

BILL ANALYSIS

H.B. 1886
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Recent developments illustrate the need to revise Texas unclaimed property laws to provide for unclaimed class action proceeds. H.B. 1886 seeks to include class action proceeds in provisions relating to the abandonment of personal property and the unclaimed property program administered by the comptroller of public accounts.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 2 of this bill.

ANALYSIS

H.B. 1886 amends the Property Code to establish that class action proceeds are presumed abandoned if the proceeds are unclaimed on or before the 90th day after the date the proceeds were made payable and available to the members of the class in a class action lawsuit unless a different abandonment period is established by the court or the settlement agreement. The bill requires a holder of class action proceeds to deliver the proceeds and the property report required by law to the comptroller of public accounts not later than the 60th day after the date the proceeds are presumed abandoned. The bill makes provisions relating to notice by a property holder and retention of records inapplicable to a holder of class action proceeds and establishes that the bill's provisions control to the extent of a conflict with any other law. The bill defines "class action proceeds" and "holder."

H.B. 1886, in provisions authorizing the comptroller to approve the claim of certain persons to unclaimed property if the reported owner of the property is a corporation, specifies that the authority to approve the claim is if the reported owner is an active corporation. The bill authorizes the comptroller to approve the claim of the following persons if the reported owner of the property is an active corporation: the president of the corporation or chair or officer of the board of directors of the corporation, rather than the president or chair of the board of directors; any person who is legally authorized by the corporation, through the corporation's bylaws or a resolution of the corporation's board of directors, to act on behalf of the corporation, rather than any person who has legal authority to act on behalf of the corporation; or the corporation's bankruptcy trustee or other person under current appointment by the bankruptcy court to manage the corporation's bankruptcy estate, if the corporation is or has been a debtor in bankruptcy. The bill defines "active corporation."

H.B. 1886 establishes that provisions authorizing the comptroller to approve a claim to unclaimed property if the reported owner is a dissolved or liquidated corporation apply to both a domestic entity, as defined by the Business Organizations Code, that has been dissolved, terminated as defined by that code, or liquidated, and a foreign entity as defined by that code whose registration to transact business in Texas has been revoked. The bill authorizes the comptroller to approve the claims of the following persons, among others, if the reported owner is such an entity: a person other than an entity's bankruptcy trustee under current appointment by

the bankruptcy court to manage the entity's bankruptcy estate; a receiver appointed by a court to liquidate or rehabilitate a domestic entity, under the Business Organizations Code or other law, except as otherwise specified, rather than the court-ordered receiver for the corporation; or a receiver appointed for a foreign entity by a court under the Business Organizations Code or other law, with a certain exception. The bill requires the comptroller to approve the claim of any other person authorized to receive the unclaimed property under rules adopted by the comptroller, rather than any other person that is entitled to receive the unclaimed property under other law or comptroller policy. The bill makes conforming changes to make its provisions apply to different types of business organizations.

H.B. 1886 prohibits the comptroller from paying a claim for unclaimed property to a receiver, agent, assignee, representative, or other person acting on behalf of a creditor, judgment creditor, lienholder, or assignee of the reported owner or of the owner's heirs. The bill authorizes the comptroller to challenge the validity of a receivership order in the court that issued the order or in a district court in Travis County. The bill makes conforming changes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.