unclaimed Property Act (Ch. 717, F.S.), the Department's Abandoned Property Program is responsible for receiving property from holders, safeguarding this property, and locating and returning the property to its rightful owners. The Department is authorized to make a single attempt to notify abandoned property owners through the use of newspaper advertisements, direct mail, and electronic

media. Owners have the right to claim their property at any time.

All funds from abandoned property, including proceeds from the sale of safe deposit items and securities, are deposited into the Abandoned Property Trust Fund. The Trust Fund entirely finances Program operations and pays owner claims. The Department retains a balance in the Trust Fund to enable prompt claim payments; this balance was \$3.6 million as of June 30, 1997. The remaining unclaimed funds are transferred into the State School Fund to support public education (\$105 million in fiscal year 1996-97). Exhibit 1 details the Program's activities for fiscal years 1995-96 and 1996-97.

**Exhibit 1
Abandoned Property Program Activities**

	Fiscal Years	
	1995-96	1996-97
Reported Owner Accounts	206,873	380,571
Remitted Property ¹	\$81.6 million	\$137.0 million
Paid Owner Claims	45,009	37,493
Property Returned to Owners	\$25.2 million	\$26.5 million
Program Expenditures ²	\$7.3 million	\$6.5 million
Transfer to State School Fund	\$48.2 million	\$105.2 million

¹ Distributions, transfers, and expenditures are greater than remitted amounts due to budgetary timing differences in the payment of claims.
² Expenditures for Program operations decreased by approximately \$800,000 in fiscal year 1996-97 from the prior year due, in part, to the Program delaying its efforts to notify owners in anticipation of privatizing this function.

Source: Data compiled from the Abandoned Property Database and SAMAS records.

Findings

The Department projected that the 1996 statutory changes would significantly increase the Program's workload. However, these changes have had little net effect.

In 1996, the Legislature made substantive revisions to the Unclaimed Property Act. These revisions reduced the dormancy period for presuming abandonment of unclaimed property from seven years to five years for

most types of unclaimed property (financial instruments) and from seven years to three years for safe deposit box items. The 1996 law also increased the minimum value of owner accounts requiring notice and publication from \$50 to accounts greater than \$100.

The Department projected that the reduction in the dormancy period would significantly increase the Program's workload for notifying owners and processing claims. However, the increase in the minimum value of accounts requiring notification offset the effect of the decrease in the dormancy period and actually resulted in a reduction in the number of accounts requiring notification.

The reduction in the dormancy period did result in a larger number of unclaimed property accounts being reported to the state. As shown in Exhibit 1, Department data indicate that the number of reported abandoned property owner accounts grew by approximately 170,000 and the value of reported property increased by approximately \$55.4 million from fiscal year 1995-96 to 1996-97.

However, Exhibit 2 shows that the increase in the minimum value of accounts (\$50 to \$100) requiring notification offset the increase in total reported accounts resulting from the reduction in the dormancy period. Only one-third of accounts reported to the Department had a value exceeding \$100 in 1996-97, as opposed to nearly two-thirds of accounts that had a value of \$50 or more in prior years. Thus, the changes in the legislation have actually reduced the number of accounts requiring notification by approximately 3,000.

Exhibit 2

The 1996 Legislation Had Little Net Effect on the Number of Accounts Requiring Owner Notification

Fiscal Year	Number of Owner Accounts	Percentage Requiring Notification	Number Requiring Notification
1994-95			
<i>Owner Accounts \$50 or more</i>	187,436	59%	109,701
1995-96			
<i>Owner Accounts \$50 or more</i>	206,873	63%	129,684
1996-97			
<i>Owner Accounts greater than \$100</i>	380,571	33%	126,698

Source: Data compiled from Abandoned Property Records.

Using database searches followed by direct mail is more cost-effective for notifying owners of abandoned property than solely using newspaper advertisements. It is also more cost-effective than replacing the Department's notification efforts with services provided by private "heir finder" companies. Further, privatization may be a feasible alternative for notifying owners but must be carefully executed in order to produce desired benefits for the state.

The 1996 legislation permitted the Department to use alternative means for owner notification. We evaluated four approaches for notifying owners of the existence of abandoned property:

- advertising all owners in the newspaper;
- conducting database searches in order to identify owner addresses and then notifying them by direct mail, prior to advertising in the newspaper;
- privatizing all or part of the Program's operation; and
- relying on private heir finders to notify owners, prior to advertising in the newspaper.

Newspaper Advertising. Prior to 1996, the Department was required to publish the names of owners of abandoned property in their respective local

newspapers for all accounts \$50 or greater. This notification method has cost the Department an estimated \$5.75 per owner account. This method is not particularly effective in finding owners. During fiscal year 1995-96, the Department paid 17,299 claims as the result of newspaper advertising, representing 38% of the claims paid in that year.

Direct Mail Notification. Identifying owners through database matching and notifying by direct mail is more cost-effective than solely notifying them of the existence of abandoned property through newspaper advertisements. In 1995, the Department piloted an alternative notification method by matching its owner account records with the Florida Department of Highway Safety and Motor Vehicles' database and credit bureau records to obtain owners' most recent addresses. Owner records that were matched were notified by direct mail. The Department is not required to advertise the names of those owners who were notified by mail.

Identifying owners via database matching and direct mail notification was significantly less expensive than newspaper advertising. The Department of Highway Safety and Motor Vehicles did not charge a fee to match records, but the credit bureau charged \$0.45 for each matched account. The Department paid approximately \$0.30 to print and mail letters to the matched accounts, for a total cost of approximately \$0.75 per matched name. Thus, the Department saved about \$5 in costs for every successful match.¹

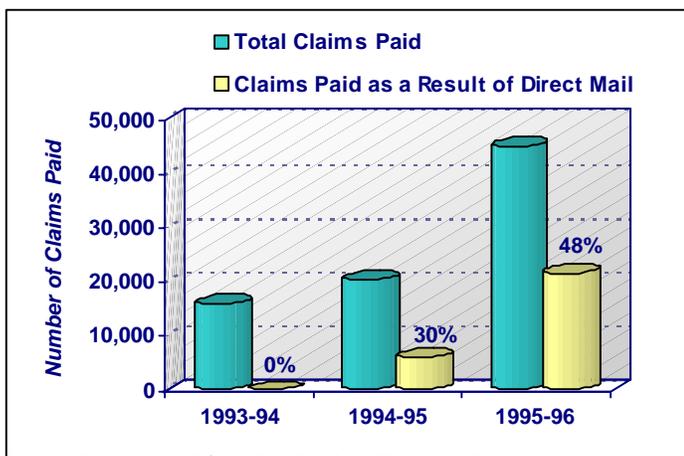
Using database matching and direct mail notification also resulted in increased owner recovery of property. As shown in Exhibit 3, the number of paid claims more than doubled in fiscal year 1995-96. This increase was due in part to the Department's direct mail efforts. Nearly (48%) of the claims paid during fiscal year 1995-96 were the result of the Program's direct notification by mail.

Privatization. As an alternative to operating the Program internally, all or portions of Program

¹ The Department has renegotiated its newspaper advertising costs and expects future costs to be significantly lower. Because negotiations had not been finalized at the time of this report, we were not able to quantify the Department's costs to advertise. However, initial estimates indicate the Department would still incur a savings through database matching, which also serves as a more effective means of notifying owners.

operations could be privatized. We concluded that privatizing all or part of the Program's operations may be feasible but will require the Department to develop better workload projections and carefully develop contract requirements.

Exhibit 3
Using Database Matching and Direct Mail to
Notify Owners of the Existence of Abandoned Property
Increased Owner Recovery of Property



Source: Data compiled from the Abandoned Property Database.

Based on its projection that the 1996 statutory changes would significantly increase its workload for notifying owners and processing claims, the Department planned to privatize major functions of the Program during fiscal year 1997-98. The Department issued a Request for Proposal and awarded a contract to privatize property receipt, owner notification, and claims processing.

During the Department's final discussions with the private vendor, we examined the Department's proposed contract and determined that the Department's cost and workload projections were overstated. However, the private provider subsequently chose not to execute the contract. Thus, we did not pursue whether the Department's privatization efforts would have been cost beneficial to the state.

While privatization may be a feasible option for the Program, any privatization efforts should be carefully evaluated to assure that these efforts are cost-effective. The Department needs to develop an accurate cost-benefit analysis using sound methodologies to compare its internal costs to costs proposed by the private provider.

Heir Finders Companies. In addition to the state Program, private investigative agencies, commonly referred to as heir finders, attempt to locate owners of abandoned property in order to offer services for recovery of the property. Heir finders will contract with owners, generally on a percentage fee basis, to complete and file the paperwork necessary for the Department to process claims. Department records indicate that heir finder fees were typically 20% to 33% of the value of the property.

Heir finder companies have suggested that they could be relied upon to notify owners of abandoned property, as an alternative to Department's database matching efforts. Although heir finders provide a valuable service to owners who are not successfully located by the Department, there are several weaknesses that limit the state's ability to rely on heir finder notification efforts:²

- Heir finders have historically located only a small percentage of owner accounts valued greater than \$100. During the last three fiscal years, heir finders have been successful in locating and returning property to approximately 14,500 owner accounts. This represents only 6% of the 260,000 owner accounts greater than \$100 reported to the Department during this period. The Department would still be required to incur the cost of advertising an estimated 94% of owner accounts;
- Heir finders tend to focus on higher valued accounts. Over half of the claims filed by heir finders were greater than \$250, with an average claim of over \$2,000. Thus, lower valued accounts would be unlikely to be found by these companies; and
- Owners would pay fees for services that would otherwise be provided by the Department at no cost to the owner.

Consequently, we concluded that while heir finder companies have an important role in recovery of abandoned property, this role should be to supplement and not replace Department efforts.

² Relying on heir finders to notify owners of abandoned property would also require statutory amendments eliminating restrictions on the period of time heir finders must wait before contacting owners of abandoned property.

The Legislature may wish to consider statutory amendments to better protect owners from paying unnecessary heir finder fees.

We examined an issue the Legislature may wish to consider regarding heir finder agreements. The Legislature could amend statutory language to better protect owners from paying unnecessary heir finder fees.

The Unclaimed Property Act establishes a period of time heir finders must wait before contacting owners whose property has been reported to the state. The intent of the law is to provide an opportunity for the Department to notify owners before heir finders, who charge fees for this service.³ Heir finders are required to disclose these requirements in their agreements to ensure owners are apprised of their rights.

The provision that the agreement is “unenforceable” if signed within the time limitations offers little protection to owners who are parties to such agreements. The Department is not able to enforce the statutory time period restrictions, as it is not a party to the agreement. The Department’s position is that it is legally required to pay owner claims in accordance with the terms of the contract, and that only persons who are a party to the agreement may make the unenforceability assertion when these agreements do not comply with the restricted time periods. However, solely relying on owners to apply statutory restrictions may be unreasonable, as it is questionable whether owners will know when their property was reported to the state because the date the property was reported is not included in the agreement.

Further, the Department has not acted to protect owners from agreements that do not comply with the disclosure requirements. It has been the Department's practice to pay claims, even when the contract did not properly disclose time restrictions. Without disclosures made in compliance with law, it is unlikely owners are made aware of their legal rights regarding payment of heir finder fees.

During the course of our review, the Department indicated a need to establish a policy regarding the enforcement of these agreements. The Department suggests, and we concur, that future legislation should

³ According to the law, such agreements shall be unenforceable if 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. The law also requires that the agreements contain this disclosure, printed in at least six point bold type.

amend the law so that the word “unenforceable” is replaced with “void.” This change in language would allow the Department to deny the payment of claims that do not comply with the time requirements identified in law.

The Department has also recently changed its practice regarding disclosure requirements and has indicated it will no longer pay claims on contracts that do not include the required disclosures. Rather, it will return the entire claim when they do not comply with law. This change, if implemented, will ensure that owners who are party to these agreements are apprised of their rights.

In anticipation of privatizing the Program, the Department delayed several key activities that will now have to be performed internally.

The Department delayed several key activities in anticipation of privatizing the Program. These activities will have to be performed internally, at least for the remainder of fiscal year 1997-98. During this period, the Department will face a backlog of owner accounts requiring notification and will need to address unresolved internal control weaknesses identified by the Department's Inspector General and the Office of the Auditor General.⁴

During the course of our review, we discussed our concerns with the Department's cost and workload projections with staff. The Department recognized its overestimation of workload and has begun to revise its estimates. The Department currently estimates that it will need to handle notification of 180,000 owner accounts and process 56,000 claims during the remainder of fiscal year 1997-98. These estimates include workload delayed from the 1996-97 fiscal year and workload anticipated during the 1997-98 fiscal year. Nearly half the 1997-98 fiscal year will be over before the Department begins processing these accounts, some of which have already exceeded the 13-month requirement for notifying owners. The

⁴ These control deficiencies include discrepancies in the recording and accounting of abandoned property receipts and in the disbursement of claims, lack of restrictions for security access, and manipulation of program records. For further details see: *Performance Audit, Financial Audit, and Electronic Data Processing Audit for the Abandoned Property Program*, Department's Inspector General, June 1, 1995; *Management Review: Six Month Follow-up to Abandoned Property Audits*, Department's Inspector General, January 8, 1996; *Report No. 12666*, Office of the Auditor General, March 6, 1996.

Department indicates that it will temporarily need additional staff to handle this workload.

However, the Program's workload is projected to decrease in the upcoming 1998-99 fiscal year. This will occur because the impact of reducing the time period in which account holders (banks, etc.) must report will stabilize once these holders resume annual reporting. The Department estimates that approximately 290,000 accounts will be reported during the 1998-99 fiscal year. Based on historical data, an estimated one-third of these accounts should exceed \$100 and require notification, resulting in the need for notifying approximately 105,000 accounts and processing an estimated 50,000 claims. Thus, the Department's workload should return to the levels experienced in previous years.

Recommendations

We identified recommendations for both the Department and the Legislature to improve the performance of the Abandoned Property Program.

Recommendations for the Department

The Department plans to rely primarily on newspaper advertising to process its backlog of owners awaiting notification. While this may be necessary, in part because of the past delays, this method of owner notification is not cost-effective. Therefore, we recommend that the Department:

- use database matching and direct mail method to notify account owners as much as practicable. This method saves advertising costs and increases owner recovery of property.
- track the success and costs of each notification method it uses. This will allow the Department to assess the cost-effectiveness of these methods.
- continue its efforts to develop new estimates of workload and assess the best and most cost-effective methods to carry out this work.
- require that any privatization proposal be reviewed by an independent entity (e.g., the Department's

Internal Auditor) to ensure that the proposal is based on a sound cost-benefit analysis that accurately projects workload and costs.

Recommendations for the Legislature

To protect owners of abandoned property from paying unnecessary fees for heir finder agreements, we that recommend the Legislature:

- amend s. 717.135, F.S., to provide that heir finder agreements are void if they do not include the required disclosures or if they violate the required time periods.

Agency Response From the Department of Banking and Finance

December 23, 1997

John W. Turcotte
Office of Program Policy Analysis and Government
Accountability
111 West Madison Street
Tallahassee, FL 32302

Dear Mr. Turcotte,

Enclosed are the Department's comments on Draft report *Review of the Abandoned Property Program Within the Department of Banking and Finance*.

Comments on specific "Recommendations to the Department"

- Use of database matching and direct mail methods to notify account owners as much as practicable. This method saves advertising costs and increases owner recovery of property. **Concur. The Department has used the data base of the Florida Department of Highway Safety and Motor Vehicles for the current campaign of statewide advertising. Approximately 16,000 matches were found and these people will be subtracted from the names to be advertised statewide and they will be contacted by direct mail over the next few months.**

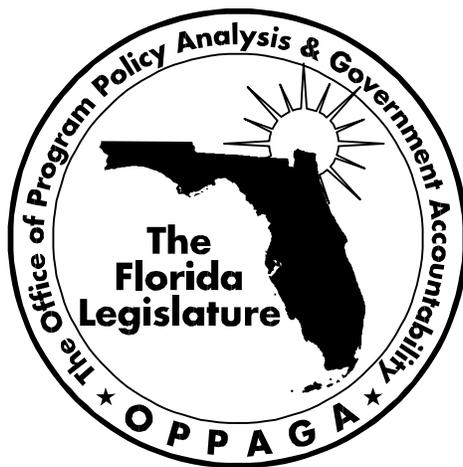
- Track the success and costs of each notification method it uses. This will allow the Department to assess the cost-effectiveness of these methods. **Concur. Additionally, the Department has significantly enhanced the Abandoned Property web site for ease of use, provided links to other states and investigating on-line downloading of claims applications.**
- Continue its efforts to develop new estimates of workload and assess the best and most cost-effective methods to carry out this work. **Concur. The Department is using a call management system to track the volume of calls received, average talk time, average waiting time, source of notification, and claim forms per call sent. Other methods, including business process reengineering and privatization are under consideration.**
- Require that any privatization proposal be reviewed by an independent entity (e.g., the Department's Internal Auditor) to ensure that the proposal is based on a sound cost-benefit analysis that accurately projects workload and costs. **Concur. The Department's Inspector General will review any privatization cost-benefit analysis.**

Sincerely,

/s/Thomas D. McGurk
Deputy Comptroller

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



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