

FIRST REGULAR SESSION

# HOUSE BILL NO. 985

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PFAUTSCH.

1944H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 447.581, RSMo, and to enact in lieu thereof one new section relating to unclaimed property, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 447.581, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 447.581, to read as follows:

447.581. 1. No agreement entered into after a report is filed is valid if any person undertakes thereby to locate or reveal the whereabouts of property included in that report for a fee or compensation, unless the agreement discloses the nature and value of the property, is in writing, duly signed and acknowledged by the property owner.

2. Any agreement to pay compensation to recover or assist in the recovery of property reported or delivered to the treasurer under the provisions of sections 447.500 to 447.595 which is made within twelve months after the date of payment or delivery to the treasurer is unenforceable. Any agreement to pay compensation to recover or assist in the recovery of property reported or delivered to the treasurer which is made more than twelve months, but less than twenty-four months, after the date of payment or delivery to the treasurer shall be invalid if the compensation for recovery is greater than ten percent of the property at issue. Any agreement to pay compensation to recover or assist in the recovery of property reported or delivered to the treasurer which is made more than twenty-four months, but less than thirty-six months, after the date of payment or delivery to the treasurer shall be invalid if the compensation for recovery is greater than fifteen percent of the property at issue. Any agreement to pay compensation to recover or assist in the recovery of property reported or delivered to the treasurer which is made more than thirty-six months after the date of payment or delivery to the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 treasurer shall be invalid if the compensation for recovery is greater than twenty percent of the  
19 property at issue.

20         3. Except as provided in subsection 7 of this section, any person who enters into an  
21 agreement to recover or perform in a representative capacity to assist in the recovery of property  
22 reported or delivered to the treasurer under sections 447.500 to 447.595, for compensation, shall  
23 register with the treasurer prior to submitting a claim to the treasurer for recovery of such  
24 property. Any claim filed by a person acting in a representative capacity for the recovery of  
25 property reported or delivered to the treasurer under sections 447.500 to 447.595, for  
26 compensation, shall be invalid unless the person is registered with the treasurer in accordance  
27 with this section. Every person who registers with the treasurer in accordance with this section  
28 shall certify compliance and good standing with the tax, business registration and other  
29 regulatory requirements of the state of Missouri. To remain registered a person must annually  
30 recertify compliance with such requirements.

31         4. The treasurer may require such additional information from persons wishing to  
32 register in accordance with the provisions of this section as the treasurer reasonably believes to  
33 be necessary to protect the rightful owners of property presumed abandoned and the citizens of  
34 the state of Missouri, generally.

35         5. If the treasurer receives information, directly or indirectly, which gives the treasurer  
36 reason to believe that a person registered in accordance with the provisions of this section to  
37 recover or perform in a representative capacity to assist in the recovery of property reported or  
38 delivered to the treasurer, for compensation, has violated the provisions of sections 447.500 to  
39 447.595, or any other provision of law, the treasurer may suspend the registration of such person.  
40 In such a case, the treasurer shall notify the person in writing of the grounds for the proposed  
41 suspension of registration and provide the person an opportunity to respond to the allegations in  
42 writing or, upon request, through a hearing conducted in accordance with the provisions of  
43 chapter 536. For good cause shown, the treasurer may refrain from acting on any claim filed by  
44 such a person pending determination of the appropriateness of suspending such a person's  
45 registration. Suspension of a person's registration by the treasurer shall not be a prerequisite nor  
46 a substitute for any other civil or criminal causes of action to which such person may otherwise  
47 be subject, but is in addition to such possible remedies. Any information obtained or compiled  
48 by the treasurer in determining whether to register or suspend such a person's registration may  
49 be disclosed to appropriate law enforcement agencies, in any investigation, action or proceeding,  
50 civil, criminal or mixed, brought by a governmental agency to enforce the laws of this state, and  
51 except for the treasurer's office work product, upon court order in any action or proceeding where  
52 such information is material to an issue in the action or proceeding.

53           6. Any person whose registration has been suspended or which has lapsed pursuant to  
54 this section may thereafter seek to reregister in accordance with the provisions of this section.

55           7. Subsection 1 of this section shall not apply to any agreement made by any person,  
56 including personal representatives, guardians, trustee, and others in a representative capacity,  
57 with another to discover property in which such person has an interest for a fixed fee or hourly  
58 or daily rate, not contingent upon the discovery of property or the value of property discovered;  
59 provided, however, that any agreement entered into under this subsection for the purpose of  
60 evading the provisions of subsection 1 of this section shall be invalid and unenforceable.

61           8. Nothing in this section shall be construed to prevent an owner from asserting, at any  
62 time, that any agreement to locate or reveal the whereabouts of properties is based on an  
63 excessive or unjust consideration.

64           **9. Except as provided under subsection 7 of this section, any person who enters into**  
65 **an agreement to recover or perform in a representative capacity to assist in the recovery**  
66 **of property reported or delivered to the treasurer under sections 447.500 to 447.595, for**  
67 **compensation, without first registering with the treasurer under subsection 3 of this section**  
68 **shall be guilty of an offense. The offense shall be a class A misdemeanor if the**  
69 **compensation under the agreement is within the amounts permitted under subsection 2 of**  
70 **this section. The offense shall be a class D felony if the compensation under the agreement**  
71 **is in excess of the amounts permitted under subsection 2 of this section.**

72           **10. The treasurer may review any claim and contact any person or other party**  
73 **making a claim to ensure compliance with sections 447.500 to 447.595. The treasurer may**  
74 **withhold payment of any claim until the treasurer is reasonably satisfied that the claim is**  
75 **legitimate, that the representative acting under an agreement under this section is in**  
76 **compliance with the provisions of this section, and that the person making the claim is**  
77 **aware of the nature and potential value of the person's claim.**

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