

By: Hilderbran, Harper-Brown

H.B. No. 257

Substitute the following for H.B. No. 257:

By: Otto

C.S.H.B. No. 257

A BILL TO BE ENTITLED

AN ACT

relating to the presumed abandonment of certain unclaimed personal property.

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

1 presumed abandoned on the latest of:

2 (1) the first anniversary of the date a refund check
3 for the utility deposit was payable to the owner of the deposit;

4 (2) the first anniversary of the date the utility last
5 received documented communication from the owner of the utility
6 deposit; or

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

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

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

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

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

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

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

27 Sec. 72.103. PRESERVATION OF PROPERTY. Notwithstanding any

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

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

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

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

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

25 (3) the amount of the account or the contents of the
26 box have not been delivered to the comptroller in accordance with
27 Chapter 74.

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

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

10 SECTION 7. This Act takes effect September 1, 2011.