

## OHIO FINDER LAW HIGHLIGHTS

Senate Bill 223, which amended the Ohio Unclaimed Funds Act, went into effect on March 23, 2007. The bill amended Ohio Revised Code (ORC) Sections 169.01, 169.13 and 169.99 and enacted new Sections 169.14, 169.16 and 169.17 to strengthen the state's regulation of finders. The following information summarizes key provisions of Ohio law regarding finders and is not intended to serve as a substitute for acquiring, reading and becoming familiar with Chapter 169 in its entirety.

### Finder Law Prohibitions

- No person shall receive a fee or other compensation, commission or other remuneration, or engage in any activity for the purpose of locating, delivering, recovering or assisting in the recovery of unclaimed funds or the contents of a safe deposit box under an invalid finders' agreement. *ORC §169.13(C)*.
- A person interested in entering into an agreement to act as a finder is not permitted to initiate any contact with an owner during the two-year period immediately after the date a report is filed with the Division. Failure to comply with this requirement is grounds for invalidating the finder's agreement between the finder and the owner. *ORC §169.13(A)(2)*.
- No person, "on behalf of any other person" may engage in any activity "for the purpose of locating, delivering, recovering or assisting in the recovery of" unclaimed funds of safe deposit box contents and receive compensation for such finder activity without first obtaining a Certificate of Registration. *ORC §169.16 (A)*.
- A finder's agreement cannot include a power of attorney for the payment of unclaimed funds or the delivery of the contents of a safe deposit box to any person other than the owner or the owner's legal representative. By law, the finder is not the owner's legal representative for the purpose of receiving payment of the unclaimed funds or delivery of safe deposit box contents. *ORC §169.13(B)(3) and ORC §169.13(E)*.
- The Commerce director cannot recognize or make any delivery, and the State cannot make any payment pursuant to any power of attorney between an owner and a finder if that power of attorney is entered into on or after March 23, 2007 and the power provides for the payment of unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner or the owner's legal representative.

### **Additional Requirements Relating to Safe Deposit Boxes**

If the finder's agreement is for the recovery of safe deposit box contents, the agreement, in addition to the above requirements, also must stipulate that the finder shall do all the following:

- Make arrangements to have an appraiser and the Commerce director, together, view the contents of the safe deposit box at a mutually agreeable time.
- State that the value of the property in the safe deposit box is the amount established by the appraiser who viewed the box contents.
- Base the finder's fee on the appraised value established by the appraiser.

### **Criminal Penalties**

- Engaging in finder activity in the State of Ohio under an invalid finder agreement or without having first obtained a certificate of registration from the Director of Commerce is a misdemeanor of the first degree for a first offense and a felony of the fifth degree for any subsequent offense. *ORC §169.99.*

### **Finder Certificate of Registration**

*See ORC Sections 169.16, 169.17*

The requirements for the application process for finder registration are contained in ORC §169.16(B). The applicant must ask for and submit a written application. The application process includes a criminal background check to be initiated after the applicant files the official application form with the Ohio Division of Unclaimed Funds.

For more information on Ohio law regarding finders, the application process for finder registration, or to obtain an application for finder certification, contact Denise Lee, Legal Counsel, at 614-466-1385 or at [denise.lee@com.state.oh.us](mailto:denise.lee@com.state.oh.us).

### **Processing of Finder Claims**

**Note:** Each agreement between a finder holding a valid certificate of registration and the owner of the unclaimed funds account must be submitted to the Ohio Division of Unclaimed Funds for approval before a claim form will be generated to enable processing of the claim.

**Finder's Agreement Requirements**  
**See ORC §169.13(B)**

Finder's Agreements are **valid only if** they are entered into two years after the holder's report of the unclaimed funds is filed with the Division, and if they meet all of the following conditions:

The aggregate fee, compensation, commission or other remuneration is not more than 10 percent of the amount recovered and paid to the owner by the auditor of state.

The agreement is in writing, signed by the owner of the unclaimed funds, notarized, and discloses all of the following:

- ***Name, address and phone number of the owner as shown by the records*** of the person or entity in possession of the unclaimed funds or contents of a safe deposit box.
- ***Name, address and phone number of the owner if different than as shown by the records*** of the person or entity in possession of the unclaimed funds or contents of a safe deposit box.
- **Nature and value** of the unclaimed funds or contents of a safe deposit box.
- **Amount the owner** of the unclaimed funds **will receive** after the finder's fee or compensation is subtracted.
- Name and address of the person or entity in possession of the unclaimed funds or safe deposit box contents.
- Statement that the auditor of state will pay the unclaimed funds directly to the owner, or that the director shall deliver the safe deposit box contents directly to the owner.
- Statement that the finder is not an employee or agent of the Commerce director.
- Statement that the Commerce director is not a party to the finder's agreement.
- Statement that the finder holds a valid certificate of registration issued by the Director of Commerce. *ORC §169.13(B)(2)(i).*
- The **certificate of registration number** and the **expiration date**. *ORC §§169.13(B)(2)(j) and ORC §169.14.*