

By: Solomons

H.B. No. 2873

A BILL TO BE ENTITLED

AN ACT

relating to certain real property subject to seizure by a municipality or county and escheat to the state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 71.002, Property Code, is amended to read as follows:

Sec. 71.002. PRESUMPTION OF DEATH. An individual is presumed dead for the purpose of determining if the individual's real or personal property is subject to escheat if the individual:

(1) is absent from the individual's place of residence for four [~~seven~~] years or longer; and

(2) is not known to exist.

SECTION 2. Section 71.003, Property Code, is amended to read as follows:

Sec. 71.003. PRESUMPTION OF INTESTACY. An individual is presumed to have died intestate if, on or before the fourth [~~seventh~~] anniversary of the date of the individual's death, the individual's will has not been recorded or probated in the county where the individual's property is located.

SECTION 3. Section 71.004, Property Code, is amended to read as follows:

Sec. 71.004. PRESUMPTION OF DEATH WITHOUT HEIRS. An individual is presumed to have died leaving no heirs if for the four-year [~~seven-year~~] period preceding the court's determination:

1 (1) a lawful claim to the individual's property has not
2 been asserted; and

3 (2) a lawful act of ownership of the individual's
4 property has not been exercised.

5 SECTION 4. Section 71.005, Property Code, is amended to
6 read as follows:

7 Sec. 71.005. ACT OF OWNERSHIP. For the purposes of this
8 chapter, an individual exercises a lawful act of ownership in
9 property by, personally or through an agent acting at the owner's
10 request:

11 (1) mowing or cutting grass or weeds, repairing or
12 demolishing a structure or fence, removing debris, or performing
13 another form of property upkeep or maintenance; or

14 (2) [✓] paying taxes to this state on the property.

15 SECTION 5. Section 71.007, Property Code, is amended to
16 read as follows:

17 Sec. 71.007. IDENTIFICATION OF REAL PROPERTY SUBJECT TO
18 ESCHEAT. (a) The tax assessor-collector of each county and
19 municipality shall:

20 (1) take all steps necessary to identify real property
21 that may be subject to escheat and, if the property is subject to
22 escheat, determine whether the property is also subject to seizure
23 by a municipality under Section 33.91, Tax Code, or by a county
24 under Section 33.911, Tax Code, as applicable; and

25 (2) notify the commissioner of the General Land Office
26 and the attorney general so that they may take appropriate action.

27 (b) The comptroller by rule shall specify the steps a tax

1 assessor-collector must follow to determine whether real property
2 is subject to escheat.

3 SECTION 6. Section 71.202(a), Property Code, is amended to
4 read as follows:

5 (a) Real property that escheats to the state under this
6 title before January 1, 1985, becomes a part of the permanent school
7 fund. Real property that escheats to the state on or after January
8 1, 1985, is held in trust by the Commissioner of the General Land
9 Office for the use and benefit of the foundation school fund. After
10 any delinquent taxes owed on the property are remitted to the
11 municipality in which the property is located and to the county in
12 which the property is located, as appropriate, the remaining [The]
13 revenue from all leases, sales, and use of land held for the
14 foundation school fund shall be deposited to the credit of the
15 foundation school fund.

16 SECTION 7. Section 33.91, Tax Code, is amended by adding
17 Subsection (d) to read as follows:

18 (d) Before the municipality may seize property under this
19 section, the tax assessor-collector of the municipality shall take
20 all steps specified by the comptroller under Section 71.007(b),
21 Property Code, as necessary to determine whether the property is
22 subject to escheat to the state under Chapter 71, Property Code.

23 SECTION 8. Section 33.911, Tax Code, is amended by adding
24 Subsection (d) to read as follows:

25 (d) Before the county may seize property under this section,
26 the tax assessor-collector of the county shall take all steps
27 specified by the comptroller under Section 71.007(b), Property

1 Code, as necessary to determine whether the property is subject to
2 escheat to the state under Chapter 71, Property Code.

3 SECTION 9. Real property is not subject to escheat under
4 Subchapter A, Chapter 71, Property Code, as amended by this Act,
5 before September 1, 2011. Before September 1, 2011, real property
6 may be subject to escheat under Subchapter A, Chapter 71, Property
7 Code, as it existed immediately before the effective date of this
8 Act, and that law is continued in effect for that purpose.

9 SECTION 10. This Act takes effect September 1, 2007.