

SECOND REGULAR SESSION

# SENATE BILL NO. 644

99TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

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## AN ACT

To repeal sections 447.562 and 447.581, RSMo, and to enact in lieu thereof two new sections 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Section A. Sections 447.562 and 447.581, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 447.562 and 447.581, to  
3 read as follows:

447.562. Any person claiming an interest in any moneys or property  
2 delivered to the state under sections 447.500 to 447.595 may file a claim to such  
3 property or to the proceeds from the sale thereof. The form of the claim shall be  
4 prescribed by the treasurer and shall be signed by the claimant and shall contain  
5 a statement that it is made under oath or affirmation and that its representations  
6 are true, correct and complete to the best knowledge and belief of the claimant,  
7 subject to the penalties of making a false affidavit or declaration. **The form**  
8 **shall additionally contain the following statement: "Any person who**  
9 **assists in the recovery of property for a fee without being registered**  
10 **with the State Treasurer will be subject to penalties."** Any holder who has  
11 paid moneys to the treasurer pursuant to sections 447.500 to 447.595 may make  
12 payment to any person appearing to the holder to be entitled thereto, and upon  
13 proof of the payment and proof that the payee was entitled thereto, the treasurer  
14 shall reimburse the holder for the payment at any time after the moneys or  
15 property is delivered to the state, unless the treasurer has already made payment  
16 to said person pursuant to a claim filed under the provisions of this section.

447.581. 1. No agreement entered into after a report is filed is valid if  
2 any person undertakes thereby to locate or reveal the whereabouts of property  
3 included in that report for a fee or compensation, unless the agreement discloses

4 the nature and value of the property, is in writing, duly signed and acknowledged  
5 by the property owner.

6       2. Any agreement to pay compensation to recover or assist in the recovery  
7 of property reported or delivered to the treasurer under the provisions of sections  
8 447.500 to 447.595 which is made within twelve months after the date of payment  
9 or delivery to the treasurer is unenforceable. Any agreement to pay compensation  
10 to recover or assist in the recovery of property reported or delivered to the  
11 treasurer which is made more than twelve months, but less than twenty-four  
12 months, after the date of payment or delivery to the treasurer shall be invalid if  
13 the compensation for recovery is greater than ten percent of the property at  
14 issue. Any agreement to pay compensation to recover or assist in the recovery of  
15 property reported or delivered to the treasurer which is made more than  
16 twenty-four months, but less than thirty-six months, after the date of payment  
17 or delivery to the treasurer shall be invalid if the compensation for recovery is  
18 greater than fifteen percent of the property at issue. Any agreement to pay  
19 compensation to recover or assist in the recovery of property reported or delivered  
20 to the treasurer which is made more than thirty-six months after the date of  
21 payment or delivery to the treasurer shall be invalid if the compensation for  
22 recovery is greater than twenty percent of the property at issue.

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

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

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

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

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

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

75           **9. Except as provided under subsection 7 of this section, any**

76 person who enters into an agreement to recover or perform in a  
77 representative capacity to assist in the recovery of property reported  
78 or delivered to the treasurer under sections 447.500 to 447.595, for  
79 compensation, without first registering with the treasurer under  
80 subsection 3 of this section shall be guilty of a class A  
81 misdemeanor. The treasurer may prohibit the registration of any  
82 person convicted for violation of this section.

83       10. The treasurer may review any claim and contact any person  
84 or other party making a claim to ensure compliance with sections  
85 447.500 to 447.595. The treasurer may withhold payment of any claim  
86 until the treasurer is reasonably satisfied that the claim is legitimate,  
87 that the representative acting under an agreement under this section  
88 is in compliance with the provisions of this section, and that the person  
89 making the claim is aware of the nature and potential value of the  
90 person's claim.

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