

## Unclaimed Money in the Clerk's Office

How can you avoid having monies considered unclaimed or abandoned?

1. Make sure that your address is up-to-date with the United States Postal Service and the Clerk's Office.
2. For child support cases, make sure that the Clerk has your current address on file. There is a form for this on our website - [http://cvweb.clerk.leon.fl.us/clerk\\_services/online\\_forms/general/contact\\_change.pdf](http://cvweb.clerk.leon.fl.us/clerk_services/online_forms/general/contact_change.pdf)
3. If you hold a monetary judgment against another party in a civil case, you can re-record that judgment along with an affidavit of current address if you change your address. If the judgment is satisfied through the Clerk's Office, we can contact you then to let you know we have your funds.
4. If money has been deposited in a case in which you are involved, make sure that you obtain an order disbursing those funds before the case is closed or dismissed, or include the disbursement order in your final judgment.
5. Follow up on any motions filed asking for money to be disbursed to see if a hearing needs to be set, or if all procedures were properly followed. You can monitor your case online through the Clerk's website. The progress docket for your case will list any pleadings filed, as well as deposits made and checks issued. You may not receive a notice when money is deposited, so check your case docket online to see if funds have been deposited.

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### Types of Unclaimed Funds

**FS 43.19:** This section controls the disposition of funds that have been deposited into the court registry (for 5 years or more) as a result of an action in which the right to withdraw such funds has been adjudicated or is undisputed. On or before December 1 of each year, the Chief Judge will direct by written order (which must be docketed in the case in which the money was originally deposited) that the money will be deposited with the Chief Financial Officer to the credit of the State School Fund. Any person claiming an interest in these monies must file a written motion in the case, seeking an order directing the payment of the money to the claimant. Once sent to the State, these funds can still be claimed from the State by calling the State Bureau of Unclaimed Property at (888) 258-2253.

Civil: Can include declaratory judgments; non-resident cost bonds under FS 57.011; replevin bonds; garnishment attorney fees; possessory liens; and cash bonds. Cash bonds held in the court registry are held until a court order is issued directing the Clerk to release it. If no order is received, the Clerk will file a motion with the Court to send the money to the State under FS 43.19 after the case has been closed and there has been no activity for 5 years. In an effort to reduce the amount of unclaimed moneys sent to the State of Florida, the Clerk notifies parties of court registry balances before the 5 year statutory period ends.

Guardianship & Probate: FS 733.816 pertains to unclaimed funds held by Personal Representative that cannot be distributed or paid because of inability to find lawful owner or

because no lawful owner is known or because lawful owner refuses to accept property after a reasonable attempt to distribute it and after notice to that lawful owner. FS 744.534 pertains to unclaimed funds held by Guardian which cannot be distributed because no estate proceeding has been instituted. The following process should be followed:

1. A motion/petition and Order Depositing Unclaimed Funds are needed to deposit money into the Court Registry.
2. If the case is an Estate and the amount of the deposit is over \$500.00 or if it is a Guardianship and the amount is over \$100.00, a "Notice to Deposit Unclaimed Funds" will be completed and mailed to the xxxxxxxxxxxxxxxx for publishing. The cost for publishing the notice is currently \$yyyyy and this fee is paid from the funds that were deposited into the Court Registry. The notice is published once a month for 2 consecutive months.
3. If this is an estate and the amount of the deposit is \$500.00 or less, or if it is a guardianship and the amount is \$100.00 or less, the "Notice to Deposit Unclaimed Funds" will not be published in the newspaper, but will be posted in the lobby of the Leon County Courthouse for 30 days.
4. After the expiration of 6 months from the posting or first publication, the funds will be disbursed from the Registry using one of two methods. The funds will either be released to the State Comptroller's Office in Tallahassee or to a specific person outlined in a petition and Order to Release Unclaimed Funds signed by a Judge. If funds are released by a court order to a beneficiary and interest has accumulated on these funds, a completed W-9 Tax Form is needed from the beneficiary before the interest can be released. The name on the W-9 form must match the name listed on the court order releasing the unclaimed funds.

#### **FS 116.21**

1. Unclaimed money collected or deposited by the Clerk in the course of the Clerk's court related activities prior to January 1 of preceding year, which can include child support money returned, overpayment of fines and court fees, and restitution.
2. The Clerk is authorized on or before September 25 of each and every year to pay into the fine and forfeiture fund created under FS 142.01 all unclaimed moneys deposited or collected by them in their official capacity, which unclaimed moneys came into their hands prior to January 1 of the preceding year and for which moneys claim has not been made.
3. The Clerk may during July each year compile a list of all unclaimed moneys, noting the name of the defendants and the respective amounts of such unclaimed moneys. This list will be published one time during the month of July in a newspaper of general circulation, and the notice will specify that unless such moneys are claimed on or before September 1, the moneys are forfeited.
4. Persons claiming any interest in these funds shall file their signed, written claims with the Clerk within the time specified by the notice and will provide sufficient proof to the Clerk of their ownership.
5. Child support money can be claimed through the Clerk's Office by filing a Case Contact Information Change form or by court order. Child support checks issued by the State Disbursement Unit that have been returned by the post office, or have never been cashed by the recipient, are considered unclaimed and are turned over to the fine and forfeiture fund.

**FS 717:** Florida Disposition of Unclaimed Property Act. Unclaimed property is defined as an outstanding liability with no documented contact with the owner for 5 years (1 year for governments), and includes outstanding checks, refunds, and restitution. The Clerk notifies owners of such property annually, who must make any claim of ownership by April 1st. Claims must be made in writing, signed, and contain sufficient identifying information to match the name or business name on the property.

#### Mortgage Foreclosure Cases

1. Per FS 28.24(8), the Clerk may assess and deduct from your check a \$4.00 processing fee.
2. FS 45.032 is covered by FS 717 and includes mortgage foreclosure surplus monies not disbursed by surplus trustee.
3. If surplus funds remain in the court registry after a sale and no claim for these funds has been received within 60 days from the Certificate of Disbursement date, the Clerk follows specific steps outlined in FS 45.032 to appoint a Surplus Trustee to locate the owner(s) of these funds. The Surplus Trustee is selected and approved by the State. The Trustee is entitled to receive a fixed percentage of the surplus funds if he successfully locates the owner, and obtains a court order disbursing the surplus funds to that owner. If the Trustee is unable to locate the owner after a year, the Clerk terminates the Trustee and turns the funds over to the State as unclaimed under FS 717.117. Once sent to the State, these funds can be claimed from the State.
4. Each year, the Clerk prepares a list of mortgage foreclosure surplus cases in which the surplus trustee was terminated during the preceding calendar year and surplus funds remain in the case. The FS 717.117 report must be filed with the State by May 1st. The funds are reported by case number and by homeowner name. Once the funds have been sent to the State, they can be located by searching Florida's Unclaimed Property database at their website, [www.fltreasurehunt.org](http://www.fltreasurehunt.org), which provides instructions for claiming these funds.

Refund checks: Returned by the post office or stale-dated (checks that were sent but never cashed) can be claimed by submitting a written request to the Clerk to reissue the check.