

By: Hilderbran, Harper-Brown

H.B. No. 257

A BILL TO BE ENTITLED

AN ACT

relating to certain unclaimed property that is presumed abandoned.

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

SECTION 1. Section 72.101(a), Property Code, is amended to read as follows:

(a) Except as provided by this section and Sections 72.1015, 72.1016, 72.1017, and 72.102, personal property is presumed abandoned if, for longer than three years:

(1) the existence and location of the owner of the property is unknown to the holder of the property; and

(2) according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

SECTION 2. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1017 to read as follows:

Sec. 72.1017. UTILITY DEPOSITS. (a) In this section:

(1) "Utility" has the meaning assigned by Section 183.001, Utilities Code.

(2) "Utility deposit" is a refundable money deposit a utility requires a user of the utility service to pay as a condition of initiating the service.

(b) Notwithstanding Section 73.102, a utility deposit is presumed abandoned on the latest of:

1 (1) 18 months after the date a refund check for the
2 utility deposit was payable to the owner of the deposit;

3 (2) 18 months after the date the utility last received
4 documented communication from the owner of the utility deposit; or

5 (3) 18 months after the date the utility issued a
6 refund check for the deposit payable to the owner of the deposit if,
7 according to the knowledge and records of the utility or payor of
8 the check, during that period, a claim to the check has not been
9 asserted or an act of ownership by the payee has not been exercised.

10 (c) A utility deposit is not presumed abandoned if the
11 depositor was called to active military service in any branch of the
12 United States armed forces during any part of the period described
13 by Subsection (b).

14 SECTION 3. Section 72.102(c), Property Code, is amended to
15 read as follows:

16 (c) A money order to which Subsection (a) applies is
17 presumed to be abandoned on the latest of:

18 (1) the third [~~seventh~~] anniversary of the date on
19 which the money order was issued;

20 (2) the third [~~seventh~~] anniversary of the date on
21 which the issuer of the money order last received from the owner of
22 the money order communication concerning the money order; or

23 (3) the third [~~seventh~~] anniversary of the date of the
24 last writing, on file with the issuer, that indicates the owner's
25 interest in the money order.

26 SECTION 4. Section 72.103, Property Code, is amended to
27 read as follows:

1 Sec. 72.103. PRESERVATION OF PROPERTY. Notwithstanding any
 2 other provision of this title except a provision of this section or
 3 Section 72.1016 relating to a money order or a stored value card, a
 4 holder of abandoned property shall preserve the property and may
 5 not at any time, by any procedure, including a deduction for
 6 service, maintenance, or other charge, transfer or convert to the
 7 profits or assets of the holder or otherwise reduce the value of the
 8 property. For purposes of this section, value is determined as of
 9 the date of the last transaction or contact concerning the
 10 property, except that in the case of a money order, value is
 11 determined as of the date the property is presumed abandoned under
 12 Section 72.102(c). If a holder imposes service, maintenance, or
 13 other charges on a money order prior to the time of presumed
 14 abandonment, such charges may not exceed the amount of one dollar
 15 ~~[50 cents]~~ per month for each month the money order remains uncashed
 16 prior to the month in which the money order is presumed abandoned.

17 SECTION 5. Section 73.101, Property Code, is amended by
 18 amending Subsection (a) and adding Subsection (c) to read as
 19 follows:

20 (a) An account or safe deposit box is presumed abandoned if:

21 (1) except as provided by Subsection (c), the account
 22 or safe deposit box has been inactive for at least five years as
 23 determined under Subsection (b);

24 (2) the location of the depositor of the account or
 25 owner of the safe deposit box is unknown to the depository; and

26 (3) the amount of the account or the contents of the
 27 box have not been delivered to the comptroller in accordance with

1 Chapter 74.

2 (c) If the account is a checking or savings account or is a
3 matured certificate of deposit, the account is presumed abandoned
4 if the account has been inactive for at least three years as
5 determined under Subsection (b)(1).

6 SECTION 6. Section 74.101(a), Property Code, is amended to
7 read as follows:

8 (a) Each holder who on March 1 [~~June 30~~] holds property that
9 is presumed abandoned under Chapter 72, 73, or 75 of this code or
10 under Chapter 154, Finance Code, shall file a report of that
11 property on or before the following July [~~November~~] 1. The
12 comptroller may require the report to be in a particular format,
13 including a format that can be read by a computer.

14 SECTION 7. Section 74.1011(a), Property Code, is amended to
15 read as follows:

16 (a) Except as provided by Subsection (b), a holder who on
17 March 1 [~~June 30~~] holds property valued at more than \$250 that is
18 presumed abandoned under Chapter 72, 73, or 75 of this code or
19 Chapter 154, Finance Code, shall, on or before the following May
20 [~~August~~] 1, mail to the last known address of the known owner
21 written notice stating that:

22 (1) the holder is holding the property; and

23 (2) the holder may be required to deliver the property
24 to the comptroller on or before July [~~November~~] 1 if the property is
25 not claimed.

26 SECTION 8. Sections 74.301(a) and (c), Property Code, are
27 amended to read as follows:

(a) Except as provided by Subsection (c), each holder who on March 1 [~~June 30~~] holds property that is presumed abandoned under Chapter 72, 73, or 75 shall deliver the property to the comptroller on or before the following July [~~November~~] 1 accompanied by the report required to be filed under Section 74.101.

(c) If the property subject to delivery under Subsection (a) is the contents of a safe deposit box, the comptroller may instruct a holder to deliver the property on a specified date before July [~~November~~] 1 of the following year.

SECTION 9. Section 74.601(e), Property Code, is amended to read as follows:

(e) The comptroller on receipt or from time to time may [~~from time to time~~] sell securities, including stocks, bonds, and mutual funds, received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller and use the proceeds to buy, exchange, invest, or reinvest in marketable securities. When making or selling the investments, the comptroller shall exercise the judgment and care of a prudent person.

SECTION 10. Section 74.708, Property Code, is amended to read as follows:

Sec. 74.708. PROPERTY HELD IN TRUST. A holder who on March 1 [~~June 30~~] holds property presumed abandoned under Chapters 72-75 holds the property in trust for the benefit of the state on behalf of the missing owner and is liable to the state for the full value of the property, plus any accrued interest and penalty. A holder is not required by this section to segregate or establish trust

1 accounts for the property provided the property is timely delivered
2 to the comptroller in accordance with Section 74.301.

3 SECTION 11. A charge imposed on a money order under Section
4 72.103, Property Code, by a holder before the effective date of this
5 Act is governed by the law applicable to the charge immediately
6 before the effective date of this Act, and the holder may retain the
7 charge.

8 SECTION 12. (a) Except as provided by Subsection (b) of
9 this section, this Act takes effect September 1, 2011.

10 (b) Sections 74.101(a), 74.1011(a), 74.301(a) and (c), and
11 74.708, Property Code, as amended by this Act, take effect January
12 1, 2013.